

These notes refer to the Adoption and Children Act (Northern Ireland) 2022 (c.18) which received Royal Assent on 27 April 2022

Adoption and Children Act (Northern Ireland) 2022

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 - Adoption

Chapter 3 - Placement for Adoption and Adoption Orders

Section 49: Post-adoption contact

Section 49 provides for the making of orders which deal with contact arrangements at the adoption order stage and subsequently between an adopted child and those persons listed in *subsection (3)*. It provides that orders under this section can only be made where an adoption agency has placed or was authorised to place a child for adoption and the court is making, or has made an adoption order (*subsection (1)*).

When making the adoption order or at any time afterwards the court may either make an order requiring the person in whose favour the adoption order is or has been made to allow the child to visit or stay with the person named in the order made under *subsection (2)(a)*, or for the person named in that order and the child otherwise to have contact with each other or an order prohibiting the person named in the order from having contact with the child (*subsection (2)(b)*). The court may also, when making an adoption order, make an order under *subsection (2)(b)* prohibiting contact on its own initiative (*subsection (6)*).

Subsection (3) lists the persons that may be named in an order under section 49. These include former relatives and guardians of the child, any person who had parental responsibility for the child immediately before the making of the adoption order, any person entitled to make an application for a section 23 order (contact during placement), as well as any person who has lived with the child for at least one year. *Subsection (7)* provides that the one year period need not have been continuous but must not have started more than five years before the making of the application.

Subsection (4) provides that the child, the person who has applied for the adoption order or the child's adoptive parents may make an application for a post adoption contact order under section 49 without the permission of the court.

Any other person may apply for an order if they have obtained the permission of the court to do so (subsection 4(c)).

Subsection (5) sets out the matters that the court must consider when deciding whether to grant permission, under subsection (4)(c), to apply for an order. It provides that the court must consider the possible harm that might be caused to the child by the proposed application, the applicant's connection to the child, and any representations that are made to the court by the child, or the person who has applied for the adoption order or the child's adoptive parents.

Subsection (8) provides that where section 49 applies, an order under Article 8 of the Children Order may not provide for contact between the child and any person who may be named in a section 49 order.