

*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

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 - Adoption**

#### *Chapter 6 - Adoptions with a Foreign Element*

#### *Section 91: Modification of section 66 for Hague Convention adoptions*

Section 91 provides that where the High Court, on an application, is satisfied that each of the conditions set out in *subsection (2)* are met in the case of a Convention adoption, it may direct that section 66(3) (which provides for the status conferred by adoption) does not apply or does not apply to any extent which may be specified in the direction. The reason for this provision is as follows. Adoption law of the United Kingdom recognises only one type of adoption, which is full adoption, and this creates a new and irrevocable legal relationship between the child and adoptive parents which severs all legal ties between the child and his or her birth parents. A child adopted in Northern Ireland is to be treated in law as not being the child of any person other than the adopters. In some countries, however, certain forms of adoption do not have the effect of totally severing all ties from the birth parents and these are known as simple adoptions.

Article 26 of the Hague Convention provides for the recognition of both full and simple adoptions. Article 27 of the Hague Convention allows a receiving State to convert a simple adoption into a full adoption if its law so permits and provided the birth parents and relevant parties under Article 4 of the Hague Convention have given their consent to a full adoption. Where the receiving State is Northern Ireland, the Department will ensure that in all cases the birth parents are informed of the effects of a simple adoption in Northern Ireland and seek to obtain their consent to a full adoption prior to a Convention adoption being made in a country outside the United Kingdom, Channel Islands or Isle of Man or a Convention adoption order being made here. Where the receiving State is not Northern Ireland, it is possible that the child may be brought to this country in circumstances where simple adoptions are recognised, both in the State of origin and the receiving State, and so no consent to full adoption has been given. In those cases, the adoption will still be treated as a full adoption by

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operation of law, but if any issue of status arises where it is felt it would be more favourable to the child to treat the adoption otherwise than as a full adoption, an application may be made to the High Court.