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## STATUTORY INSTRUMENTS

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# 1987 No. 2203

## The Adoption (Northern Ireland) Order 1987

### PART III

#### ADOPTION ORDERS

##### *The making of adoption orders*

#### **Adoption orders**

**12** <sup>F1</sup>.—<sup>F2</sup>(1) An adoption order is an order giving parental responsibility for a child to 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 parental responsibility so far as it relates to any period before the making of the order.

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

- (a) the parental responsibility which any person has for the child immediately before the making of the order;
- (b) any order of a court under the Children (Northern Ireland) Order 1995;
- (c) 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 or upbringing for any period after the making of the order.]

(4) Paragraph<sup>F3</sup> (3)(c)] 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<sup>F4</sup> or who is or has been a civil partner].

(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.

**F1** mod. by SR 2003/16

**F2** 1995 NI 2

**F3** 1995 NI 2

**F4** 2004 c.33

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#### **Modifications etc. (not altering text)**

**C1** Art. 12(1)-(4) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, [Sch. 2](#)

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: The Adoption (Northern Ireland) Order 1987, Cross Heading: The making of adoption orders is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 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<sup>[F5]</sup> or <sup>[F6]</sup>HSC trust]] within whose area the home is.

<sup>[F7]</sup>(4) In relation to—

- (a) an adoption proposed to be effected by a Convention adoption order; or
- (b) an adoption of a child habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man which is proposed to be effected by an adoption order other than a Convention adoption order,

paragraph (1) shall have effect as if the reference to the preceding 13 weeks were a reference to the preceding 6 months.]

**F5** 1994 NI 2

**F6** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F7** 2001 c. 11 (NI)

## <sup>[F8]</sup>Adoption by married couple

14.—(1) An adoption order shall not be made on the application of more than one person except in the circumstances specified in paragraphs (2) and (3).

(2) An adoption order may be made on the application of a married couple where both the husband and the wife have attained the age of 21 years.

(3) An adoption order may be made on the application of a married couple where—

- (a) the husband or the wife—
  - (i) is the father or mother of the child; and
  - (ii) has attained the age of 18 years;

and

- (b) his or her spouse has attained the age of 21 years.

(4) 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.]

**F8** 1995 NI 2

### 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<sup>[F9]</sup> or a civil partner], 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<sup>[F10]</sup> or, by virtue of section 28 of the Human Fertilisation and Embryology Act 1990<sup>[F11]</sup> (disregarding subsections (5A) to (5I) of that section)], there is no other parent], 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.

*Para. (4) rep. by 1995 NI 2*

**F9** 2004 c.33

**F10** 1990 c. 37

**F11** 2003 c. 24

### Parental agreement

**16**<sup>F12</sup>.—(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<sup>F13</sup> (freeing children for adoption in England and Wales) or made in Scotland under section 18 of the Adoption (Scotland) Act 1978<sup>F14</sup> (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).

**Status:** Point in time view as at 01/04/2009.

**Changes to legislation:** The Adoption (Northern Ireland) Order 1987, Cross Heading: The making of adoption orders is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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<sup>[F15]</sup> his parental responsibility for] 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<sup>[F16]</sup> parental responsibility for] the child by virtue of—
- <sup>[F17]</sup>(a) Article 53 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (which relates to parental responsibility for children ordered to be sent to juvenile justice centres);]  
*Sub#para. (b) rep. by 1995 NI 2*

**F12** mod. by SR 2003/16  
**F13** 1976 c. 36  
**F14** 1978 c. 28  
**F15** 1995 NI 2  
**F16** 1995 NI 2  
**F17** 1998 NI 9

**Modifications etc. (not altering text)**

**C2** Art. 16(1)(a) modified (temp. from 2.11.2010 to 2.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Provisions) Order 2010 (S.I. 2010/2469), arts. 5(b), 6

**[F18] Convention adoption orders**

- 16A.** An adoption order shall be made as a Convention adoption order if—
- (a) the application is for a Convention adoption order; and
  - (b) any prescribed requirements are complied with.]

**F18** 2001 c. 11 (NI)

**Status:**

Point in time view as at 01/04/2009.

**Changes to legislation:**

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