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## 2022 CHAPTER 18

### PART 2

#### Children order amendments

VALID FROM 01/04/2024

#### Definition of family proceedings

**116.** In Article 8 of the Children Order (residence, contact and other orders with respect to children), in paragraph (4) after sub-paragraph (h) insert—

“(ha) Part 2 of Schedule 2 to the Female Genital Mutilation Act 2003 (other than paragraph 20 of that Schedule).”

#### Commencement Information

**II** S. 116 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

#### Article 8 orders: authority foster parents

**117.** In Article 9 of the Children Order (restrictions on making Article 8 orders)—

- (a) in paragraph (3)(c), for “three years” substitute “one year”; and
- (b) omit paragraph (4).

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### Commencement Information

**I2** S. 117 not in operation at Royal Assent, see [s. 160\(1\)](#)

VALID FROM 01/04/2024

### Duration of residence orders

**118.—**(1) The Children Order has effect in relation to a child who is looked after by an authority (within the meaning of that Order) as follows.

(2) Article 9(6) (restrictions on making Article 8 orders) has effect as if for the words from the beginning to “Article 8 order” there were substituted “No court shall make a specific issue order, contact order or prohibited steps order”.

(3) Article 179(10) (duration of Article 8 orders), has effect as if after “Article 8 order” there were inserted “other than a residence order”.

### Commencement Information

**I3** S. 118 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

### Special guardianship

**119.—**(1) After Article 14 of the Children Order insert—

*“Special guardianship*

#### Special guardianship orders

**14A.—**(1) A “special guardianship order” is an order appointing one or more persons to be a child’s “special guardian” (or special guardians).

(2) A special guardian—

(a) must be aged 18 or over; and

(b) must not be a parent of the child in question,

and paragraphs (3) to (6) are to be read in that light.

(3) The court may make a special guardianship order with respect to any child on the application of a person who—

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(a) is entitled to make such an application with respect to the child; or  
(b) has obtained the leave of the court to make the application,  
or on the joint application of more than one such person.

(4) The persons who are entitled to apply for a special guardianship order with respect to a child are—

- (a) any guardian of the child with whom the child has lived for a period of at least one year immediately preceding the application;
- (b) any person in whose favour a residence order is in force with respect to the child and with whom the child has lived for a period of at least one year immediately preceding the application;
- (c) any person listed in paragraph (5)(b) of Article 10 (as read with paragraph (10) of that Article);
- (d) any person listed in paragraph (5)(c) of Article 10 and with whom the child has lived for a period of at least one year immediately preceding the application;
- (e) an authority foster parent with whom the child has lived for a period of at least one year immediately preceding the application;
- (f) a relative with whom the child has lived for a period of at least one year immediately preceding the application.

(5) A person may not apply for leave to make an application for a special guardianship order with respect to a child unless the child concerned has lived with the person who may be appointed as the child's special guardian for a period of at least one year immediately preceding the application.

(6) The court may also make a special guardianship order with respect to a child—

- (a) in any family proceedings in which a question arises with respect to the welfare of the child if an application for the order has been made by a person who falls within paragraph (3)(a) or (b) (or more than one such person jointly); or
- (b) in any proceedings on an application for a care or supervision order in which a question arises with respect to the welfare of the child if the court considers that a special guardianship order should be made even though no such application has been made.

(7) No person may make any application under paragraph (3) or (6)(a) unless, before the beginning of the period of three months ending with the date of the application, the person has given written notice of intention to make the application—

- (a) if the child in question is being looked after by an authority, to that authority; or

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(b) otherwise, to the authority in whose area the person is ordinarily resident.

(8) On receipt of such a notice, the authority must investigate the matter and prepare a report for the court dealing with—

- (a) the suitability of the applicant to be a special guardian;
- (b) such matters (if any) as may be prescribed; and
- (c) any other matter which the authority considers to be relevant.

(9) The court may itself ask an authority to conduct such an investigation and prepare such a report, and the authority must do so.

(10) If the child in question is being looked after by an authority, a report referred to in paragraph (8) or (9) must be prepared in accordance with prescribed arrangements.

(11) The authority may make such arrangements as it sees fit for any person to act on its behalf in connection with conducting an investigation or preparing a report referred to in paragraph (8) or (9).

(12) The court may not make a special guardianship order unless it has received a report dealing with the matters referred to in paragraph (8).

(13) Paragraphs (8) and (9) of Article 10 apply in relation to special guardianship orders as they apply in relation to Article 8 orders.

(14) This Article is subject to section 26(5) and (6) of the Adoption and Children Act (Northern Ireland) 2022.

#### **Special guardianship orders: making**

**14B.**—(1) Before making a special guardianship order, the court must consider whether, if the order were made—

- (a) a contact order should also be made with respect to the child; and
- (b) any Article 8 order in force with respect to the child should be varied or discharged.

(2) On making a special guardianship order, the court may also—

- (a) give leave for the child to be known by a new surname;
- (b) grant the leave required by Article 14C(3)(b), either generally or for specified purposes.

#### **Special guardianship orders: effect**

**14C.**—(1) The effect of a special guardianship order is that while the order remains in force—

- (a) a special guardian appointed by the order has parental responsibility for the child in respect of whom it is made; and

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(b) subject to any other order in force with respect to the child under this Order, a special guardian is entitled to exercise parental responsibility to the exclusion of any other person with parental responsibility for the child (apart from another special guardian).

(2) Paragraph (1) does not affect—

(a) the operation of any statutory provision or rule of law which requires the consent of more than one person with parental responsibility in a matter affecting the child; or

(b) any rights which a parent of the child has in relation to the child's adoption or placement for adoption.

(3) While a special guardianship order is in force with respect to a child, no person may—

(a) cause the child to be known by a new surname; or

(b) remove the child from the United Kingdom,

without either the written consent of every person who has parental responsibility for the child or the leave of the court.

(4) Paragraph (3)(b) does not prevent the removal of a child, for a period of less than three months, by a special guardian of the child.

(5) If the child with respect to whom a special guardianship order is in force dies, the special guardian of the child must take reasonable steps to give notice of that fact to—

(a) each parent of the child with parental responsibility; and

(b) each guardian of the child,

but if the child has more than one special guardian, and one of them has taken such steps in relation to a particular parent or guardian, any other special guardian need not do so as respects that parent or guardian.

(6) This Article is subject to section 26(7) of the Adoption and Children Act (Northern Ireland) 2022.

### **Special guardianship orders: variation and discharge**

**14D.**—(1) The court may vary or discharge a special guardianship order on the application of—

(a) the special guardian (or any of them, if there are more than one);

(b) any parent or guardian of the child concerned;

(c) any person in whose favour a residence order is in force with respect to the child;

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- (d) any person not falling within any of sub-paragraphs (a) to (c) who has, or immediately before the making of the special guardianship order had, parental responsibility for the child;
- (e) the child; or
- (f) an authority designated in a care order with respect to the child.

(2) In any family proceedings in which a question arises with respect to the welfare of a child with respect to whom a special guardianship order is in force, the court may also vary or discharge the special guardianship order if it considers that the order should be varied or discharged, even though no application has been made under paragraph (1).

(3) The following must obtain the leave of the court before making an application under paragraph (1)—

- (a) the child;
- (b) any parent or guardian of the child;
- (c) any step-parent of the child who has acquired, and has not lost, parental responsibility for the child by virtue of Article 7(1A);
- (d) any person falling within paragraph (1)(d) who, immediately before the making of the special guardianship order had, but no longer has, parental responsibility for the child.

(4) Where the person applying for leave to make an application under paragraph (1) is the child, the court may only grant leave if it is satisfied that the child has sufficient understanding to make the proposed application under paragraph (1).

(5) The court may not grant leave to a person falling within paragraph (3) (b), (c) or (d) unless it is satisfied that there has been a change in circumstances since the making of the special guardianship order.

### **Special guardianship orders: supplementary**

**14E.**—(1) In proceedings in which any question of making, varying or discharging a special guardianship order arises, the court must (in the light of any rules made by virtue of paragraph (3))—

- (a) draw up a timetable with a view to determining the question without delay; and
- (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.

(2) Paragraph (1) applies also in relation to proceedings in which any other question with respect to a special guardianship order arises.

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(3) The power to make rules of court in paragraph (2) of Article 11 applies for the purposes of this Article as it applies for the purposes of Article 11.

(4) A special guardianship order, or an order varying one, may contain provisions which are to have effect for a specified period.

(5) Article 11(7) (apart from sub-paragraph (c)) applies in relation to special guardianship orders and orders varying them as it applies in relation to Article 8 orders.

### **Special guardianship support services**

**14F.**—(1) Each authority must make arrangements for the provision within its area of special guardianship support services, which means—

- (a) counselling, advice and information; and
- (b) such other services as are prescribed,

in relation to special guardianship.

(2) The power to make regulations under paragraph (1)(b) is to be exercised so as to secure that authorities provide financial support.

(3) An authority must at the request of—

- (a) a relevant child;
- (b) a special guardian of a relevant child;
- (c) a prospective special guardian of a relevant child;
- (d) a parent of a relevant child; or
- (e) any other person who falls within a prescribed description (subject to sub-paragraph (a) of paragraph (10)),

carry out an assessment of that person's needs for special guardianship support services.

(4) In paragraph (3)—

- (a) “relevant child” means a child in respect of whom—
  - (i) a special guardianship order is in force;
  - (ii) a person has given notice to an authority under Article 14A(7) of intention to make an application for a special guardianship order; or
  - (iii) a court is considering whether a special guardianship order should be made and has asked an authority to conduct an investigation and prepare a report under Article 14A(9);

(b) “prospective special guardian” means a person—

- (i) who has given notice to an authority under Article 14A(7) of the person's intention to make an application for a special guardianship order; or

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(ii) in respect of whom a court has requested that an authority conduct an investigation and prepare a report under Article 14A(9).

(5) An authority may, at the request of any other person, carry out an assessment of that person's needs for special guardianship support services.

(6) Where, as a result of an assessment, an authority decides that a person has needs for special guardianship support services, it must then decide whether to provide any such services to that person, subject to paragraph (7).

(7) An authority must provide special guardianship support services to a person under paragraph (6) where that person falls within—

- (a) any of sub-paragraphs (a) to (d) of paragraph (3); or
- (b) a prescribed description.

(8) If—

- (a) an authority decides to provide any special guardianship support services to a person under paragraph (6) or is under a duty to do so by virtue of paragraph (7); and
- (b) the circumstances fall within a prescribed description,

the authority must prepare a plan in accordance with which special guardianship support services are to be provided to that person, and keep the plan under review.

(9) The Department may by regulations make provision about assessments, preparing and reviewing plans, the provision of special guardianship support services in accordance with plans and reviewing the provision of special guardianship support services.

(10) The regulations may in particular make provision—

- (a) as to the circumstances in which a person mentioned in sub-paragraph (e) of paragraph (3) is to have a right to request an assessment of that person's needs in accordance with that paragraph;
- (b) about the type of assessment which is to be carried out, or the way in which an assessment is to be carried out;
- (c) about the way in which a plan is to be prepared;
- (d) about the way in which, and the time at which, a plan or the provision of special guardianship support services is to be reviewed;
- (e) about the considerations to which an authority is to have regard in carrying out an assessment or review or preparing a plan;
- (f) as to the circumstances in which an authority may provide special guardianship support services subject to conditions (including conditions as to payment for the support or the repayment of financial support);



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- (g) as to the consequences of conditions imposed by virtue of sub-paragraph (f) not being met (including the recovery of any financial support provided);
- (h) as to the circumstances in which this Article may apply to an authority in respect of persons who are outside that authority's area;
- (i) as to the circumstances in which an authority may recover from another authority the expenses of providing special guardianship support services to any person.

(11) An authority may provide special guardianship support services (or any part of them) by securing their provision by—

- (a) another authority; or
- (b) a person within a prescribed description of persons who may provide special guardianship support services,

and may also arrange with another authority or any such person for that other authority or that person to carry out the authority's functions in relation to assessments under this Article.

(12) An authority may carry out an assessment of the needs of any person for the purposes of this Article at the same time as an assessment of the person's needs is made under any other provision of this Order or under any other statutory provision.

(13) Article 46 (co-operation between authorities and other bodies) applies in relation to the exercise of functions of an authority under this Article as it applies in relation to the exercise of functions of an authority under Part 4."

(2) In Article 3 of that Order (child's welfare to be paramount consideration), in paragraph (4)(b), after "discharge" insert "a special guardianship order or".

(3) In Article 57 of that Order (interim orders), after paragraph (3) insert—

"(3A) Where, in any proceedings on an application for a care or a supervision order, a court makes a special guardianship order with respect to the child concerned, it may also make an interim supervision order with respect to the child if it considers it necessary to do so to satisfactorily safeguard the child's welfare."

(4) In Article 159 of that Order (appointment of guardians by court), in paragraph (1)—

- (a) in sub-paragraph (b), for "or guardian" substitute ", guardian or special guardian"; and
- (b) at the end of sub-paragraph (b) add—

“; or

- (c) sub-paragraph (b) does not apply, and the child's only or last surviving special guardian dies."

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(5) In Article 160 of that Order (appointment of guardians by parent or guardian)—

- (a) in paragraph (2), at the end add “; and a special guardian of a child may appoint another person to be the child’s guardian in the event of the special guardian’s death”; and
- (b) in paragraph (5), at the end of sub-paragraph (b) add “or the person was the child’s only (or last surviving) special guardian”.

#### Commencement Information

**I4** S. 119 not in operation at Royal Assent, see [s. 160\(1\)](#)

VALID FROM 01/04/2024

#### Ascertainment of children’s wishes

**120.—(1)** In Article 18 of the Children Order (general duty of authority to provide social care for children in need, their families and others) after paragraph (4) insert—

“(4A) Before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on it by this Article, an authority must, so far as is reasonably practicable and consistent with the child’s welfare—

- (a) ascertain the child’s wishes and feelings regarding the provision of those services; and
- (b) give due consideration (having regard to the child’s age and understanding) to such wishes and feelings of the child as the authority has been able to ascertain.”.

(2) In Article 21 of the Children Order (provision of accommodation for children: general), in sub-paragraphs (a) and (b) of paragraph (6) after “wishes” insert “and feelings”.

(3) In Article 66 of the Children Order (authority’s duty to investigate), after paragraph (5) insert—

“(5A) For the purposes of making a determination under this Article as to the action to be taken with respect to a child, an authority must, so far as is reasonably practicable and consistent with the child’s welfare—

- (a) ascertain the child’s wishes and feelings regarding the action to be taken with respect to the child; and

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- (b) give due consideration (having regard to the child’s age and understanding) to such wishes and feelings of the child as the authority has been able to ascertain.”.

**Commencement Information**

**I5** S. 120 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

**Provision of services to children in need, etc.**

**121.—**(1) In Article 18 of the Children Order (general duty of authority to provide social care for children in need, their families and others), for paragraph (6) substitute—

“(6) The services provided by an authority in the exercise of functions conferred on it by this Article may include—

- (a) giving assistance in kind;
- (b) subject to paragraph (6A), giving assistance in cash;
- (c) in the case of an eligible child and subject to paragraph (6B), providing accommodation.

(6A) In deciding whether to give assistance in cash, the authority must have regard to any guidance provided by the Department.

(6B) In providing accommodation, the authority must have regard to any guidance provided by the Department.

(6C) In paragraph (6) “eligible child” means a child who is not being looked after by an authority and—

- (a) is disabled; or
- (b) falls within a prescribed category.”.

(2) In Article 25 of the Children Order (interpretation), in paragraph (2) (accommodation), before “34C” insert “18”.

**Commencement Information**

**I6** S. 121 not in operation at Royal Assent, see [s. 160\(1\)](#)

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PROSPECTIVE

### **Duty of authorities to promote etc. achievement, learning and development, and to prevent disruption to education or training**

**122.**—(1) In Article 26 of the Children Order (general duty of authority), after paragraph (1) insert—

“(1A) The duty of an authority under paragraph (1)(a) to safeguard and promote the welfare of a child looked after by the authority includes in particular a duty to promote, facilitate and support the child’s —

- (a) learning and development; and
- (b) achievement in relation to education or training.”.

(2) In Article 27 of the Children Order (accommodation and maintenance for children), in paragraph (8)—

- (a) at the end of sub-paragraph (a), omit the word “and”;
- (b) at the end of sub-paragraph (b) add “; and
- (c) the child’s education or training will not be disrupted.”.

#### **Commencement Information**

**I7** S. 122 not in operation at Royal Assent, see **s. 160(1)**

PROSPECTIVE

### **Corporate parenting principles**

**123.** After Article 26 of the Children Order (general duty of authority) insert—

#### **“Corporate parenting principles**

**26A.**—(1) An authority must, in carrying out functions in relation to persons to whom this Article applies, have regard to the need—

- (a) to act in their best interests, and promote their well-being;
- (b) to encourage them to express their views, wishes and feelings;
- (c) to take into account their views, wishes and feelings;
- (d) to help them gain access to, and make the best use of, services provided by the authority and any relevant partner;

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- (e) to promote high aspirations, and seek to secure the best outcomes, for them;
  - (f) for them to be safe, and for stability in their home lives, relationships and education or work; and
  - (g) to prepare them for adulthood and independent living.
- (2) This Article applies to—
- (a) children who are looked after by an authority;
  - (b) relevant children within the meaning given by Article 34B(2); and
  - (c) persons aged under 25 (or such other age as may be prescribed) who are former relevant children within the meaning given by Article 34D(1).
- (3) In this Article—
- “relevant partner” means—
- (a) children’s authority within the meaning given by section 9 of the Children’s Services Co-operation Act (Northern Ireland) 2015;
  - (b) other children’s service provider within the meaning given by section 9 of the Children’s Services Co-operation Act (Northern Ireland) 2015;
- “well-being” has the meaning given by section 1 of the Children’s Services Co-operation Act (Northern Ireland) 2015.
- (4) An authority must have regard to any guidance given by the Department as to the performance of the duty under paragraph (1).”

#### Commencement Information

**I8** S. 123 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

#### Placement of looked after children with prospective adopters

**124.** In Article 27 of the Children Order (accommodation and maintenance for children), after paragraph (9) insert—

- “(9A) Paragraph (9B) applies (subject to paragraph (9C)) where an authority—
- (a) is considering adoption for a child; or

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(b) is satisfied that a child ought to be placed for adoption but is not authorised under section 16 of the Adoption and Children Act (Northern Ireland) 2022 (placing children with parental consent) or by virtue of section 18 of that Act (placement orders) to place the child for adoption.

(9B) Where this paragraph applies—

- (a) paragraphs (7A) to (9) do not apply to the authority;
- (b) the authority must consider placing the child with a person who—
  - (i) falls within paragraph (7)(b); and
  - (ii) is approved as an authority foster parent; and
- (c) where the authority decides that such a placement is not the most appropriate placement for the child, the authority must consider placing the child with a person who—
  - (i) is approved as a prospective adopter; and
  - (ii) is approved as an authority foster parent.

(9C) Paragraph (9B) does not apply where an authority has applied for a placement order under section 18 of the Adoption and Children Act (Northern Ireland) 2022 in respect of the child and the application has been refused.

(9D) In paragraph (9B)—

“approved as a prospective adopter” means approved as such in accordance with regulations made under section 9 of the Adoption and Children Act (Northern Ireland) 2022;

“approved as an authority foster parent” means approved as such in accordance with regulations made under Article 28A.”.

#### Commencement Information

**I9** S. 124 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

#### Accommodation for children: requirements

**125.—(1)** Article 27 of the Children Order (accommodation and maintenance for children) is amended as follows.

(2) In paragraph (2)(aa) after “him” insert “(subject to any regulations made by the Department)”.

(3) After paragraph (7) insert—

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“(7A) The Department may by regulations impose requirements which an authority must comply with before making any decision concerning the provision of accommodation for a child whom it is looking after.”.

(4) In Article 28 of the Children Order (regulations under Article 27), after paragraph (3) insert—

“(4) Regulations under Article 27(7A) may, in particular, impose requirements which an authority must comply with—

- (a) before making any decision concerning the provision of accommodation for a child whom it is looking after, which could disrupt the child’s education;
- (b) before making any decision to provide a child whom it is looking after with accommodation at a place outside the area of the authority; or
- (c) if a child’s welfare requires the immediate provision of accommodation at a place outside the area of the authority, within such period of the accommodation being provided as may be prescribed.”.

#### Commencement Information

**110** S. 125 not in operation at Royal Assent, see **s. 160(1)**

PROSPECTIVE

#### Authority foster parents

**126.** After Article 28 of the Children Order (regulations under Article 27) insert—

##### “Authority foster parents

**28A.**—(1) Regulations under Article 27(2)(a) may, in particular, make provision—

- (a) for securing that a child is not placed with an authority foster parent unless that person is approved as an authority foster parent in accordance with prescribed arrangements;
- (b) establishing a procedure under which any person in respect of whom a qualifying determination has been made may apply to the Department for a review of that determination by a panel constituted by the Department.

(2) A determination is a qualifying determination if—

*Status: Point in time view as at 13/02/2023. This version of this part contains provisions that are not valid for this point in time.*

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- (a) it relates to the issue of whether a person should be approved, or should continue to be approved, as an authority foster parent; and
  - (b) it is of a prescribed description.
- (3) Regulations under paragraph (1)(b) may include provision as to—
- (a) the duties and powers of a panel;
  - (b) the administration and procedures of a panel;
  - (c) the appointment of persons who may be members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment);
  - (d) the payment of fees to members of a panel;
  - (e) the duties of any person in connection with reviews conducted under the regulations;
  - (f) the monitoring of any such reviews.
- (4) Regulations made by virtue of paragraph (3)(e) may impose a duty to pay to the Department such sum as the Department may determine; but such a duty may not be imposed upon a person who has applied for a review of a qualifying determination.
- (5) The Department must secure that, taking one financial year with another, the aggregate of the sums which become payable to the Department under regulations made by virtue of paragraph (4) does not exceed the cost to the Department of performing independent review functions.
- (6) The Department may make an arrangement with an organisation under which independent review functions are performed by the organisation on behalf of the Department.
- (7) If the Department makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any directions given by the Department.
- (8) The arrangement may include provision for payments to be made to the organisation by the Department.
- (9) Payments made by the Department in accordance with such provision are to be taken into account in determining (for the purpose of paragraph (5)) the cost to the Department of performing independent review functions.
- (10) In this Article—
- “independent review function” means a function conferred or imposed on the Department by regulations made by virtue of paragraph (1)(b);



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“organisation” includes a public body and a private or voluntary organisation.”.

#### Commencement Information

**III** S. 126 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

### Duty to ensure visits to and advice etc. for children

**127.** After Article 28A of the Children Order (as inserted by section 126) insert—

#### “Duty to ensure visits to and advice etc. for children

**28B.**—(1) This Article applies to a child looked after by an authority.

(2) The authority must—

- (a) ensure that the child is visited by a representative of the authority (“a representative”);
- (b) arrange for appropriate advice, support and assistance to be available to the child if the child seeks it from the authority.

(3) The duties imposed by paragraph (2)—

- (a) are to be discharged in accordance with any regulations made for the purposes of this Article by the Department;
- (b) are subject to any requirement imposed by or under a statutory provision applicable to the place in which the child is accommodated.

(4) Regulations under this Article for the purposes of paragraph (3)(a) may make provision about—

- (a) the frequency of visits;
- (b) circumstances in which the child must be visited by a representative; and
- (c) the functions of a representative.

(5) In choosing a representative an authority must satisfy itself that the person chosen has the necessary skills and experience to perform the functions of a representative.”.

*Status: Point in time view as at 13/02/2023. This version of this part contains provisions that are not valid for this point in time.*

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### Commencement Information

**I12** S. 127 not in operation at Royal Assent, see **s. 160(1)**

PROSPECTIVE

### Former relevant children: continuing functions

**128.**—(1) After Article 34A of the Children Order (preparation for ceasing to be looked after) insert—

#### “Preparation for ceasing to be looked after: continuing care arrangements

**34AA.**—(1) This Article applies to an eligible child (within the meaning of Article 34A) who has been placed by an authority with an authority foster parent.

(2) When carrying out the assessment of the child’s needs in accordance with Article 34A(5), the authority must determine whether it would be appropriate to provide advice, assistance and support under this Order in order to facilitate a continuing care arrangement, and with a view to maintaining such an arrangement, after the authority ceases to look after the child.

(3) The authority must provide advice, assistance and support under this Order in order to facilitate a continuing care arrangement if—

- (a) the authority determines under paragraph (2) that it would be appropriate to do so; and
- (b) the eligible child and the authority foster parent wish to make a continuing care arrangement.

(4) In this Article, “continuing care arrangement” has the meaning given by Article 34DA.”

(2) After Article 34D of that Order (continuing functions in respect of former relevant children) insert—

#### “Continuing to live with former foster parents

**34DA.**—(1) Each authority has the duties provided for in paragraph (3) in relation to a continuing care arrangement.

(2) A “continuing care arrangement” is an arrangement under which—

- (a) a person who is a former relevant child by virtue of Article 34D(1)
- (b); and

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(b) a person (“a former foster parent”) who was the former relevant child’s authority foster parent immediately before the former relevant child ceased to be looked after by the authority,

continue to live together after the former relevant child has ceased to be looked after.

(3) The authority must (in discharging duties under Article 34D(3) and by other means)—

(a) monitor the continuing care arrangement; and

(b) provide advice, assistance and support to the former relevant child and the former foster parent with a view to maintaining the continuing care arrangement.

(4) Support provided to the former foster parent under paragraph (3)(b) must include financial support.

(5) Paragraph (3)(b) does not apply if the authority considers that the continuing care arrangement is not consistent with the welfare of the former relevant child.

(6) The duties set out in paragraph (3) subsist until the former relevant child reaches the age of 21.

(7) The duties set out in paragraph (3) cease if the continuing care arrangement is brought to an end by the former relevant child or the former foster parent.”.

(3) After Article 34DA of that Order (inserted by subsection (2)) insert—

**“Further advice and support**

**34DB.**—(1) This Article applies to a former relevant child if—

(a) the former relevant child has reached the age of 21 but not 25 (or such other age as may be prescribed); and

(b) an authority had duties towards the former relevant child under Article 34D (whether or not those duties subsist as a result of paragraph (7) of that Article).

(2) If the former relevant child informs the authority that he or she wishes to receive advice and support under this Article, paragraphs (3) to (6) apply to the authority.

(3) The authority must provide the former relevant child with a personal adviser until the former relevant child—

(a) reaches the age of 25 (or such other age as may be prescribed under paragraph (1)(a)); or

(b) if earlier, informs the authority that he or she no longer wants a personal adviser.

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- (4) The authority must—
- (a) carry out an assessment in relation to the former relevant child under paragraph (5); and
  - (b) prepare a pathway plan for the former relevant child.
- (5) An assessment under this paragraph is an assessment of the needs of the former relevant child with a view to determining—
- (a) whether any services offered by the authority (under this Order or otherwise) may assist in meeting the former relevant child’s needs; and
  - (b) if so, what advice and support it would be appropriate for the authority to provide for the purpose of helping the former relevant child to obtain those services.
- (6) The authority must provide the former relevant child with the advice and support that it has determined as being appropriate to provide under paragraph (5)(b).
- (7) Where a former relevant child to whom this Article applies is receiving advice and support under this Article, the authority may continue to provide advice and support after the former relevant child has reached the age of 25 (or such other age as may be prescribed under paragraph (1)(a)) if the authority is satisfied that the former relevant child has needs that cannot be met other than by providing such advice and support.
- (8) Where a former relevant child to whom this Article applies is not receiving advice and support under this Article, the authority must offer such advice and support—
- (a) as soon as possible after the former relevant child reaches the age of 21; and
  - (b) at least once in every 12 month period.
- (9) In this Article “former relevant child” has the meaning given by Article 34D(1).

#### **Further assistance to pursue education or training**

- 34DC.**—(1) This Article applies to a person if—
- (a) the person is under the age of 25 (or such other age as may be prescribed);
  - (b) the person is a former relevant child towards whom the duties imposed by paragraphs (2), (3) and (4) of Article 34D no longer subsist; and
  - (c) the person has informed the responsible authority that he or she is pursuing, or wishes to pursue, a programme of education or training.

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(2) The responsible authority must appoint a personal adviser for a person to whom this Article applies.

(3) The responsible authority must—

(a) carry out an assessment of the needs of a person to whom this Article applies with a view to determining what assistance (if any) it would be appropriate for the authority to provide to the person under this Article; and

(b) prepare a pathway plan for the person.

(4) The responsible authority must give assistance of a kind referred to in paragraph (5) to a person to whom this Article applies to the extent that the person's educational or training needs require it.

(5) The kinds of assistance are—

(a) contributing to expenses incurred by the person in living near the place where the person is, or will be, receiving education or training; or

(b) making a grant to enable the person to meet expenses connected with the person's education and training.

(6) If a person to whom this Article applies pursues a programme of education or training in accordance with the pathway plan prepared for the person, the duties of the authority under this Article (and under any provision applicable to the pathway plan prepared under this Article for that person) subsist for as long as the person continues to pursue that programme.

(7) For the purposes of paragraph (6), the authority may disregard any interruption in the person's pursuance of a programme of education or training if they are satisfied that the person will resume it as soon as is reasonably practicable.

(8) Paragraphs (7) to (9) of Article 18 apply to assistance given to a person under this Article as they apply to assistance given to or in respect of a child under that Article, but with the omission in paragraph (8) of the words "and of each of his parents".

(9) Paragraph (5) of Article 35B applies to a person to whom this Article applies as it applies to a person to whom paragraph (3) of that Article applies.

(10) In this Article—

"former relevant child" has the meaning given by Article 34D(1);

"the responsible authority" means, in relation to a person to whom this Article applies, the authority which had the duties provided for in Article 34D towards the person."

(4) In Article 35D of that Order (representations: Articles 34B to 35B), in paragraph (1) after sub-paragraph (a) insert—

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- “(aa) a former relevant child falling within Article 34DB;  
 (ab) a person falling within Article 34DC;”.

#### Commencement Information

**I13** S. 128 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

#### Local offer for care leavers

**129.** After Article 34F of the Children Order (Pathway Plans) insert—

##### “Local offer for care leavers

**34G.**—(1) An authority must publish information about—

- (a) services which the authority offers for care leavers in the exercise of its functions under this Order;
- (b) other services that the authority offers that may assist care leavers in, or in preparing for, adulthood and independent living.

(2) For the purposes of paragraph (1), services which may assist care leavers in, or in preparing for, adulthood and independent living include services relating to—

- (a) health and well-being;
- (b) relationships;
- (c) education and training;
- (d) employment;
- (e) accommodation;
- (f) participation in society.

(3) Where it considers appropriate, an authority must publish information about services for care leavers offered by others which the authority has power to offer as a result of its functions under this Order.

(4) Information required to be published by an authority under this Article is to be known as its “local offer for care leavers”.

(5) An authority must update its local offer for care leavers from time to time, as appropriate.

(6) Before publishing its local offer for care leavers (or any updated version) an authority must consult relevant persons about which of the

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services offered by the authority may assist care leavers in, or in preparing for, adulthood and independent living.

(7) In this Article—

“care leavers” means—

- (a) eligible children within the meaning given by Article 34A(3);
- (b) relevant children within the meaning given by Article 34B(2);
- (c) persons aged under 25 who are former relevant children within the meaning given by Article 34D(1);
- (d) persons qualifying for advice and assistance within the meaning given by Article 35(1);

“relevant persons”, in relation to an authority, means such care leavers and other persons as appear to the authority to be representative of care leavers in its area.”.

#### Commencement Information

**I14** S. 129 not in operation at Royal Assent, see **s. 160(1)**

PROSPECTIVE

#### Inquiries into representations

**130.—(1)** In Article 35D of the Children Order (representations: Articles 34B to 35B), after paragraph (1) insert—

“(1A) Regulations may be made by the Department imposing time limits on the making of representations under paragraph (1).”.

(2) Article 45 of the Children Order (reviews and representations) is amended in accordance with subsections (3) to (7).

(3) In paragraph (3) (which makes provision as to the persons by whom, and the matters in respect of which, representations may be made), for “functions under this Part” substitute “qualifying functions”.

(4) After that paragraph insert—

“(3A) The following are qualifying functions for the purposes of paragraph (3)—

- (a) functions under this Part;
- (b) such functions under Part 5 or 6 as are specified by the Department in regulations.

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(3B) The duty under paragraph (3) extends to representations (including complaints) made to the authority by—

- (a) any person mentioned in section 4(1) of the Adoption and Children Act (Northern Ireland) 2022 (persons for whose needs provision is made by the Adoption Service) and any other person to whom arrangements for the provision of adoption support services (within the meaning of that Act) extend;
- (b) any other person the authority considers has sufficient interest in a child who is or may be adopted to warrant that person's representations being considered by the authority,

about the discharge by the authority of such functions under the Adoption and Children Act (Northern Ireland) 2022 as are specified by the Department in regulations.

(3C) The duty under paragraph (3) extends to any representations (including complaints) which are made to the authority by—

- (a) a child with respect to whom a special guardianship order is in force;
- (b) a special guardian or a parent of such a child;
- (c) any other person the authority considers has a sufficient interest in the welfare of such a child to warrant that person's representations being considered by the authority; or
- (d) any person who has requested an assessment under Article 14F(3) or (4),

about the discharge by the authority of such functions under Article 14F as are specified by the Department in regulations.”.

(5) In paragraph (4) (procedure to require involvement of independent person), at the end add “, but this paragraph is subject to paragraph (5A).”.

(6) After that paragraph insert—

“(4A) Regulations may be made by the Department imposing time limits on the making of representations under this Article.”.

(7) After paragraph (5) insert—

“(5A) Regulations under paragraph (5) may provide that paragraph (4) does not apply in relation to any consideration or discussion which takes place as part of a procedure for which provision is made by the regulations for the purpose of resolving informally the matters raised in the representations.”.

(8) In Article 183 of the Children Order (regulations and orders), after paragraph (2) insert—



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“(2A) Regulations under Article 35D(1A) or Article 45(4A) must not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.”.

#### Commencement Information

**I15** S. 130 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

#### Review of cases of looked after children

**131.** In Article 45 of the Children Order (reviews and representations), in paragraph (2) (regulations as to reviews)—

(a) in sub-paragraph (e), omit “to consider” and after “care of the authority” insert—

“(i) to keep the Article 50A plan for the child under review and, if the authority is of the opinion that some change is required, to revise the plan, or make a new plan, accordingly;

(ii) to consider”;

(b) in sub-paragraph (f), omit “to consider” and after “provided by the authority” insert—

“(i) if there is no plan for the future care of the child, to prepare one;

(ii) if there is such a plan for the child, to keep it under review and, if the authority is of the opinion that some change is required, to revise the plan or make a new plan, accordingly;

(iii) to consider”.

#### Commencement Information

**I16** S. 131 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

#### Independent advocacy services

**132.** After Article 45 of the Children Order (reviews and representations) insert—

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### “Independent advocacy services

**45A.**—(1) Every authority must make arrangements for the provision of assistance to—

- (a) persons who make or intend to make representations under Article 35D; and
- (b) children who make or intend to make representations under Article 45.

(2) The assistance provided under the arrangements must include assistance by way of representation.

(3) The arrangements—

- (a) must secure that a person may not provide assistance if that person is a person who is prevented from doing so by regulations made by the Department; and
- (b) must comply with any other provision made by the regulations in relation to the arrangements.

(4) The Department may make regulations requiring authorities to monitor the steps that they have taken with a view to ensuring that they comply with regulations made for the purposes of paragraph (3).

(5) Every authority must give such publicity to their arrangements for the provision of assistance under this Article as it considers appropriate.”.

### Commencement Information

I17 S. 132 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

### Definition of harm

**133.**—(1) In Article 2(2) of the Children Order (interpretation), at the appropriate place insert—

““impairment of health or development” includes, for example, impairment suffered as a result of—

- (a) the ill-treatment of another, or
- (b) behaviour directed at another that falls within section 2 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (what amounts to abusive behaviour),

whether or not the child who suffered the impairment saw or heard, or was present during that ill-treatment or behaviour;”.

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(2) In Article 12A(1) of the Children Order (residence and contact orders and domestic violence), for the words from “through seeing” to the end of the paragraph substitute “as a result of any behaviour of the prohibited person.”.

#### Commencement Information

**I18** S. 133 not in operation at Royal Assent, see **s. 160(1)**

PROSPECTIVE

### Care plans

**134.—(1)** After Article 50 of the Children Order (care orders and supervision orders) insert—

#### “Care orders: care plans

**50A.—(1)** Where an application is made on which a care order might be made with respect to a child, the appropriate authority must, within such time as the court may direct, prepare a plan (a care plan) for the future care of the child.

(2) While the application is pending, the authority must keep any care plan prepared by it under review and, if the authority is of the opinion some change is required, revise the plan, or make a new plan, accordingly.

(3) A care plan must give any prescribed information and do so in the prescribed manner.

(4) For the purposes of this Article, the appropriate authority, in relation to a child in respect of whom a care order might be made, is the authority proposed to be designated in the order.

(5) In this Article references to a care order do not include an interim care order.

(6) A plan prepared, or treated as prepared, under this Article is referred to in this Order as an “Article 50A plan”.

(2) If—

(a) before subsection (1) comes into operation, a care order has been made in respect of a child and a plan for the future care of the child has been prepared in connection with the making of the order by the authority designated in the order, and

(b) on the day on which that subsection comes into operation the order is in force, or would be in force but for section 26(1),

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the plan is to have effect as if made under Article 50A of the Children Order.

#### Commencement Information

**I19** S. 134 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

#### Contact: children in care of authority

**135.—(1)** Article 53 of the Children Order (parental contact etc. with children in care) is amended as follows.

(2) In paragraph (1) after “subject to the provisions of this Article” insert “and the authority’s duty under Article 26(1)(a)”.

(3) After paragraph (6) insert—

“(6A) Where (by virtue of an order under this Article, or because paragraph (6) applies) an authority is authorised to refuse to allow contact between the child and a person who is mentioned in sub-paragraphs (a) to (c) of Article 29(1), Article 29(1) does not require the authority to endeavour to promote contact between the child and that person.”.

(4) In paragraph (8) before sub-paragraph (a) insert—

“(za) what an authority must have regard to in considering whether contact between a child and a person who is mentioned in any of sub-paragraphs (a) to (d) of paragraph (1) is consistent with safeguarding and promoting the child’s welfare;”.

(5) In paragraph (11) after the word “Before” insert “making, varying or discharging an order under this Article or”.

#### Commencement Information

**I20** S. 135 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

#### Persons authorised to act as children’s court guardian

**136.—(1)** In Article 60 of the Children Order (representation of child and of the child’s interests in certain proceedings), in paragraph (7) (establishment of panels)—

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- (a) for “for the establishment of panels of persons from whom” substitute “that”;
  - (b) at the end add “from persons employed or approved for that purpose by such special agency or other public body as may be prescribed”.
- (2) In paragraph (9) of that Article (regulations)—
- (a) in sub-paragraph (a) for the words from “constitution” to the end substitute “employment or approval of persons for the purposes of this Article by such special agency or other public body as may be prescribed”; and
  - (b) omit sub-paragraph (b).

#### Commencement Information

**I21** S. 136 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Renaming of guardians ad litem

- 137.**—(1) A guardian ad litem is to be known as a children’s court guardian.
- (2) In Articles 60 and 61 of the Children Order (guardians ad litem)—
- (a) for “guardian ad litem” (wherever occurring) substitute “children’s court guardian”;
  - (b) for “guardians ad litem” (wherever occurring) substitute “children’s court guardians”.
- (3) In the cross-heading preceding Article 60 for “Guardians ad litem” substitute “Children’s court guardians”.
- (4) In each of the following for “guardian ad litem” substitute “children’s court guardian”—
- (a) paragraph 6 of Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (civil legal services: excluded services);
  - (b) paragraph 1(6) of Schedule 2 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (regulated activity);
  - (c) Article 28(11) of the Sexual Offences (Northern Ireland) Order 2008 (positions of trust).
- (5) Any reference in any other statutory provision to a guardian ad litem is to be read as a reference to a children’s court guardian.

#### Commencement Information

**I22** S. 137 not in operation at Royal Assent, see [s. 160\(1\)](#)

*Status: Point in time view as at 13/02/2023. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Adoption and Children Act (Northern Ireland) 2022, PART 2 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**I23** S. 137 in operation at 13.2.2023 by S.R. 2023/12, art. 2

PROSPECTIVE

### Interests of children in proceedings

**138.** In Article 60 of the Children Order (specified proceedings), in paragraph (6), after sub-paragraph (h) insert—

“(ha) on an application for the making of a special guardianship order with respect to a child who is the subject of a care order;”.

#### Commencement Information

**I24** S. 138 not in operation at Royal Assent, see s. 160(1)

PROSPECTIVE

### Definition of privately fostered child

**139.—(1)** In Article 107 of the Children Order (privately fostered children further defined), paragraph (7) is amended as follows.

(2) In sub-paragraph (a)—

- (a) in head (i), for “Article 3 of the Adoption Order” substitute “section 2 of the Adoption and Children Act (Northern Ireland) 2022”;
- (b) in head (ii), for “section 1 of the Adoption Act 1976” substitute “section 2 of the Adoption and Children Act 2002”.

(3) Omit sub-paragraph (b).

(4) At the end add—

- “(c) an authority has functions in respect of the child by virtue of—
  - (i) regulations under section 82(6)(b) of the Adoption and Children Act (Northern Ireland) 2022, or
  - (ii) corresponding functions by virtue of regulations under section 1 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001.”.

#### Commencement Information

**I25** S. 139 not in operation at Royal Assent, see s. 160(1)

*Status: Point in time view as at 13/02/2023. This version of this part contains provisions that are not valid for this point in time.*

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## PROSPECTIVE

**Welfare of children who will be privately fostered**

**140.**—(1) Article 108 of the Children Order (welfare of privately fostered children) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a)—

(i) after “who are” insert “or are proposed to be”;

(ii) after “is being” insert “or will be”;

(b) in sub-paragraph (b) for “caring for” substitute “concerned with”.

(3) After paragraph (2) insert—

“(2A) Regulations under paragraph (2)(b) may impose requirements as to the action to be taken by an authority for the purposes of discharging the authority’s duty under paragraph (1) where the authority has received notification that a child is proposed to be privately fostered.”.

(4) In paragraph (3)—

(a) after “visit privately fostered children” insert “or children who are proposed to be privately fostered”;

(b) in sub-paragraph (a) omit “or”;

(c) at the end of sub-paragraph (b) add “or

(c) it is proposed to accommodate any child who is proposed to be privately fostered in any such premises,”.

(5) In paragraph (5)—

(a) after “who is” insert “or is proposed to be”;

(b) after “is being” insert “or will be”.

**Commencement Information**

**I26** S. 140 not in operation at Royal Assent, see **s. 160(1)**

## PROSPECTIVE

**Notification of fostering: public awareness**

**141.** After Article 112 of the Children Order insert—

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### “Notification of fostering: public awareness

**112A.** Every authority must promote public awareness within its area of requirements as to notification for which provision is made under Article 112”.

#### Commencement Information

**I27** S. 141 not in operation at Royal Assent, see [s. 160\(1\)](#)

PROSPECTIVE

### Privacy for children in proceedings

**142.** In Article 170 of the Children Order (privacy for children in specified proceedings), after paragraph (9) insert—

“(9A) It is not a contravention of this Article to—

- (a) enter material in the Northern Ireland Adoption and Children Act Register (established under section 144 of the Adoption and Children Act (Northern Ireland) 2022; or
- (b) permit persons to search and inspect that register pursuant to regulations made under section 149 of that Act.”.

#### Commencement Information

**I28** S. 142 not in operation at Royal Assent, see [s. 160\(1\)](#)

VALID FROM 01/04/2024

### Report on the operation of the Children Order

**143.—**(1) Article 181 of the Children Order (annual report) is amended as follows.

(2) In the title, for “Annual report” substitute “Report on the operation of this Order”.

(3) The existing text becomes paragraph (1).

(4) In that paragraph, for the words from “cause an” to the end, substitute “cause a general report on the operation of this Order to be prepared and laid before the Assembly at least once every three years.”.

(5) After that paragraph, add—



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“(2) The first report under paragraph (1) must be prepared and laid before the Assembly within the period of three years beginning on the date on which the Adoption and Children Act (Northern Ireland) 2022 receives Royal Assent.”.

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**Commencement Information**

**I29** S. 143 not in operation at Royal Assent, see **s. 160(1)**

**Status:**

Point in time view as at 13/02/2023. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Adoption and Children Act (Northern Ireland) 2022, PART 2 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.