
STATUTORY INSTRUMENTS

1987 No. 2203 (N.I. 22)

NORTHERN IRELAND

The Adoption (Northern Ireland) Order 1987

To be laid before Parliament in draft

*Made - - - - 18th December 1987
Coming into operation on days to be appointed under
Article 1(2)*

At the Court at Buckingham Palace, the 18th day of December 1987

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974(1), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Adoption (Northern Ireland) Order 1987.

(2) This Order shall come into operation on such day or days as the Head of the Department of Health and Social Services may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(2) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

(1) 1974 c. 28
(2) 1954 c. 33 (N.I.)

“actual custody”, in relation to a child, means actual possession of his person;

“adoption agency” shall be construed in accordance with Article 3(3); and for the purposes of Articles 11 and 21 includes an adoption agency within the meaning of section 1 of the Adoption Act 1976⁽³⁾ (adoption agencies in England and Wales) and section 1 of the Adoption (Scotland) Act 1978⁽⁴⁾ (adoption agencies in Scotland);

“adoption order” means an order under Article 12(1);

“adoption society” means a body of persons whose functions consist of or include the making of arrangements for the adoption of children;

“adoption rules” means rules of court and county court rules;

“authorised court”, as respects an application for an order relating to a child, means—

- (a) in the case of an application for an adoption order or for an order freeing a child for adoption where the child is not in Northern Ireland when the application is made, the High Court;
- (b) in the case of an application under Article 30—
 - (i) where there is pending in respect of the child an application for an adoption order or an order freeing him for adoption, the court in which that application is pending;
 - (ii) in any other case, the High Court or the county court within whose division the applicant lives;
- (c) in any other case where the child is in Northern Ireland when the application is made—
 - (i) the High Court;
 - (ii) the county court within whose division the child is, and, in the case of an application for an order freeing a child for adoption, any county court within whose division a parent or guardian of the child is;
 - (iii) any other county court prescribed by county court rules;

“Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽⁵⁾;

“child”, except where used to express a relationship, means a person who has not attained the age of 18 years;

“the Department” means the Department of Health and Social Services;

“existing”, in relation to a statutory provision or other instrument, means one passed or made at any time before the commencement of Part V;

“guardian”, in relation to a child, means—

- (a) a person appointed by deed or will in accordance with the provisions of section 6 of the Tenures Abolition Act (Ireland) 1662⁽⁶⁾ or section 3 of the Guardianship of Infants Act 1886⁽⁷⁾ to be the guardian of the child;
- (b) a person appointed by a court of competent jurisdiction to be the guardian of the child; and in the case of an illegitimate child includes the father where he has custody of the child by virtue of an order under section 5A of that Act of 1886

“notice” means a notice in writing;

“order freeing a child for adoption” means an order under Article 17(1) or 18(1);

(3) 1976 c. 36
 (4) 1978 c. 28
 (5) 1972 NI 14
 (6) 1662 c. 19 (1r)
 (7) 1886 c. 27

“the parental rights and duties” means, as respects a particular child (whether legitimate or not), all the rights and duties which by law the mother and father have in relation to a legitimate child and his property; and references to a parental right or duty shall be construed accordingly and shall include any element included in a right or duty;

“place of safety” means a remand home, a home provided by a Board, a police station, a hospital or surgery, or any other suitable place the occupier of which is willing temporarily to receive a child;

“prescribed” in Articles 4, 54 and 59 means prescribed by regulations and elsewhere means prescribed by adoption rules;

“registered adoption society” means an adoption society which is registered under Article 4, and does not include an adoption society registered under Part V of the Adoption Act (Northern Ireland) 1967⁽⁸⁾ unless it is re-registered under Article 4; and “registration” in relation to an adoption society shall be construed accordingly;

“registration district” means the local government district or, where a birth took place before the 1st October 1973, the district of the Superintendent Registrar and Registrar of Births and Deaths within the meaning of the Births and Deaths Registration Act (Northern Ireland) 1967⁽⁹⁾;

“regulations” means regulations made by the Department;

“relative” in relation to a child means a grandparent, brother, sister, uncle or aunt, whether of the full blood or half-blood or by affinity and includes, where the child is illegitimate, the father of the child and any person who would be a relative within the meaning of this definition if the child were the legitimate child of his mother and father;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954⁽¹⁰⁾;

“voluntary organisation” means a body other than a public or local authority the activities of which are not carried on for profit.

(3) For the purposes of this Order, a person shall be deemed to make arrangements for the adoption of a child or to take part in arrangements for transferring the actual custody of a child to a person if—

- (a) he enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected, or is intended to be effected, in pursuance of an adoption order, an order under Article 57 or otherwise; or
- (b) he enters into or makes any agreement or arrangement for, or facilitates, the transfer of the child to the actual custody of that other person;

or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another person to do so.

(4) References in this Order to a child in the care of a Board include references to a child in the care of the Department, where a Board is exercising functions with respect to the care of the child on behalf of the Department pursuant to Article 17 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹¹⁾.

⁽⁸⁾ 1967 c. 35 (N.I.)

⁽⁹⁾ 1967 c. 25 (N.I.)

⁽¹⁰⁾ 1954 c. 33 (N.I.)

⁽¹¹⁾ 1972 NI 14

PART II

ARRANGEMENTS FOR ADOPTION

The Adoption Service

The Adoption Service

3.—(1) Every Board shall establish and maintain within its area a service designed to meet the needs, in relation to adoption, of—

- (a) children who have been or may be adopted;
- (b) parents and guardians of such children; and
- (c) persons who have adopted or may adopt a child,

and for that purpose shall provide the requisite facilities, or secure that they are provided by registered adoption societies.

(2) The facilities to be provided as part of the service maintained under paragraph (1) include—

- (a) temporary board and lodging where needed by pregnant women, mothers or children;
- (b) arrangements for assessing children and prospective adopters, and placing children for adoption;
- (c) counselling for persons with problems relating to adoption.

(3) The service maintained by Boards under paragraph (1) may be collectively referred to as “the Adoption Service”, and a Board or a registered adoption society may be referred to as an adoption agency.

Adoption societies

Registration of adoption societies

4.—(1) A body which is a voluntary organisation and desires to act, or to continue to act, as an adoption society may apply to the Department in the prescribed manner for registration under this Article paying such fee, if any, as may be prescribed.

(2) In considering the application, the Department shall have regard, in relation to the period for which registration is sought, to—

- (a) the applicant’s adoption programme, including, in particular, its ability to make provision (either directly or by arrangement with any other body, including a Board) for children who are free for adoption (including such children who are not placed for adoption);
- (b) the number and qualifications of its staff;
- (c) the availability to it of competent medical, legal and social work advice;
- (d) its financial resources; and
- (e) the organisation and control of its operations.

(3) After taking into account, in relation to the applicant, the matters specified in paragraph (2) and any other relevant considerations, the Department—

- (a) if satisfied that the applicant is likely to make, or if the applicant is an adoption society registered under Part V of the Adoption Act (Northern Ireland) 1967(12), is making an effective contribution to the Adoption Service, may register the applicant; or
- (b) may refuse to register it.

(4) Registration of an adoption society on an application under paragraph (1), unless cancelled earlier under Article 5, shall last for a period of 3 years from the date of registration and shall then expire or, in the case of a registered adoption society whose further application for registration is pending at that time, shall expire on the date when that application is granted or, as the case may be, refused.

Cancellation of registration

5.—(1) The Department may at any time cancel the registration of a registered adoption society—

- (a) if the Department is of the opinion that, taking account of the matters and considerations mentioned in Article 4(3), the society is not making an effective contribution to the Adoption Service; or
- (b) if the society fails to provide the Department with information required by it for the purpose of carrying out its functions under sub-paragraph (a), or fails to verify such information in the manner required by the Department; or
- (c) if the society is no longer a voluntary organisation.

(2) Where registration is cancelled under paragraph (1) or expires, the Department may direct the body concerned to make such arrangements as to children who are in its care and other transitional matters as seem to the Department expedient.

Procedure and right of appeal where registration refused or cancelled

6.—(1) Where the Department proposes (otherwise than in a case where it has already complied with this paragraph and, where appropriate, paragraph (2))—

- (a) to refuse an application under Article 4 for registration of a body as an adoption society, or
- (b) to cancel the registration of an adoption society under Article 5,

the Department shall serve on the body or, as the case may be, the society a notice—

- (i) setting out the reasons why the Department proposes to refuse the application or, as the case may be, to cancel the registration;
- (ii) informing the body or society that it may make representations in writing to the Department within 28 days of the date of service of the notice.

(2) If any representations are made by the body or society in accordance with paragraph (1) (ii), the Department shall give further consideration to the application or, as the case may be, the cancellation of the registration, taking into account those representations.

(3) If the Department, after complying with paragraph (1) and, where appropriate, paragraph (2), decides to refuse the application for registration or to cancel the registration, as the case may be, it shall give to the body or society notice of its decision.

(4) Any body aggrieved by the refusal of an application for registration, or any adoption society aggrieved by the cancellation of its registration, by the Department, may appeal to an Appeal Tribunal constituted in accordance with Schedule 1 and that Tribunal may determine any such appeal; and the Tribunal's determination shall be final and conclusive.

(5) An appeal under this Article shall be brought by notice served on the Department requiring it to refer the refusal or cancellation to an Appeal Tribunal.

(6) The Department shall pay to any member of an Appeal Tribunal such remuneration, if any, and such travelling or other allowances as may be approved by the Department of Finance and Personnel.

(7) An Appeal Tribunal may by summons require any person to attend, at such time and place as is set forth in the summons, to give evidence or to produce any documents or articles in his custody or under his control which relate to any appeal or other matter pending before the Tribunal, and may hear, receive and examine evidence on oath and for that purpose may administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined; and the Tribunal may also exercise the powers conferred by Schedule 1.

(8) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under paragraph (7), or to give evidence, or who wilfully alters, suppresses, cancels, destroys or refuses to produce any document or article which he may be required to produce by virtue of that paragraph, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

(9) Any person entitled to appeal to an Appeal Tribunal may appear and be heard on any such appeal either in person or by counsel or solicitor.

(10) Where the registration of an adoption society is cancelled or its re-registration on the expiry of a period of registration is refused by the Department, the adoption society shall, for the purposes of this Order, be deemed to be registered under this Order during the period within which an appeal against the cancellation or refusal may be brought under this Article, and, if such an appeal is brought, until the determination or abandonment of the appeal.

(11) For the purposes of paragraph (10), regulations may prescribe when an appeal is to be treated as abandoned.

Inspection of books, etc., of registered adoption societies

7.—(1) The Department may at any time serve a notice on any registered adoption society, or on any officer of such a society, requiring that society or officer to produce to the Department or a specified officer of the Department such books, accounts and other documents of the society relating to the performance by the society of its function in connection with the adoption of children as the Department may consider necessary for its information.

(2) Any such notice may contain a requirement that any information to be furnished in accordance with the notice shall be verified in a manner specified in the notice.

(3) Any person who fails to comply with the requirements of a notice under this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

Inactive or defunct adoption societies

8.—(1) If it appears to the Department that a registered adoption society, or a society whose registration has expired under Article 4(4) or has been cancelled under Article 5, is inactive or defunct, the Department may, in relation to any child who is or was in the care of the society, direct a Board to take such action as might have been taken by the society or by the society jointly with some other body (including a Board).

(2) Before giving a direction under paragraph (1), the Department shall, if practicable, consult both the society and the Board.

Welfare of children

Duty to promote welfare of child

9. In deciding on any course of action in relation to the adoption of a child, a court or adoption agency shall regard the welfare of the child as the most important consideration and shall—

- (a) have regard to all the circumstances, full consideration being given to—
 - (i) the need to be satisfied that adoption, or adoption by a particular person or persons, will be in the best interests of the child; and
 - (ii) the need to safeguard and promote the welfare of the child throughout his childhood; and
 - (iii) the importance of providing the child with a stable and harmonious home; and
- (b) so far as practicable, first ascertain the wishes and feelings of the child regarding the decision and give due consideration to them, having regard to his age and understanding.

Supplemental

Regulation of adoption agencies

10.—(1) Regulations may make provision for any purpose relating to the exercise by adoption agencies of their functions in connection with the adoption of children.

(2) Regulations may make the contravention of any regulation an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale.

Restriction on arranging adoptions and placing children

11.—(1) A person other than an adoption agency shall not make arrangements for the adoption of a child, or place a child for adoption, unless—

- (a) he is a parent of the child and the proposed adopter, or one of the proposed adopters, is a relative of the child; or
- (b) he is acting in pursuance of an order of the High Court.

(2) An adoption society approved as respects England and Wales under section 3 of the Adoption Act 1976⁽¹³⁾, or as respects Scotland under section 3 of the Adoption (Scotland) Act 1978⁽¹⁴⁾, but which is not registered under Article 4, shall not act as an adoption society in Northern Ireland except to the extent that the society considers it necessary to do so in the interests of a person mentioned in section 1 of that Act of 1976 or, as the case may be, section 1 of that Act of 1978.

(3) A person who—

- (a) takes part in the management or control of a body of persons which exists wholly or partly for the purpose of making arrangements for the adoption of children and which is not an adoption agency; or
- (b) contravenes paragraph (1); or
- (c) receives a child placed with him in contravention of paragraph (1);

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

⁽¹³⁾ 1976 c 36

⁽¹⁴⁾ 1978 c 28

(4) In any proceedings for an offence under paragraph (3)(a) proof of things done or of words written, spoken, or published (whether or not in the presence of any party to the proceedings) by any person taking part in the management or control of a body of persons, or in making arrangements for the adoption of children on behalf of the body, shall be admissible as evidence of the purpose for which that body exists.

(5) Article 27 shall apply where a person is convicted of an offence consisting of a contravention of paragraph (1) as it applies where an application for an adoption order is refused.

PART III ADOPTION ORDERS

The making of adoption orders

Adoption orders

12.—(1) An adoption order is an order vesting the parental rights and duties relating to a child in the adopters, and such an order may be made by an authorised court on the application of the adopters.

(2) The order does not affect the parental rights and duties so far as they relate to any period before the making of the order.

(3) The making of an adoption order operates to extinguish—

(a) any parental right or duty relating to the child which—

(i) is vested in a person (not being one of the adopters) who was the parent or guardian of the child immediately before the making of the order, or

(ii) is vested in any other person by virtue of the order of any court; and

(b) any duty arising by virtue of an agreement or the order of a court to make payments, so far as the payments are in respect of the child's maintenance for any period after the making of the adoption order or any other matter comprised in the parental duties and relating to such a period.

(4) Paragraph (3)(b) does not apply to a duty arising by virtue of an agreement—

(a) which constitutes a trust, or

(b) which expressly provides that the duty is not to be extinguished by the making of an adoption order.

(5) An adoption order may not be made in relation to a child who is or has been married.

(6) An adoption order may contain such terms and conditions as the court thinks fit.

(7) An adoption order may be made notwithstanding that the child is already an adopted child.

Child to live with adopters before order made

13.—(1) Where—

(a) the applicant, or one of the applicants, is a parent, step-parent or relative of the child, or

(b) the child was placed with the applicants by an adoption agency or in pursuance of an order of the High Court,

an adoption order shall not be made unless the child is at least 19 weeks old and at all times during the preceding 13 weeks had his home with the applicants or one of them.

(2) Where paragraph (1) does not apply, an adoption order shall not be made unless the child is at least 12 months old and at all times during the preceding 12 months had his home with the applicants or one of them.

(3) An adoption order shall not be made unless the court is satisfied that sufficient opportunities to see the child with the applicant or, in the case of an application by a married couple, both applicants together in the home environment have been afforded—

- (a) where the child was placed with the applicant by an adoption agency, to that agency, or
- (b) in any other case, to the Board within whose area the home is.

Adoption by married couple

14.—(1) An adoption order may be made on the application of a married couple where each has attained the age of 21 years but an adoption order shall not otherwise be made on the application of more than one person.

(2) An adoption order shall not be made on the application of a married couple unless at least one of them is domiciled in a part of the United Kingdom, or in any of the Channel Islands or in the Isle of Man.

(3) If the married couple consist of a parent and step-parent of the child, the court shall dismiss the application if it considers the matter would be better dealt with under Article 45 (orders for custody, etc.) of the Matrimonial Causes (Northern Ireland) Order 1978(15).

Adoption by one person

15.—(1) An adoption order may be made on the application of one person where he has attained the age of 21 years and—

- (a) is not married, or
- (b) is married and the court is satisfied that—
 - (i) his spouse cannot be found, or
 - (ii) the spouses have separated and are living apart, and the separation is likely to be permanent, or
 - (ii) his spouse is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.

(2) An adoption order shall not be made on the application of one person unless he is domiciled in a part of the United Kingdom, or in any of the Channel Islands or in the Isle of Man.

(3) An adoption order shall not be made on the application of the mother or father of the child alone unless the court is satisfied that—

- (a) the other natural parent is dead or cannot be found, or
- (b) there is some other reason justifying the exclusion of the other natural parent,

and where such an order is made the reason justifying the exclusion of the other natural parent shall be recorded by the court.

(4) If the applicant is a step-parent of the child the court shall dismiss the application if it considers the matter would be better dealt with under Article 45 (orders for custody, etc.) of the Matrimonial Causes (Northern Ireland) Order 1978(16).

(15) 1978 NI 15

(16) 1978 NI 15

Parental agreement

16.—(1) An adoption order shall not be made unless—

- (a) the child is free for adoption by virtue of an order made in Northern Ireland under Article 17(1) or 18(1), made in England and Wales under section 18 of the Adoption Act 1976⁽¹⁷⁾ (freeing children for adoption in England and Wales) or made in Scotland under section 18 of the Adoption (Scotland) Act 1978⁽¹⁸⁾ (freeing children for adoption in Scotland); or
- (b) in the case of each parent or guardian of the child the court is satisfied that—
 - (i) he freely, and with full understanding of what is involved, agrees—
 - (aa) either generally in respect of the adoption of the child or only in respect of the adoption of the child by a specified person, and
 - (ab) either unconditionally or subject only to a condition with respect to the religious persuasion in which the child is to be brought up, to the making of an adoption order; or
 - (ii) his agreement to the making of the adoption order should be dispensed with on a ground specified in paragraph (2).

(2) The grounds mentioned in paragraph (1)(b)(ii) are that the parent or guardian—

- (a) cannot be found or is incapable of giving agreement;
- (b) is withholding his agreement unreasonably;
- (c) has persistently failed without reasonable cause to discharge the parental duties in relation to the child;
- (d) has abandoned or neglected the child;
- (e) has persistently ill-treated the child;
- (f) has seriously ill-treated the child (subject to paragraph (4)).

(3) Agreement by the mother of the child is ineffective for the purposes of paragraph (2)(b)(i) if given less than 6 weeks after the child's birth.

(4) Paragraph (2)(f) does not apply unless (because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of the parent or guardian is unlikely.

(5) The reference in paragraph (1)(b) to a parent of a child does not include a reference to any person having the rights and powers of a parent of the child by virtue of—

- (a) section 91 of, or paragraph 14(1) of Schedule 5 to the Children and Young Persons Act (Northern Ireland) 1968⁽¹⁹⁾ (which relate to the exercise of parental rights in respect of children and young persons committed to the care of fit persons or ordered to be sent to training schools);
- (b) section 105 of that Act (which applies to children in respect of whom the parental rights are vested in the Department by virtue of a parental rights order made under section 104 of that Act).

*Freeing for adoption***Freeing child for adoption with parental agreement**

17.—(1) Subject to paragraph (2), where, on the joint application of the parents or guardian of the child and an adoption agency, an authorised court is satisfied in the case of each parent or guardian

⁽¹⁷⁾ 1976 c. 36

⁽¹⁸⁾ 1978 c. 28

⁽¹⁹⁾ 1968 c. 34 (N.I.)

that he freely, and with full understanding of what is involved, agrees generally and unconditionally to the making of an adoption order the court shall make an order declaring the child free for adoption.

(2) Where, on an application for an order under paragraph (1) in relation to a child, the mother of the child satisfies the court that her spouse is not the father of the child, the court may make the order on the joint application of the mother and the adoption agency.

(3) On the making of an order under paragraph (1), the parental rights and duties relating to the child vest in the adoption agency, and paragraphs (2) and (3) of Article 12 apply as if the order were an adoption order and the agency were the adopters.

(4) Agreement by the mother of the child is ineffective for the purposes of this Article if given less than 6 weeks after the child's birth.

(5) Before making an order under paragraph (1), the court shall satisfy itself, in relation to each parent or guardian of the child who can be found, that he has been given an opportunity of making, if he so wishes, a declaration that he prefers not to be involved in future questions concerning the adoption of the child; and any such declaration shall be recorded by the court.

(6) Before making an adoption order or an order under paragraph (1) in the case of an illegitimate child whose father is not his guardian, the court shall satisfy itself that all reasonable steps have been taken to identify the father of the child and that he has been given notice of, and the opportunity of appearing at, the proceedings.

Freeing child for adoption without parental agreement

18.—(1) Where, on an application by an adoption agency, an authorised court is satisfied in the case of each parent or guardian of a child that his agreement to the making of an adoption order should be dispensed with on a ground specified in Article 16(2) the court shall make an order declaring the child free for adoption.

(2) No application shall be made under paragraph (1) unless—

- (a) the child is in the care of the adoption agency; and
- (b) the child is already placed for adoption or the court is satisfied that it is likely that the child will be placed for adoption.

(3) Paragraphs (3), (5) and (6) of Article 17 shall apply to an order made by a court under paragraph (1) as they apply to an order made by a court under Article 17(1).

Progress reports to former parent

19.—(1) This Article and Article 20 apply to any person ("the former parent") who was required to be given an opportunity of making a declaration under Article 17(5) or by virtue of Article 18(3) but did not do so.

(2) If at any time the former parent by notice makes a declaration to the adoption agency that he prefers not to be involved in future questions concerning the adoption of the child—

- (a) the agency shall secure that the declaration is recorded by the court which made the order freeing the child for adoption, and
- (b) paragraphs (3) and (4) and Article 20 shall not apply as respects that former parent.

(3) Within the 14 days following the date 12 months after the making of the order freeing the child for adoption the adoption agency in which the parental rights and duties were vested on the making of the order, unless it has previously by notice to the former parent informed him that an adoption order has been made in respect of the child, shall by notice to the former parent inform him—

- (a) whether an adoption order has been made in respect of the child, and (if not)
- (b) whether the child has his home with a person with whom he has been placed for adoption.

(4) If at the time when the former parent is given notice under paragraph (3) an adoption order has not been made in respect of the child, the adoption agency shall give notice to the former parent of the making of an adoption order (if and when made), and meanwhile shall give the former parent notice whenever the child is placed for adoption or ceases to have his home with a person with whom he has been placed for adoption.

Revocation of order freeing child for adoption

20.—(1) The former parent, at any time more than 12 months after the making of the order freeing the child for adoption when—

(a) no adoption order has been made in respect of the child, and

(b) the child does not have his home with a person with whom he has been placed for adoption, may apply to the court which made the order for a further order revoking it on the ground that he wishes to resume the parental rights and duties.

(2) While the application is pending the adoption agency having the parental rights and duties shall not place the child for adoption without the leave of the court.

(3) Where an order freeing a child for adoption is revoked under this Article—

(a) the parental rights and duties relating to the child are vested in the individual or, as the case may be, the individuals in whom they vested immediately before that order was made;

(b) if the parental rights and duties, or any of them, vested in a government department, public body or voluntary organisation immediately before the order freeing the child for adoption was made, those rights and duties are vested in the individual, or as the case may be, the individuals in whom they vested immediately before they were vested in the department, body or organisation; and

(c) any duty extinguished by virtue of Article 12(3)(b) is forthwith revived,

but the revocation does not affect any right or duty so far as it relates to any period before the date of the revocation.

(4) Subject to paragraph (5), if the application is dismissed on the ground that to allow it would contravene the principle embodied in Article 9—

(a) the former parent who made the application shall not be entitled to make any further application under paragraph (1) in respect of the child, and

(b) the adoption agency is released from the duty of complying further with Article 19(3) as respects that parent.

(5) Paragraph (4)(a) shall not apply where the court which dismissed the application gives leave to the former parent to make a further application under paragraph (1), but such leave shall not be given unless it appears to the court that because of a change in circumstances or for any other reason it is proper to allow the application to be made.

Transfer of parental rights and duties between adoption agencies

21. On the joint application of an adoption agency in which the parental rights and duties relating to a child who is in Northern Ireland are vested under Article 17(3) or this Article or by virtue of Article 18(3) or under section 18(5) or 21 of the Adoption Act 1976⁽²⁰⁾ or under section 18(5) or 21 of the Adoption (Scotland) Act 1978⁽²¹⁾ and any other adoption agency, an authorised court may if it thinks fit by order transfer the parental rights and duties to the latter agency.

⁽²⁰⁾ 1976 c. 36

⁽²¹⁾ 1978 c. 28

Supplemental

Notification to Board of adoption application, where child not placed by adoption agency

22.—(1) An adoption order shall not be made in respect of a child who was not placed with the applicant by an adoption agency unless the applicant has, at least 3 months before the date of the order, served notice on the Board within whose area he has his home of his intention to apply for the adoption order.

(2) On receipt of such a notice the Board shall investigate the matter and submit to the court a report of its investigation and shall assist the court in any manner the court may direct.

(3) Under paragraph (2), the Board shall in particular investigate,—

(a) so far as is practicable, the suitability of the applicant, and any other matters relevant to the operation of Article 9 in relation to the application; and

(b) whether the child was placed with the applicant in contravention of Article 11.

(4) A Board which receives notice under paragraph (1) in respect of a child whom the Board knows to be in the care of another Board shall, not more than 7 days after the receipt of the notice, inform that other Board in writing, that it has received the notice.

Enquiries to be made of Board, where child is to be placed by registered adoption society

23. Where a registered adoption society is considering the placement of a child with any person for adoption, the society shall make enquiries of the Board in whose area that person's place of residence is situated so that the Board may inform the society whether or not there is any reason to believe that the proposed adoption would be detrimental to the child.

Reports to court where child placed by agency

24.—(1) Where an application for an adoption order relates to a child placed by an adoption agency, the agency shall submit to the court a report on the suitability of the applicants and any other matters relevant to the operation of Article 9 and shall assist the court in any manner the court may direct.

(2) Arrangements may be made by an adoption agency which has placed a child for its functions in relation to that child with respect to the report on the suitability of the applicants for adoption and any other matters relevant to the operation of Article 9 to be discharged by another adoption agency where unforeseen and exceptional circumstances make such an arrangement necessary.

Restrictions on making adoption orders

25.—(1) The court shall not proceed to hear an application for an adoption order in relation to a child where a previous application for a British adoption order made in relation to the child by the same persons was refused by any court unless—

(a) in refusing the previous application the court directed that this paragraph should not apply, or

(b) it appears to the court that because of a change in circumstances or for any other reason it is proper to proceed with the application.

(2) The court shall not make an adoption order in relation to a child unless it is satisfied that the applicants have not, as respects the child, contravened Article 59.

(3) In this Article “British adoption order” means an adoption order, an order under the Adoption Act (Northern Ireland) 1967(22) or any provision for the adoption of a child effected under the law of any part of Great Britain or the Channel Islands or under the law of the Isle of Man.

Interim orders

26.—(1) Where on an application for an adoption order the requirements of Articles 16(1) and 22(1) are complied with, the court may postpone the determination of the application and make an order vesting the legal custody of the child in the applicants for a probationary period not exceeding 2 years upon such terms for the maintenance of the child and otherwise as the court thinks fit.

(2) Where the probationary period specified in an order under paragraph (1) is less than 2 years, the court may by a further order extend the period to a duration not exceeding 2 years in all.

Care, etc., of child on refusal of adoption order

27.—(1) Where on an application for an adoption order in relation to a child the court refuses to make the adoption order then—

- (a) if it appears to the court that there are exceptional circumstances making it desirable that the child should be under the supervision of an independent person, the court may order that the child shall be under the supervision of a specified Board;
- (b) if it appears to the court that there are exceptional circumstances making it impracticable or undesirable for the child to be entrusted to either of the parents or to any other individual, the court may by order commit the child to the care of a specified Board.

(2) Where the court makes an order under paragraph (1)(b) the order may require the payment by either or each parent to the Board, while it has the care of the child, of such weekly or other periodical sum towards the maintenance of the child as the court thinks reasonable.

PART IV

CARE AND PROTECTION OF CHILDREN AWAITING ADOPTION

Restrictions on removal of children

Restrictions on removal where adoption agreed or application made under Article 17(1) or 18(1)

28.—(1) While an application for an adoption order is pending—

- (a) where a parent or guardian of the child has agreed to the making of the adoption order (whether or not he knows the identity of the applicant), the parent or guardian;
- (b) any person or body, other than a parent or guardian; is not entitled, against the will of the person with whom the child has his home, to remove the child from the actual custody of that person except with the leave of the court.

(2) While an application is pending for an order freeing a child for adoption and—

- (a) the child is in the care of the adoption agency making the application, and
- (b) the application was not made with the consent of each parent or guardian of the child,

no parent or guardian of the child is entitled, against the will of the person with whom the child has his home, to remove the child from the actual custody of that person except with the leave of the court.

(3) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

Restrictions on removal where applicant has provided home for 5 years

29.—(1) While an application for an adoption order in respect of a child made by the person with whom the child has had his home for the 5 years preceding the application is pending, no person is entitled, against the will of the applicant, to remove the child from the applicant's actual custody except with the leave of the court or under authority conferred by any enactment or on the arrest of the child.

(2) Where a person ("the prospective adopter") gives notice to the Board within whose area he has his home that he intends to apply for an adoption order in respect of a child who for the preceding 5 years has had his home with the prospective adopter, no person is entitled, against the will of the prospective adopter, to remove the child from the prospective adopter's actual custody, except with the leave of a court or under authority conferred by any enactment or on the arrest of the child, before—

- (a) the prospective adopter applies for the adoption order, or
- (b) the period of 3 months from the receipt of the notice by the Board expires,

whichever occurs first.

(3) In any case where paragraph (1) or (2) applies and—

- (a) the child was in the care of a Board before he began to have his home with the applicant or, as the case may be, the prospective adopter, and
- (b) the child remains in the care of the Board,

the Board shall not remove the child from the actual custody of the applicant or of the prospective adopter except in accordance with Article 31 or 32 or with the leave of a court.

(4) In paragraphs (2) and (3) "a court" means a court with jurisdiction to make adoption orders.

(5) A Board which receives such notice as is mentioned in paragraph (2) in respect of a child whom the Board knows to be in the care of another Board or of a voluntary organisation shall, not more than 7 days after the receipt of the notice, inform that other Board or the organisation, in writing, that it has received the notice.

(6) Paragraph (2) does not apply to any further notice served by the prospective adopter on any Board in respect of the same child during the period referred to in sub-paragraph (b) of that paragraph or within 28 days after its expiry.

(7) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

(8) The Department may by order made subject to affirmative resolution amend paragraph (1) or (2) to substitute for the period of 5 years mentioned in that paragraph such other period as may be specified in the order.

Return of child taken away in breach of Article 28 or 29

30.—(1) An authorised court may on the application of a person from whose actual custody a child has been removed in breach of Article 28 or 29 order the person who has so removed the child to return the child to the applicant.

(2) An authorised court may on the application of a person who has reasonable grounds for believing that another person is intending to remove a child from the applicant's actual custody in breach of Article 28 or 29 by order direct that other person not to remove the child from the applicant's custody in breach of that Article.

(3) If, in the case of an order made by the High Court under paragraph (1), the High Court or, in the case of an order made by a county court under paragraph (1), a county court is satisfied that the child has not been returned to the applicant, the court may make an order authorising a constable to search such premises as may be specified in the order for the child and, if a constable acting in pursuance of the order finds the child, to return the child to the applicant.

(4) If a justice of the peace is satisfied by complaint on oath that there are reasonable grounds for believing that a child to whom an order under paragraph (1) relates is in premises specified in the complaint, he may issue a search warrant authorising a constable to search the premises for the child, and if a constable acting in pursuance of the warrant finds the child, he shall return the child to the person on whose application the order under paragraph (1) was made.

(5) An order under paragraph (3) may be enforced in like manner as a warrant of commitment.

Return of children placed for adoption by adoption agencies

31.—(1) Subject to paragraph (2), at any time after a child has been delivered into the actual custody of any person in pursuance of arrangements made by an adoption agency for the adoption of the child by that person, and before an adoption order has been made on the application of that person in respect of the child,—

- (a) that person may serve notice on the agency of his intention not to retain the actual custody of the child; or
- (b) the agency may cause notice to be served on that person of their intention not to allow the child to remain in his actual custody.

(2) A notice under paragraph (1)(b) shall not be served in respect of a child in relation to whom an application has been made for an adoption order except with the leave of the court to which the application has been made.

(3) Where a notice is served on an adoption agency by any person or by an adoption agency on any person under paragraph (1), or where an application for an adoption order made by any person in respect of a child placed in his actual custody by an adoption agency is refused by the court or withdrawn, that person shall, within 7 days after the date on which notice was served or the application refused or withdrawn, as the case may be, cause the child to be returned to the agency, who shall receive the child.

(4) Where the period specified in an interim order made under Article 26 (whether as originally made or as extended under paragraph (2) of that Article) expires without an adoption order having been made in respect of the child, paragraph (3) shall apply as if the application for an adoption order upon which the interim order was made, had been refused at the expiration of that period.

(5) It shall be sufficient compliance with the requirements of paragraph (3) if the child is delivered to, and is received by, a suitable person nominated for the purpose by the adoption agency.

(6) Where an application for an adoption order is refused the court may, if it thinks fit at any time before the expiry of the period of 7 days mentioned in paragraph (3), order that period to be extended to a duration, not exceeding 6 weeks, specified in the order.

(7) Any person who contravenes the provisions of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both; and the court by which the offender is convicted may order the child in respect of whom the offence is committed to be returned to his parent or guardian or to the adoption agency which made the arrangements referred to in paragraph (1).

Application of Article 31 where child not placed for adoption

32.—(1) Where a person serves notice in pursuance of Article 22(1) on the Board within whose area he has his home of his intention to apply for an adoption order in respect of a child who is for the time being in the care of a Board, not being a child who was delivered into the actual custody of that person in pursuance of such arrangements as are mentioned in Article 31(1), that Article shall apply as if the child had been so delivered, except that where the application is refused by the court or withdrawn the child need not be returned to the Board in whose care he is unless the Board so requires.

(2) Where notice of intention is served as aforesaid in respect of any child who is for the time being in the care of a Board then, until the application for an adoption order has been made and disposed of, any right of the Board to require the child to be returned to it otherwise than in pursuance of Article 31 shall be suspended.

(3) While the child remains in the actual custody of the person by whom the notice is served no contribution shall be payable (whether under a contribution order or otherwise) in respect of the child by any person liable under section 155 of the Children and Young Persons Act (Northern Ireland) 1968⁽²³⁾ to make contributions in respect of him (but without prejudice to the recovery of any sum due at the time the notice is served), unless 12 weeks have elapsed since the service of the notice without the application being made or the application has been refused by the court or withdrawn.

Protected children

Meaning of “protected child”

33.—(1) Where a person gives notice in pursuance of Article 22(1) to the Board within whose area he lives of his intention to apply for an adoption order in respect of a child, the child is for the purposes of this Part a protected child while he has his home with that person.

(2) A child is not a protected child by reason of any such notice as is mentioned in paragraph (1) while—

- (a) he is in the care of any person in—
 - (i) any school within the meaning of the Education and Libraries (Northern Ireland) Order 1986⁽²⁴⁾,
 - (ii) any voluntary home within the meaning of section 126 of the Children and Young Persons Act (Northern Ireland) 1968,
 - (iii) any home or institution maintained by a government department or public body; or
- (b) he is resident in a residential home for persons suffering from mental disorder within the meaning of Article 3(1) of the Mental Health (Northern Ireland) Order 1986⁽²⁵⁾; or
- (c) he is liable to be detained or is subject to guardianship under that Order of 1986.

(3) A protected child ceases to be a protected child—

⁽²³⁾ 1968 c. 34 (N.I.)

⁽²⁴⁾ 1986 NI 3

⁽²⁵⁾ 1986 NI 4

- (a) on the appointment of a guardian for him under the Guardianship of Infants Act 1886⁽²⁶⁾;
 - (b) on the notification to the Board for the area where the child has his home that the application for an adoption order has been withdrawn;
 - (c) on the making of any of the following orders in respect of the child—
 - (i) an adoption order;
 - (ii) an order under Article 27;
 - (iii) an order under Article 45, 46 or 47 of the Matrimonial Causes (Northern Ireland) Order 1978⁽²⁷⁾;
 - (iv) an order under Article 10, 11 or 12 of the Domestic Proceedings' (Northern Ireland) Order 1980⁽²⁸⁾; or
 - (d) on his attaining the age of 18 years,
- whichever first occurs.

Duty of Boards to secure well-being of protected children

34.—(1) Every Board shall secure that protected children within its area are visited from time to time by officers of the Board, who shall satisfy themselves as to the well-being of the children and give such advice as to their care and maintenance as may appear to be needed.

(2) Any officer of a Board authorised to visit protected children may, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, inspect any premises in the area of the Board in which such children are to be or are being kept.

Removal of protected children from unsuitable surroundings

35.—(1) If a juvenile court is satisfied, on the complaint of a Board under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981⁽²⁹⁾, that a protected child is being kept or is about to be received by any person who is unfit to have his care or in any premises or any environment detrimental or likely to be detrimental to him, the court may make an order for his removal to a place of safety until he can be restored to a parent, relative or guardian of his, or until other arrangements can be made with respect to him; and on proof that there is imminent danger to the health or well-being of the child the power to make an order under this Article may be exercised by a justice of the peace acting on the complaint of an officer authorised to visit protected children.

(2) An order under this Article may be executed by any officer authorised to visit protected children or by any constable and, notwithstanding anything in section 7 of the Sunday Observance Act (Ireland) 1965⁽³⁰⁾, may be executed on a Sunday.

(3) The Department may receive into its care under section 103 of the Children and Young Persons Act (Northern Ireland) 1968⁽³¹⁾ any child removed under this Article, whether or not the circumstances of the child are such that they fall within paragraphs (a) and (b) of subsection (1) of that section and notwithstanding that he may appear to the Department to be over the age of 17 years.

(4) Where a child is removed under this Article the Board shall, if practicable, inform a parent or guardian of the child, or any person who acts as his guardian.

(26) 1886 c. 27
 (27) 1978 NI 15
 (28) 1980 NI 5
 (29) 1981 NI 26
 (30) 1965 c. 17 (I)
 (31) 1968 c. 34 (N.I.)

Notices and information to be given to Boards

36.—(1) Where a person who has a protected child in his actual custody changes his permanent address he shall not less than 2 weeks before the change, or, if the change is made in an emergency, not later than 1 week after the change, serve a notice specifying the new address on the Board in whose area his permanent address is before the change, and if the new address is in the area of another Board, the Board on whom the notice is served shall inform that other Board and give it such of the following particulars as are known to it, that is to say—

- (a) the name, sex and date and place of birth of the child;
- (b) the name and address of every person who is a parent or guardian or acts as a guardian of the child or from whom the child was received.

(2) If a protected child dies, the person in whose actual custody he was at his death shall within 48 hours serve notice of the child's death on the Board.

Offences relating to protected children

37.—(1) A person shall be guilty of an offence if—

- (a) being required, under Article 36 to serve any notice or give any information, he fails to serve the notice within the time specified in that provision or fails to give the information within a reasonable time, or knowingly makes or causes or procures another person to make any false or misleading statement in the notice or information;
- (b) he refuses to allow the visiting of a protected child by a duly authorised officer of a Board or the inspection, under the power conferred by Article 34(2) of any premises;
- (c) he refuses to comply with an order under Article 35 for the removal of any child or obstructs any person in the execution of such an order.

(2) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

Miscellaneous provisions relating to protected children

38.—(1) For the purposes of section 32 of the Children and Young Persons Act (Northern Ireland) 1968(**32**), under which a warrant authorising the search for and removal of a child may be issued on suspicion of unnecessary suffering caused to, or certain offences committed against, the child, any refusal to allow the visiting of a protected child or the inspection of any premises by a person authorised to do so under Article 34 shall be treated as giving reasonable cause for such a suspicion.

(2) A person who maintains a protected child shall be deemed for the purposes of the Life Assurance Act 1774(**33**) as extended by the Life Insurance (Ireland) Act 1866(**34**) to have no interest in the life of the child.

(3) Subsection (2) of section 65 of the Children and Young Persons Act (Northern Ireland) 1968 (which restricts the time and place at which a sitting of a juvenile court may be held and the persons who may be present at such a sitting) shall not apply to any sitting of a juvenile court in any proceedings under Article 35.

(32) 1968 c. 34 (N.I.)

(33) 1774 c. 48

(34) 1866 c. 42

PART V

STATUS OF ADOPTED CHILDREN

Meaning of “adoption” in Part V

39.—(1) In this Part “adoption” means adoption—

- (a) by an adoption order;
- (b) by an order made under the Adoption Act (Northern Ireland) 1967⁽³⁵⁾, the Adoption of Children Act (Northern Ireland) 1950⁽³⁶⁾ or the Adoption of Children Act (Northern Ireland) 1929⁽³⁷⁾;
- (c) by an order made in England and Wales, Scotland, the Isle of Man or in any of the Channel Islands; or
- (d) which is an adoption recognised by the law of Northern Ireland and effected under the law of any other country,

and cognate expressions shall be construed accordingly.

(2) The definition of adoption includes, where the context admits, an adoption effected before the commencement of this Part, and the date of an adoption effected by an order is the date of the making of the order.

Status conferred by adoption

40.—(1) An adopted child shall be treated in law—

- (a) where the adopters are a married couple, as if he had been born as a child of the marriage (whether or not he was in fact born after the marriage was solemnized);
- (b) in any other case, as if he had been born to the adopter in wedlock (but not as a child of any actual marriage of the adopter).

(2) An adopted child shall, subject to paragraph (3), be treated in law as if he were not the child of any person other than the adopters or adopter.

(3) Paragraph (2)—

- (a) does not apply for the purposes of the Table in Article 18(1) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984⁽³⁸⁾ (prohibited degrees of relationship); and
- (b) in the case of a child adopted by one of its natural parents as sole adoptive parent, has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship.

(4) It is hereby declared that this Article prevents an adopted child from being illegitimate.

(5) This Article has effect—

- (a) in the case of an adoption before the commencement of this Part from that time, and
- (b) in the case of any other adoption, from the date of the adoption.

(6) Subject to the provisions of this Part, this Article—

- (a) applies for the construction of statutory provisions or instruments passed or made before the adoption or later, and so applies subject to any contrary indication; and

⁽³⁵⁾ 1967 c. 35 (N.I.)

⁽³⁶⁾ 1950 c. 6 (N.I.)

⁽³⁷⁾ 1929 c. 15 (N.I.)

⁽³⁸⁾ 1984 NI 14

- (b) has effect as respects things done, or events occurring, after the adoption, or after the commencement of this Part, whichever is the later.

Adoptive relatives

41. A relationship existing by virtue of Article 40 may be referred to as an adoptive relationship, and

- (a) a male adopter may be referred to as the adoptive father;
- (b) a female adopter may be referred to as the adoptive mother;
- (c) any other relative of any degree under an adoptive relationship may be referred to as an adoptive relative of that degree,

but this Article does not prevent the term “parent”, or any other term not qualified by the word “adoptive”, being treated as including an adoptive relative.

Rules of construction for instruments concerning property

42.—(1) Subject to any contrary indication, the rules of construction contained in this Article apply to any instrument, other than an existing instrument, so far as it contains a disposition of property.

(2) In applying Article 40(1) to a disposition which depends on the date of birth of a child or children of the adoptive parent or parents, the disposition shall be construed as if—

- (a) the adopted child had been born on the date of adoption,
- (b) two or more children adopted on the same date had been born on that date in the order of their actual births,

but this does not affect any reference to the age of a child.

(3) Examples of phrases in wills on which paragraph (2) can operate are—

1. Children of A “living at my death or born afterwards”.
2. Children of A “living at my death or born afterwards before any one of such children for the time being in existence attains a vested interest and who attain the age of 21 years”.
3. As in example 1 or 2, but referring to grandchildren of A instead of children of A.
4. A for life “until he has a child”, and then to his child or children.

Note. Paragraph (2) will not affect the reference to the age of 21 years in example 2.

(4) Article 40(2) does not prejudice any interest vested in possession in the adopted child before the adoption, or any interest expectant (whether immediately or not) upon an interest so vested.

(5) Where it is necessary to determine for the purposes of a disposition of property effected by an instrument whether a woman can have a child, it shall be presumed that once a woman has attained the age of 55 years she will not adopt a child after execution of the instrument, and, notwithstanding Article 40, if she does so that child shall not be treated as her child or as the child of her spouse (if any) for the purposes of the instrument.

(6) In this Article, “instrument” includes a private Act or Measure settling property, but not any other statutory provision.

Dispositions depending on date of birth

43.—(1) Where a disposition depends on the date of birth of a child who was born illegitimate and who is adopted by one of the natural parents as sole adoptive parent, Article 42(2) does not affect

entitlement under Part II of the Family Law Reform (Northern Ireland) Order 1977(39) (illegitimate children).

(2) Paragraph (1) applies for example where—

- (a) a testator dies in 1986 bequeathing a legacy to his eldest grandchild living at a specified time,
- (b) his daughter has an illegitimate child in 1987 who is the first grandchild,
- (c) his married son has a child in 1988,
- (d) subsequently the illegitimate child is adopted by the mother as sole adoptive parent,

and in all those cases the daughter's child remains the eldest grandchild of the testator throughout.

Property devolving with peerages, etc.

44.—(1) An adoption does not affect the descent of any peerage or dignity or title of honour.

(2) An adoption shall not affect the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any peerage or dignity or title of honour.

(3) Paragraph (2) applies only if and so far as a contrary intention is not expressed in the instrument, and shall have effect subject to the terms of the instrument.

Protection of trustees and personal representatives

45.—(1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any property, whether any adoption has been effected or revoked if that fact could affect entitlement to the property.

(2) A trustee or personal representative shall not be liable to any person by reason of a conveyance or distribution of the property made without regard to any such fact if he has not received notice of the fact before the conveyance or distribution.

(3) This Article does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person, other than a purchaser, who has received it.

Meaning of “disposition”

46.—(1) In this Part, unless the context otherwise requires,—

“disposition” includes the conferring of a power of appointment and any other disposition of an interest in or right over property;

“power of appointment” includes any discretionary power to transfer a beneficial interest in property without the furnishing of valuable consideration.

(2) This Part applies to an oral disposition as if contained in an instrument made when the disposition was made.

(3) For the purposes of this Part, the death of the testator is the date at which a will or codicil is to be regarded as made.

(4) For the purposes of this Part, provisions of the law of intestate succession applicable to the estate of a deceased person shall be treated as if contained in an instrument executed by him (while of full capacity) immediately before his death.

(5) It is hereby declared that references in this Part to dispositions of property include references to a disposition by the creation of an entailed interest.

Miscellaneous

47.—(1) Article 40 does not apply for the purposes of sections 1 to 3 of the Punishment of Incest Act 1908⁽⁴⁰⁾ (incest).

(2) Article 40 does not apply for any purpose relating to nationality or immigration.

(3) Subject to regulations made under section 72 of the Social Security (Northern Ireland) Act 1975 (entitlement of certain relatives of deceased to industrial death benefit), Article 40 shall not affect the entitlement to an industrial death benefit of a person who would, apart from that Article, be treated as a relative of a deceased person for the purposes of the said section 72.

(4) The revocation of an adoption order under Article 55 does not affect any right to property under an instrument executed before the date of revocation.

Pensions

48. Article 40(2) does not affect entitlement to a pension which is payable to or for the benefit of a child and is in payment at the time of his adoption.

Insurance

49. Where a child is adopted whose natural parent has effected an insurance with a friendly society or a collecting society or an industrial insurance company for the payment on the death of the child of money for funeral expenses, the rights and liabilities under the policy shall by virtue of the adoption be transferred to the adoptive parents who shall for the purposes of the enactments relating to such societies and companies be treated as the person who took out the policy.

PART VI

REGISTRATION, AMENDMENT AND REVOCATION OF ADOPTION ORDERS

The Adopted Children Register

Adopted Children Register

50.—(1) The Registrar General for Northern Ireland (“the Registrar General”) shall—

- (a) maintain at the General Register Office a register to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries;
- (b) cause an index of the Adopted Children Register to be made and kept in the General Register Office; and
- (c) keep such other registers and books, and make such entries therein, as may be necessary to record and make traceable the connection between any entry in the Register of Births which has been marked “Adopted” pursuant to Article 51 or any statutory provision at the time in force, and any corresponding entry in the Adopted Children Register.

(2) Every person shall be entitled to search the index mentioned in paragraph (1)(b) and to have a certified copy of any entry in the Adopted Children Register in all respects upon and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Births and Deaths Registration (Northern Ireland) Order 1976⁽⁴¹⁾ in respect of searches in other

⁽⁴⁰⁾ 1908 c. 45

⁽⁴¹⁾ 1976 NI 14

indexes kept in the General Register Office and in respect of the supply from that Office of certified copies of entries in the Registers of Births and Deaths.

(3) The Registers and books kept under paragraph (1)(c) shall not be, nor shall any index thereof be, open to public inspection or search, and the Registrar General shall not furnish any person with any information contained in or with any copy or extract from any such registers or books except in accordance with Article 54 or under an order of any of the following courts, that is to say—

- (a) the High Court;
- (b) the court by which an adoption order was made in respect of the person to whom the information, copy or extract relates; and
- (c) any prescribed county court.

Registration of adoption orders

51.—(1) Every adoption order shall contain a direction to the Registrar General to make in the Adopted Children Register an entry in the form set out in Schedule 2, and (subject to paragraph (2)) shall specify the particulars to be entered under the headings in columns 2 to 6 of that Schedule.

(2) For the purposes of compliance with the requirements of paragraph (1)—

- (a) where the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined shall be specified in the order as the date of his birth;
- (b) where the country of birth of the child is not proved to the satisfaction of the court, then, if it appears probable that the child was born within the United Kingdom, the Channel Islands or the Isle of Man, he shall be treated as having been born in Northern Ireland, and in any other case the particulars of the country of birth may be omitted from the order and from the entry in the Adopted Children Register; and
- (c) the names to be specified in the order as the name and surname of the child shall be the name or names and surname stated in that behalf in the application for the adoption order, or, if no name or surname is so stated, the original name or names of the child and the surname of the applicant.

(3) The particulars to be entered in the Adopted Children Register under the heading in column 2 of Schedule 2 shall include—

- (a) in the case of a child born in Northern Ireland, the registration district in which the birth took place; and
- (b) where the child was born in Northern Ireland but the registration district in which the birth took place is not proved to the satisfaction of the court, or where the child is treated by virtue of paragraph (2)(b) as born in Northern Ireland, he shall be treated for the purposes of this paragraph as born in the registration district in which the court sits.

(4) Where upon any application for an adoption order in respect of a child born in Northern Ireland (not being a child who has previously been the subject of an adoption order made by a court in Northern Ireland under this Order or any statutory provision at the time in force) there is proved to the satisfaction of the court the identity of the child with a child to whom an entry in the Register of Births relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar General to cause the entry in the Register of Births to be marked with the word "Adopted".

(5) Where an adoption order is made in respect of a child who has previously been the subject of an adoption order made by a court in Northern Ireland under this Order or any statutory provision at the time in force, the order shall contain a direction to the Registrar General to cause the previous entry in the Adopted Children Register to be marked with the word "Re-adopted".

(6) The prescribed officer of the court which made an adoption order shall cause the adoption order to be communicated in the prescribed manner to the Registrar General, and upon receipt of the communication the Registrar General shall cause compliance to be made with the directions contained in the order.

(7) Where an adoption order is communicated to the Registrar General in accordance with paragraph (6), and the country of birth of the child or the country in which the child was previously adopted is shown therein as being England or Wales, Scotland, the Isle of Man or any of the Channel Islands, the Registrar General shall cause a notification giving particulars of the entry to be marked and a statement that an adoption order has been granted in respect of the child, to be transmitted to the authority maintaining the Register of Births or the Adopted Children Register or any corresponding register of adoptions, as the case may be, in that country.

Amendment of orders and rectification of Registers

52.—(1) The court by which an adoption order has been made (or, where that court was a county court, a county court held for the same division) may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein, and may—

- (a) if satisfied on the application of the adopter or of the adopted person that within 1 year beginning with the date of the order any new name or names has or have been given to the adopted person (whether in baptism or otherwise), or taken by him, either in lieu of or in addition to a name or names specified in the particulars required to be entered in the Adopted Children Register in pursuance of the order, amend the order by substituting or adding that name or names in those particulars, as the case may require;
- (b) if satisfied on the application of any person concerned that a direction for the marking of an entry in the Register of Births or the Adopted Children Register included in the order in pursuance of Article 51(4) or (5) was wrongly so included, revoke that direction.

(2) Where an adoption order is amended or a direction revoked under paragraph (1), the prescribed officer of the court shall cause the amendment to be communicated in the prescribed manner to the Registrar General who shall, as the case may require,—

- (a) cause the entry in the Adopted Children Register to be amended accordingly; or
- (b) cause the marking of the entry in the Register of Births or the Adopted Children Register to be cancelled.

(3) Where an adoption order is quashed or an appeal against an adoption order is allowed by any court, the court shall give direction to the Registrar General to cancel any entry in the Adopted Children Register and any marking of an entry in that Register or the Register of Births which was effected in pursuance of the order.

(4) Where an adoption order has been amended, any certified copy of the relevant entry in the Adopted Children Register which may be issued pursuant to Article 50(2) shall be a copy of the entry as amended, without the reproduction of any note or marking relating to the amendment or of any matter cancelled pursuant thereto; and a copy or extract of an entry in any register, being an entry the marking of which has been cancelled, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

(5) Without prejudice to Article 55 where, after an entry in the Register of Births has been marked with the word “Adopted”, the birth is re-registered under Article 19 of the Births and Deaths Registration (Northern Ireland) Order 1976(42) (which provides for the re-registration of the birth of legitimated persons) the entry made on the re-registration shall be marked in the like manner.

(6) Where the Registrar General has, in accordance with Article 51(7), caused a notification of any particulars to be transmitted to any authority maintaining a Register of Births or an Adopted Children Register or any corresponding register of adoptions in England and Wales, Scotland, the Isle of Man or any of the Channel Islands, and any of those particulars are amended, revoked or cancelled under this Article, the Registrar General shall cause a notification of such amendment, revocation or cancellation to be transmitted to that authority.

Registration of adoptions made outside Northern Ireland

53.—(1) Where the Registrar General is notified by the authority maintaining a register of adoptions in England or Wales, Scotland, the Isle of Man or any of the Channel Islands that an order has been made in that country authorising the adoption of a child to whom an entry in the Register of Births or the Adopted Children Register relates, he shall cause the entry to be marked with the word “Adopted” or “Re-adopted” as the case may require, followed by the name, in brackets, of the country in which the order was made.

(2) Where, after an entry has been so marked, the Registrar General is notified as aforesaid that the order has been quashed, that an appeal against the order has been allowed or that the order has been revoked, he shall cause the marking to be cancelled; and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this paragraph, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

(3) The preceding provisions of this Article shall apply in relation to orders corresponding to orders under Article 57 as they apply in relation to orders authorising the adoption of a child; but any marking of any entry required by virtue of this paragraph shall consist of the words “Proposed foreign adoption” or as the case may require, “Proposed foreign re-adoption” followed by the name in brackets of the country in which the order was made.

(4) Without prejudice to paragraphs (2) and (3) or Article 55, where after an entry in the Register of Births has been marked in accordance with this Article the birth is re-registered under Article 19 of the Births and Deaths Registration (Northern Ireland) Order 1976, the entry made on the re-registration shall be marked in the like manner.

Disclosure of records

Disclosure of birth records of adopted children

54.—(1) Subject to paragraphs (4) and (6), the Registrar General shall, on an application made in the prescribed manner by an adopted person a record of whose birth is kept by the Registrar General and who has attained the age of 18 years, supply to that person on payment of the prescribed fee (if any) such information as is necessary to enable that person to obtain a certified copy of the record of his birth.

(2) On an application made in the prescribed manner by an adopted person under the age of 18 years, a record of whose birth is kept by the Registrar General and who is intending to be married, and on payment of the prescribed fee (if any), the Registrar General shall inform the applicant whether or not it appears from information contained in the registers of live births or other records that the applicant and the person whom he intends to marry may be within the prohibited degrees of relationship for the purposes of Article 18(1) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984⁽⁴³⁾.

(3) Each adoption agency shall provide counselling for adopted persons who apply for information under paragraph (1).

(43) 1984 NI 14

(4) Before supplying any information to an applicant under paragraph (1) the Registrar General shall inform the applicant that counselling services are available to him—

- (a) from the Board for the area where the applicant is at the time the application is made; or
- (b) from the Board for the area where the court sat which made the adoption order relating to the applicant; or
- (c) if the applicant's adoption was arranged by a registered adoption society, from that society.

(5) If the applicant chooses to receive counselling under paragraph (4) the Registrar General shall send to the Board or society of the applicant's choice the information to which the applicant is entitled under paragraph (1).

(6) The Registrar General shall not supply a person who was adopted before the day on which this Order was made with any information under paragraph (1) unless that person has attended an interview with a counsellor in pursuance of arrangements made by the Board in or adoption society from whom the applicant is entitled to receive counselling in accordance with paragraph (4).

Revocation of certain adoptions

Revocation of adoptions on legitimation

55.—(1) Where any person adopted by his father or mother alone has subsequently become a legitimated person on the marriage of his father and mother, the court by which the adoption order was made may, on the application of any of the parties concerned, revoke that order.

(2) Where any person legitimated by virtue of section 1 of the Legitimacy Act (Northern Ireland) 1961⁽⁴⁴⁾ had been adopted by his father and mother before 1st September 1961, the court by which the adoption order was made may, on the application of any of the parties concerned, revoke that order.

(3) In relation to an adoption order made by a county court, the reference in paragraphs (1) and (2) to the court by which the order was made includes a reference to a court held for the same division.

(4) Where an adoption order is revoked under paragraph (1) or (2) the prescribed officer of the court shall cause the revocation to be communicated in the prescribed manner to the Registrar General who shall cause to be cancelled—

- (a) the entry in the Adopted Children Register relating to the adopted person; and
- (b) the marking with the word "Adopted" of any entry relating to him in the Register of Births;

and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this paragraph, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

Regulations

Regulations for purposes of Part VI

56. Regulations made under the Births and Deaths Registration (Northern Ireland) Order 1976⁽⁴⁵⁾ may make provision about the duties to be performed by registrars of births and deaths in the execution of this Part.

⁽⁴⁴⁾ 1961 c. 5 (N.I.)

⁽⁴⁵⁾ 1976 NI 14

PART VII

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous provisions

Adoption by persons domiciled outside Northern Ireland

57.—(1) Where on an application made in respect of a child by a person who is not domiciled in Northern Ireland an authorised court is satisfied that he intends to adopt the child under the law of or within the country in which the applicant is domiciled, and for that purpose desires to remove the child from Northern Ireland either immediately or after an interval, the court may, subject to the provisions of this Article, make an order vesting in him the parental rights and duties relating to the child.

(2) The provisions of Part III relating to adoption orders, except Articles 12(1), 14(2), 15(2), 17 to 21 and 26, shall apply in relation to an order under this Article as they apply in relation to adoption orders subject to the modification that in Article 13(1) for “19” and “13” there are substituted “32” and “26” respectively.

(3) Articles 50, 51(1), 53(1) and 54 shall apply in relation to an order under this Article, except that any entry in the Register of Births or in the Adopted Children Register which is required to be marked in consequence of the making of an order under this Article shall, in lieu of being marked with the word “Adopted” or “Re-adopted” be marked with the words “Proposed foreign adoption” or “Proposed foreign re-adoption”, as the case may require.

(4) References in Articles 28, 29, 31, 32 and 33 to an adoption order include references to an order under this Article.

Restriction on removal of children for adoption outside Northern Ireland

58.—(1) Except under the authority of an order under Article 57 it shall not be lawful for any person to take or send a child who is a British subject or a citizen of the Republic of Ireland out of Northern Ireland to any place outside the British Islands with a view to the adoption of the child by any person not being a parent or guardian or relative of the child; and any person who takes or sends a child out of Northern Ireland to any place in contravention of this paragraph, or makes or takes part in any arrangements for transferring the actual custody of a child to any person for that purpose, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

(2) In any proceedings under this Article, a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer shall, upon proof that the officer or the deponent cannot be found in the United Kingdom, be admissible as evidence of the matters stated therein, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

(3) In this Article “the British Islands” means the United Kingdom, the Channel Islands and the Isle of Man.

Prohibition on certain payments

59.—(1) Subject to the provisions of this Article it shall not be lawful for any person to make or give any payment or reward whatsoever in consideration of or in connection with the adoption of any child.

(2) Paragraph (1) shall not apply to—

- (a) any payment made to or received by an adoption agency in connection with the adoption of a child being a payment in respect of expenses reasonably incurred by the agency in connection with the adoption of the child;
- (b) any payment or reward the receipt or making of which is authorised by the court to which an application is made for an adoption order in respect of a child, or pursuant to any agreement, whether entered into before or after the making of the application, with respect to the receipt or making of any such payment or reward as may be so authorised;
- (c) any payment made by or on behalf of a registered adoption society in respect of the maintenance of a child who has been placed at the disposition of the society;
- (d) any payment made to a registered adoption society by the parent or guardian of a child or by any other person in respect of the maintenance of the child so long as the child is not in the actual custody of an adopter, being a payment made weekly and at a rate not exceeding such rate as may be prescribed.

(3) Any person who makes or gives, or agrees or offers to make or give, any payment or reward prohibited by this Article, or who receives or agrees to receive or attempts to obtain any such payment or reward, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both; and the court may order any child in respect of whom the offence was committed to be removed to a place of safety until he can be restored to his parents or guardian or until other arrangements can be made for him.

(4) If an adoption agency submits to the Department a scheme for the payment by the agency of allowances to persons who have adopted or intend to adopt a child where arrangements for the adoption were made, or are to be made, by that agency, and the Department approves the scheme, this Article shall not apply to any payment made in accordance with the scheme.

- (5) The Department, in the case of a scheme approved by it under paragraph (4), may—
- (a) make, or approve the making by the agency of, alterations to the scheme;
 - (b) revoke the scheme.

(6) The Department shall within 7 years of the commencement date and, thereafter, every 5 years, publish a report on the operation of the schemes since that time or since the publication of the last report.

(7) Subject to paragraph (8), paragraph (4) shall expire on the seventh anniversary of the commencement date.

(8) The Department may by order made subject to affirmative resolution at any time before the said anniversary repeal paragraph (7).

(9) An order under paragraph (8) shall not be made unless a report has been published under paragraph (6).

(10) Notwithstanding the expiry of paragraph (4) or the revocation of a scheme approved under this Article, paragraph (1) shall not apply in relation to any payment made, whether before or after the expiry of paragraph (4) or the revocation of the scheme, in accordance with a scheme which was approved under this Article to a person to whom such payments were made—

- (a) where the scheme was not revoked, before the expiry of paragraph (4), or
- (b) if the scheme was revoked, before the date of its revocation.

(11) In this Article “commencement date” means the day appointed under Article 1(2) for the coming into operation of this Article.

Restriction on advertisements

60.—(1) It shall not be lawful for any advertisement to be published indicating—

- (a) that the parent or guardian of a child desires to cause a child to be adopted; or
- (b) that a person desires to adopt a child; or
- (c) that any person (not being an adoption agency) is willing to make arrangements for the adoption of a child.

(2) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Prohibition of wrongful disclosure of information

61. Any person who, being or having been—

- (a) a member of, or of a committee of, an adoption agency, or
- (b) employed by, or by a committee of, an adoption agency,

publishes or communicates whether directly or indirectly, otherwise than in the ordinary course of duty, to any person without lawful authority any information obtained in the course of his membership or employment relating to the adoption or intended or proposed adoption of any child shall (without prejudice to any right of any such body to dismiss on the ground of misconduct such a person who makes such publication or communication while in their employment) be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Evidence and procedure

Evidence of agreement and consent

62.—(1) Any agreement or consent which is required by this Order to be given to the making of an order or application for an order may be given in writing, and, if the document signifying the agreement or consent is witnessed in accordance with adoption rules, it shall be admissible in evidence without further proof of the signature of the person by whom it was executed.

(2) A document signifying such agreement or consent which purports to be witnessed in accordance with adoption rules shall be presumed to be so witnessed, and to have been executed and witnessed on the date and at the place specified in the document, unless the contrary is proved.

Evidence of adoptions, etc.

63.—(1) A certified copy of any entry in the Adopted Children Register, if purporting to be sealed or stamped with the seal of the General Register Office, shall—

- (a) without any further or other proof of that entry, be received as evidence of the adoption to which it relates; and
- (b) where the entry contains a record of the date of the birth of the adopted person or of the country or the registration district in which he was born, be also received as evidence of that date or country or district.

(2) Any document which under section 50(2) of the Adoption Act 1976⁽⁴⁶⁾ or section 45(2) of the Adoption (Scotland) Act 1978⁽⁴⁷⁾ or any corresponding provision of any other Act is receivable as evidence of any matter in any part of Great Britain shall also be so receivable in Northern Ireland.

⁽⁴⁶⁾ 1976 c. 36

⁽⁴⁷⁾ 1978 c. 28

(3) An adoption, other than one to which paragraph (1) or (2) relates, may be proved by the production of any document which is receivable as evidence of the adoption in the country under whose law the adoption was made.

Removal of proceedings and appeals

64.—(1) Subject to paragraph (4), where any application is made under this Order to a county court, the High Court may, at the instance of any party to the application, order the application to be removed to the High Court and there proceeded with on such terms as to costs as it thinks proper.

(2) Subject to paragraph (4), where an application is made under this Order to a county court and the court considers that the matter is one which would more conveniently be dealt with by the High Court, the county court shall refuse to make an order, and in that case no appeal shall lie under paragraph (3).

(3) Subject to paragraphs (2) and (4) and without prejudice to Articles 61 and 65 of the County Courts (Northern Ireland) Order 1980(48) any person aggrieved with a decision of a county court on an application made to it under this Order may appeal from that decision as if the decision had been made in exercise of the jurisdiction conferred by Part III of the County Courts (Northern Ireland) Order 1980 and the appeal were brought under Article 60 of that Order.

(4) No appeal shall lie under paragraph (3) against an order made under Article 35.

Proceedings to be in private

65. Proceedings under Part III, Article 30 and Article 57—

- (a) in the High Court, may be disposed of in chambers;
- (b) in a county court, shall be heard and determined in chambers.

Guardians ad litem

66.—(1) For the purpose of any application for an adoption order or an order freeing a child for adoption or an order under Article 20 or 57, adoption rules shall appoint—

- (a) an officer of a Board; or
- (b) a person employed by such other organisation as the Department may approve;

to be guardian ad litem of the child concerned upon the hearing of the application.

(2) Subject to adoption rules, it shall be the duty of the guardian ad litem to safeguard the interests of the child concerned.

Adoption rules

67.—(1) In the case of—

- (a) an application for an adoption order in relation to a child who is not free for adoption;
- (b) an application for an order freeing a child for adoption;

rules shall require every person who can be found and whose agreement or consent to the making of the order is required under this order to be notified of a date and place where he will be heard on the application and of the fact that, unless he wishes or the court requires, he need not attend.

(2) In the case of an application under Article 57, rules shall require every parent and guardian of the child who can be found to be notified as aforesaid.

Supplemental

Regulations

68. Regulations made by the Department shall be subject to negative resolution.

Inquiries

69. For the purposes of this Order the Department may cause local or other inquiries to be held or investigations to be made.

Power of Department to conduct or assist research

70. The Department with the approval of the Department of Finance and Personnel may conduct or promote or assist (by grants or otherwise) any person in conducting research or investigations into any matter connected with the functions of the Department or of any Board under this Order or any matter connected with the adoption of children.

Inspection

71.—(1) The Department may appoint or designate an officer or other person (an “inspector”) to inspect and report to the Department concerning any institution, premises or other place whatsoever where any child is kept in respect of whom—

- (a) an application has been made under Article 17(1) or 18(1) for an order declaring him free for adoption;
- (b) notice of an intended application for his adoption has been served on a Board under Article 22;
- (c) enquiries have been made of a Board under Article 23;
- (d) an interim order is in force under Article 26; or
- (e) an application has been made under Article 57.

(2) An inspector (on production, if so required, of his credentials) may—

- (a) at any time enter any institution, premises or place which by virtue of paragraph (1) he is authorised or required to inspect; and
- (b) require the person who at that time has control or management of any place to be inspected to furnish such information as the inspector may reasonably require.

(3) The Department may pay to an inspector who is not an officer of the Department such sum by way of salary or fees and such sum for expenses as it may determine with the approval of the Department of Finance and Personnel.

Transitional provisions, savings, amendments and repeals

72.—(1) The transitional and saving provisions contained in Schedule 3 shall have effect.

(2) The statutory provisions specified in Schedule 4 shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Order.

(3) The statutory provisions specified in Schedule 5 are hereby repealed to the extent specified in column 3 of that Schedule (but subject to any provision in that Schedule about the effect of the repeals).

G. I de Deney
Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 6(4).

APPEAL TRIBUNALS

Constitution

1. An Appeal Tribunal shall consist of the following members, that is to say—
 - a chairman, who shall be a practising barrister-at-law of not less than 7 years' standing, appointed by the Lord Chief Justice;
 - a member appearing to the Department to be a suitably qualified person with experience in children's welfare work, appointed by the Department;
 - a member with experience in the administration of a voluntary organisation concerned with the welfare of children, appointed by the Department.
2. An officer of a government department shall not be appointed a member of an Appeal Tribunal.
3. Any decision of an Appeal Tribunal shall be made by the chairman after consultation with the other members.
4. The Department may nominate one of its officers to act as clerk of an Appeal Tribunal.

Procedure

5. An Appeal Tribunal may give directions with respect to the practice and procedure to be followed in any proceedings before the Tribunal and any thing incidental to or consequential on such proceedings.

Costs

6. An Appeal Tribunal may make orders as to the costs incurred by the Department and the appellant and as to the parties by whom the costs are to be paid; and any costs of the Department which are so ordered to be paid by the appellant shall be a debt recoverable summarily by the Department from the appellant.

SCHEDULE 2

Article 51.

FORM OF ENTRY IN ADOPTED CHILDREN REGISTER

1	2	3	4	5	6	7	8
<i>No. of entry</i>	<i>Date and country of birth of child</i>	<i>Name and surname of child</i>	<i>Sex of child</i>	<i>Name and surname, address and occupation of adopter or adopters</i>	<i>Date of adoption order and description of court by which made</i>	<i>Date of entry</i>	<i>Signature of officer deputed by Registrar General to attest the entry</i>

SCHEDULE 3

Article 72(1).

TRANSITIONAL PROVISIONS AND SAVINGS

1. Where any period of time specified in a statutory provision repealed by this Order is current at the commencement date, this Order shall have effect as if the corresponding provision thereof had been in force when that period began to run.

2.—(1) An interim order made under section 8 of the Adoption Act (Northern Ireland) 1967⁽⁴⁹⁾ which is in force at the commencement date shall be treated as an interim order made under Article 26.

(2) Paragraphs (1) and (2) of Article 52, shall apply in relation to an adoption order made before the commencement date as if the order had been made under Article 12, but as if, in sub-paragraph (b) of the said paragraph (1), there were substituted for the reference to Article 51(4) or (5) a reference to section 14(4) or (5) of the Adoption of Children Act (Northern Ireland) 1950⁽⁵⁰⁾ or, as the case requires, section 24(4) or (5) of the Adoption Act (Northern Ireland) 1967.

(3) The power of the court under Article 52(1) to amend an order includes power, in relation to an order made before 1st December 1969, to make on the application of the adopter or adopted person any such amendment of the particulars contained in the order as appears to be required to bring the order into the form in which it would have been made if Article 52 had applied to the order.

(4) Paragraphs (1) and (4) of Article 55 shall apply in relation to an adoption order made under a statutory provision at any time before the commencement date as they apply in relation to an adoption order made under this Order.

3. Any register, or index to a register, kept under the Adoption Act (Northern Ireland) 1967, or any register or index deemed to be part of such a register, shall be deemed to be part of the register kept under Article 50.

4.—(1) Article 40—

⁽⁴⁹⁾ 1967 c. 35 (N.I.)

⁽⁵⁰⁾ 1950 c. 6 (N.I.)

Status: This is the original version (as it was originally made).

- (a) does not apply to an existing instrument or statutory provision in so far as it contains a disposition of property, and
 - (b) does not apply to any public general Act or Measure in its application to any disposition of property in an existing instrument or statutory provision.
- (2) Sections 18 and 19 of the Adoption Act (Northern Ireland) 1967⁽⁵¹⁾, and provisions containing references to those sections shall continue to apply in relation to dispositions of property effected by existing instruments notwithstanding the repeal of those sections and such provisions.
- (3) Article 46 shall apply in relation to this paragraph as if it were contained in Part V.
5. The reference in Article 58(1) to an order under Article 57 includes an order under section 38 of the Adoption Act (Northern Ireland) 1967.
6. The provisions of this Schedule shall have effect without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954⁽⁵²⁾.
7. In this Schedule “commencement date” for the purpose of any provision of this Schedule, means the day appointed under Article 1(2) for the coming into operation of that provision.

SCHEDULE 4

Article 72(2)

AMENDMENTS

Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965 (c. 18)

1. In section 9(2) for “, a step-child or an adopted child” substitute “or a step-child”.

Children and Young Persons Act (Northern Ireland) 1968 (c. 34)

2. At the end of section 10(2) insert—
 - “; or
 - (e) a child who is placed with a person by an adoption agency within the meaning of the Adoption (Northern Ireland) Order 1987 with a view to his adoption by that person”.
3. In section 100(1)(d) for “section 14 of the Adoption Act (Northern Ireland) 1967” substitute “Article 35 of the Adoption (Northern Ireland) Order 1987”.
4. In section 151(1) for “the Adoption Act (Northern Ireland) 1967” substitute “the Adoption (Northern Ireland) Order 1987”.
5. In section 165—
 - (a) in subsection (1) for “Part II of the Adoption Act (Northern Ireland) 1967” substitute “Part IV of the Adoption (Northern Ireland) Order 1987”;
 - (b) in subsection (3) for “Act of 1967” substitute “Order of 1987”.

Adoption (Hague Convention) Act (Northern Ireland) 1969 (c. 22)

6. For sections 1 to 3 substitute—

⁽⁵¹⁾ 1967 c. 35 (N.I.)

⁽⁵²⁾ 1954 c. 33 (N.I.)

“1 Convention adoption orders.

(1) An adoption order shall be made as a convention adoption order if the application is for a convention adoption order and the following conditions are satisfied both at the time of the application and when the order is made.

(2) The child—

- (a) must be a United Kingdom national or a national of a convention country, and
- (b) must reside in British territory or a convention country.

(3) The applicant or applicants and the child must not all be United Kingdom nationals living in British territory.

(4) If the application is by a married couple, either—

- (a) each must be a United Kingdom national or a national of a convention country, and both must reside in Northern Ireland, or
- (b) both must be United Kingdom nationals, and each must reside in British territory or a convention country,

and if the applicants are nationals of the same convention country the adoption must not be prohibited by a specified provision (as defined in subsection (8)) of the internal law of that country.

(5) If the application is by one person, either—

- (a) he must be a national of a convention country, and must reside in Northern Ireland, or
- (b) he must be a United Kingdom national, and must reside in British territory or a convention country,

and if he is a national of a convention country the adoption must not be prohibited by a specified provision (as defined in subsection (8)) of the internal law of that country.

(6) If the child is not a United Kingdom national the order shall not be made—

- (a) except in accordance with the provisions, if any, relating to consents and consultations of the internal law relating to adoption of the convention country of which the child is a national, and
- (b) unless the court is satisfied that each person who consents to the order in accordance with that internal law does so with full understanding of what is involved.

(7) The reference to consents and consultations in subsection (6) does not include a reference to consent by and consultation with the applicant and members of the applicant's family (including his or her spouse), and for the purposes of subsection (6) consents may be proved in the manner prescribed by rules and the court shall be treated as the authority by whom, under the law mentioned in subsection (6), consents may be dispensed with and the adoption in question may be effected; and where the provisions there mentioned require the attendance before that authority of any person who does not reside in Northern Ireland, that requirement shall be treated as satisfied for the purposes of subsection (6) if—

- (a) that person has been given a reasonable opportunity of communicating his opinion on the adoption in question to the proper officer or clerk of the court, or to an appropriate authority of the country in question, for transmission to the court; and
- (b) where he has availed himself of that opportunity, his opinion has been transmitted to the court.

(8) In subsections (4) and (5) “specified provision” means a provision specified in an order under section 17(8) of the Adoption Act 1976 as one notified to the Government

of the United Kingdom in pursuance of the provisions of the Convention which relate to prohibitions on an adoption contained in the national law of the convention country in question.

2 Application of Order of 1987 to convention adoption orders.

2. The Order of 1987 shall have effect in relation to an adoption order to be made as a convention adoption order subject to the following modifications—

- (a) in Article 14(2) (adoption by married couples), at the end there shall be added “or the application is for a convention adoption order and section 1 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 is complied with”;
- (b) in Article 15(2) (adoption by one person), at the end there shall be added “or the application is for a convention adoption order and section 1 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 is complied with”;
- (c) in Article 16(2) (parental agreement) at the end there shall be inserted—
 - “(2A) Paragraph (1) does not apply in any case where the child is not a United Kingdom national and the application for the adoption order is for a convention adoption order.”.

7. In section 5(1) for “or a specified country having power under the law of that country” substitute “or any British territory other than Northern Ireland having power under the law of that country or territory”.

8. In section 8—

- (a) in subsection (1) for “section 24 of the Act of 1967” substitute “Article 51 of the Order of 1987”;
- (b) in subsection (2) for “Schedule 1 to the Act of 1967” substitute “Schedule 2 to the Order of 1987” and for “Schedule 1” substitute “Schedule 2”.

9. In section 9(3) for “6” substitute “1 or 6”.

10. In section 12—

- (a) insert the following definitions—

“adoption order” means an order under Article 12(1) of the Order of 1987;

“British territory” means, for the purposes of any provision of this Act, any of the following countries, that is to say, Northern Ireland, Great Britain, the Channel Islands, the Isle of Man and a colony, which is a British territory for the purposes of any corresponding provision of the Adoption Act 1976;

“convention adoption order” means an adoption order made in accordance with section 1(1);

“the Order of 1987” means the Adoption (Northern Ireland) Order 1987;

“specified order” means any provision for the adoption of a child effected under enactments similar to Article 12(1) of the Order of 1987 and section 1 of this Act in force in Great Britain or any British territory outside the United Kingdom;

- (b) in the definition of “convention country” for the words from “(excluding” to “1968” substitute “outside British territory, being a country for the time being designated by an order made under section 72(1) of the Adoption Act 1976”.

Health and Personal Social Services (Northern Ireland) Order 1972 (1972 NI 14)

11. After Article 17(1)(c) insert—

“(cc) exercise the functions (including functions imposed under an order of any court) conferred on them by the Adoption (Northern Ireland) Order 1987”.

12. After Article 87(2) insert—

“(2A) There shall be paid by the Department to the Health and Social Services Boards such sums as may be necessary to defray the expenditure of those Boards in connection with the exercise of their functions under the Adoption (Northern Ireland) Order 1987.”.

Births and Deaths Registration (Northern Ireland) Order 1976 (1976 NI 14)

13. In Article 2(2) insert the following definitions at the appropriate points in alphabetical order—

““father”, in relation to an adopted child, means the child’s natural father,”,

““mother”, in relation to an adopted child, means the child’s natural mother;”.

14. In Article 37(1) for “section 25 of the Adoption Act (Northern Ireland) 1967” substitute “Article 52(1)(a) of the Adoption (Northern Ireland) Order 1987” and for “section 23 of that Act” substitute “Article 50 of that Order”.

Family Law Reform (Northern Ireland) Order 1977 (1977 NI 17)

15. In Article 4(7) for “sections 18 and 19 of the Adoption Act (Northern Ireland) 1967” substitute “Articles 42, 43 and 46 of the Adoption (Northern Ireland) Order 1987”.

Housing (Northern Ireland) Order 1981 (1981 NI 3)

16. In Article 2(5) for “any illegitimate son or daughter, and any adopted son or daughter,” substitute “and any illegitimate son or daughter”.

Child Absuction (Northern Ireland) Order 1985 (1985 NI 17)

17. In the Schedule—

(a) after paragraph 2(1)(b) add “or

(c) Article 35 of the Adoption (Northern Ireland) Order 1987.”;

(b) in paragraph 3—

(i) for sub-paragraph (1)(a) substitute—

“(a) who is the subject of an order under Article 17 or 18 of the Adoption (Northern Ireland) Order 1987 freeing him for adoption; or

(aa) who is the subject of a pending application for such an order; or

(aaa) who is the subject of a pending application for an adoption order; or”;

(ii) in sub-paragraph (1)(b) after “under” insert “Article 57 of the Adoption (Northern Ireland) Order 1987 or”;

(iii) for sub-paragraph (2)(a)(i) substitute—

“(i) in a case within sub-paragraph (1)(a), to the consent of the adoption agency which made the application for the order or, if the parental rights and duties in respect of the child have been transferred from that agency to another agency by an order under Article 21 of the Adoption (Northern Ireland) Order 1987, to the consent of that other agency;

(ia) in a case within sub-paragraph (1)(aa) or (aaa), to the leave of the court to which the application was made; and”;

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(iv) for sub-paragraph (3) substitute—

“(3) In this paragraph—

- (a) “adoption agency” has the same meaning as in Article 3 of the Adoption (Northern Ireland) Order 1987; and
- (b) “adoption order” means an order under Article 12(1) of that Order.”.

SCHEDULE 5

Article 72(3).

REPEALS

PART I

STATUS OF ADOPTED CHILD

<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
1951 c. 20.	Judicial Pensions Act (Northern Ireland) 1951.	Section 22(3).
1955 c. 18.	Army Act 1955.	In section 150(5), in the paragraph relating to a child of a person, the words “or adopted” and the words from “and in this paragraph” to the end of the paragraph.
1955 c. 19.	Air Force Act 1955.	In section 150(5), in the paragraph relating to a child of a person, the words “or adopted” and the words from “and in this paragraph” to the end of the paragraph.
1959 c. 25.	County Courts Act (Northern Ireland) 1959	Section 135(3).
1960 c. 2.	Residents Magistrates' Pensions Act (Northern Ireland) 1960.	Section 22(2).
1961 c. 52.	Army and Air Force Act 1961.	In section 29(1) the words repealed above in the Army Act 1955 and the Air Force Act 1955.
1967 c. 35.	Adoption Act (Northern Ireland) 1967.	Sections 16, 17(1) to (3), 18 and 19. In section 37(1) the words “whether in law or in fact”).

<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In section 46(1), in the definition of “relative” paragraph (a).
1968 c. 34.	Children and Young Persons Act (Northern Ireland) 1968.	In section 180(1), in the definition of “parent” paragraph (b), and in the definition of “relative” paragraph (a).
1969 c. 22.	Adoption (Hague Convention) Act (Northern Ireland) 1969.	Sections 4(1) and (2) and 10(2), (3) and (4).
1971 c. 7.	Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971.	In section 19(1)(a)(ii) the words “adotted child”.
1971 c. 35.	Pensions (Increase) Act (Northern Ireland) 1971.	In section 3(7) the words from “and includes also” onwards.
1973 c. 45.	Domicile and Matrimonial Proceedings Act 1973.	In section 4(5) the words from “and in its application” onwards.
1975 c. 15.	Social Security (Northern Ireland) Act 1975.	In section 32(3)(c) the words “the same relationship by adoption and to include also”. In section 71(6) the words “and a parent by adoption”. In section 151(2) the words “a son or daughter by adoption and”.
1975 NI 16.	Child Benefit (Northern Ireland) Order 1975.	In Schedule 17, in the definition of “relative” the words “or adoption”. Article 2(4) (c).
1976 NI 14.	Births and Deaths Registration (Northern Ireland) Order 1976.	In Article 2(2), in the definition of “relative”, the words from “and, in relation” onwards.
1977 NI 15.	Criminal Injuries (Compensation) (Northern Ireland) Order 1977.	In Article 2, in paragraph (4) (a) the words “adopted person”, and paragraphs (4)(c), (5) and (6).
1977 NI 18.	Fatal Accidents (Northern Ireland) Order 1977.	Article 2(3)(a) and (4).
1978 NI 15.	Matrimonial Causes (Northern Ireland) Order 1978.	IN Article 2(2), the definition of “adopted”, and in the

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<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
		definition of “child” the words “or adopted”.
1979 NI 8.	Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979.	In Article 2(2) the definition of “adopted”, and in the definition of “child” the words “or adopted”.
1979 NI 13.	Industrial Assurance (Northern Ireland) Order 1979.	Article 2(5) and (6).
1980 NI 5.	Domestic Proceedings (Northern Ireland) Order 1979.	In Article 2(2) the definition of “adopted”, and in the definition of “child” the words “or adopted”.
1981 c. 20.	Judicial Pensions Act 1981.	In section 18(1)(ii) the words “and of children adopted by him during the marriage”.
1981 NI 3.	Housing (Northern Ireland) Order 1981.	In Article 145(3)(c) the word “, adopted”.
1985 NI 12.	Credit Unions (Northern Ireland) Order 1985	In Article 2(2), in the definition of “member of the family” sub-paragraph (I).
1986 NI 6.	Companies (Northern Ireland) Order 1986.	In Article 335(2)(a) the words “and adopted son” and the words “and adopted daughter”. In Article 336(8) the words “and adopted son” and the words “and adopted daughter”.

The repeals of sections 18 and 19 of the Adoption Act (Northern Ireland) 1967, and of provisions containing references to those sections, have effect subject to paragraph 4(2) of Schedule 3, and the other repeals in this Part have effect as respects things done, or events occurring, after the day appointed under Article 1(2) for the coming into operation of Part V.

PART II

OTHER PROVISIONS

<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
1961 c. 5.	Legitimacy Act (Northern Ireland) 1961	Section 3.
1967 c. 35.	Adoption Act (Northern Ireland) 1967.	The Whole Act so far as unrepealed.
1968 c. 34.	Children and Young Persons Act (Northern Ireland) 1968.	In section 1, in subsection (1) the words “(whether with a view to adoption or not)”, in subsection (2) the words

<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
		<p>“and whether with a view to adoption or not” and in subsection (4) the words from “whether a notice” to “case” in the second place where it occurs.</p> <p>In section 4, in subsection (1) the words from “(a)” to “other case” and the words “county court rules or, as the case may be” and in subsection (2) the words “to a county court under paragraph (a), or” and the words “paragraph (b), of”. Section 17(6)(b). Section 128(8).</p> <p>In section 167 the words “or the Adoption Act (Northern Ireland) 1967”.</p> <p>In section 169 the words “or any matter connected with the adoption of children”.</p> <p>In Schedule 7, paragraphs 42 and 50.</p>
1969 c. 22.	Adoption (Hague Convention) Act (Northern Ireland) 1969.	<p>In section 11, in subsection (1) the words “or under Part I of the Act of 1967 in its application to convention adoption orders and proposed convention adoption orders” and the words “or the said Part I” in both places where they occur and in subsection (2)(b) the words “within the meaning of this Act” and the words “within the meaning of the Act of 1967”.</p> <p>In section 12 the definitions of “the Act of 1967”, “convention adoption order”, “qualified infant”, “qualified person”, “qualified spouses” “specified country” and “specified order”.</p>
1972 NI 14.	Health and Personal Social Services (Northern Ireland) Order 1972.	<p>In Article 17(1)(c) the words “ the Adoption Act (Northern Ireland) 1967 and”.</p>

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<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In Article 72 the words “and the Adoption Act (Northern Ireland) 1967”.
		In Article 73(1) the words “and the Adoption Act (Northern Ireland) 1967”.
		In Article 87(2) the words “and the Adoption Act (Northern Ireland) 1967”.
		In Schedule 16, in Part I, paragraph 1, and in paragraph 11 the words “or the Adoption Act (Northern Ireland) 1967”.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order—

- (a) imposes on each Health and Social Services Board the duty to provide an adoption service for its area;
- (b) makes new provision relating to the registration of adoption societies;
- (c) places certain restrictions on arranging adoptions and placing children for adoption;
- (d) makes provision to enable children to be freed for adoption with or without parental agreement;
- (e) makes provision for the care and protection of children awaiting adoption;
- (f) sets out the status of adopted children;
- (g) makes provision for the registration of adoption orders;
- (h) makes provision for adopted adults to obtain access to their birth records; and
- (i) allows for the introduction of schemes for the payment of allowances to adopters and prospective adopters in certain circumstances.