

## STATUTORY INSTRUMENTS

# 1995 No. 755

## The Children (Northern Ireland) Order 1995

### PART I

#### INTRODUCTORY

##### Title and commencement

1.—(1) This Order may be cited as the Children (Northern Ireland) Order 1995.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint<sup>F1</sup>.

(3) An order under paragraph (2) may also appoint a day for the coming into operation of any provision of an order made under section 38(2) of the Northern Ireland Constitution Act 1973<sup>F2</sup> as necessary or expedient in consequence of this Order.

**F1** partly exercised by SR 1995/248; 1996/15, 297; 2000/139

**F2** 1973 c. 36

##### Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F3</sup> 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—

“Adoption Order” means the Adoption (Northern Ireland) Order 1987<sup>F4</sup>;

[<sup>F5</sup>“appropriate children's home” has the meaning given in Article 27(10);]

“Article 8 order” has the meaning given in Article 8(2);

“authority”, where the reference is to a body, means, except in Article 165 and subject to paragraphs (3) and (4), a Board;

“authority foster parent” has the meaning given in Article 27(3) (accommodation and maintenance of children looked after by an authority);

“Board” means a Health and Social Services Board;

“care order” has the meaning given in Article 49(1) and also includes any order which by or under any statutory provision has the effect of, or is deemed to be, a care order for the purposes of this Order;

[<sup>F5</sup>“Care Tribunal” means the tribunal established by Article 44 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;]

“child”, except in Parts X, XI and XII (fostering, child minding and employment) and subject to paragraph 1(1) of Schedule 1, means a person under the age of 18;

“child assessment order” has the meaning given in Article 62(2) (child assessment orders);

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“child minder” has the meaning given in Article 119;

[<sup>F6</sup>“child of the family”, in relation to parties to a marriage, or to two people who are civil partners of each other, means—

- (a) a child of both of them, and
- (b) any other child, other than a child placed with them as foster parents by an authority or voluntary organisation, who has been treated by both of them as a child of their family.]

“children's home” has the meaning [<sup>F5</sup> assigned to it by Article 9 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003];

“compulsory school age” has the meaning assigned to it by Article 46 of the Education and Libraries (Northern Ireland) Order 1986<sup>F7</sup>;

“contact order” has the meaning given in Article 8(1);

“the court” has the meaning given in Article 164(1) and (2);

“day care” has the same meaning as in Article 19;

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

“development” means physical, intellectual, emotional, social or behavioural development;

“ [<sup>F8</sup>disabled person's tax credit]” means [<sup>F8</sup> disabled person's tax credit] under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>F9</sup>;

“disabled” means blind, deaf or dumb or suffering from mental disorder of any kind or substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed;

[<sup>F10</sup>“dwelling-house” includes—

- (a) any building or part of a building which is occupied as a dwelling;
  - (b) any caravan, houseboat or structure which is occupied as a dwelling,
- and any yard, garden, garage or outhouse belonging to it and occupied with it;]

“education supervision order” has the meaning given in Article 49(1);

“emergency protection order” means an order under Article 63;

“family assistance order” means an order under Article 16;

“ [<sup>F8</sup>working families' tax credit]” means [<sup>F8</sup> working families' tax credit] under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>F11</sup>;

“family proceedings” has the meaning given in Article 8(3);

“family proceedings court” has the meaning given in Article 164(4);

“family proceedings rules” means family proceedings rules made under Article 12 of the Family Law (Northern Ireland) Order 1993<sup>F12</sup>;

“foster a child privately” has the meaning given in Article 106(1);

“guardian of a child” means a guardian (other than a guardian of the fortune or estate of a child) appointed in accordance with the provisions of Article 159 or 160;

“harm” means ill-treatment or the impairment of health or development and the question of whether harm is significant shall be determined in accordance with Article 50(3);

“health” means physical or mental health;

“ [<sup>F13</sup>Health and Social Care trust]” means a [<sup>F13</sup>Health and Social Care trust] established under the Health and Personal Social Services (Northern Ireland) Order 1991<sup>F14</sup>;

“homeless persons” shall be construed in accordance with Part II of the Housing (Northern Ireland) Order 1988<sup>F15</sup>;

“hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>F16</sup>;

“ill-treatment” includes sexual abuse and forms of ill-treatment which are not physical;

[<sup>F17</sup>“income-based jobseeker's allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;]

[<sup>F18</sup>“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);]

“income support” means income support under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“managers” has the meaning assigned to it by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986<sup>F19</sup>;

“medical practitioner” means a fully registered person within the meaning of the Medical Act 1983<sup>F20</sup>;

“nursing home” has the meaning assigned to it by [<sup>F5</sup> Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003];

“parental responsibility” has the meaning given in Article 6;

“parental responsibility agreement” has the meaning given in [<sup>F21</sup> Article 7(1ZB)];

“ [<sup>F22</sup> social care]” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972;

“police officer” means a member of the Royal Ulster Constabulary or of the Royal Ulster Constabulary Reserve;

“prescribed”, except in Parts II, XII, XV and XVI and Article 176 and in relation to rules of court, means prescribed by regulations made by the Department under this Order;

[<sup>F5</sup>“private children's home” means a children's home—

- (a) in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; and
- (b) which is not a home provided under Part VII or a voluntary home;]

“private hospital” has the meaning assigned to it by Article 90(2) of the Mental Health (Northern Ireland) Order 1986<sup>F23</sup>;

“privately fostered child” has the meaning given in Article 106(1);

“probation order” has the meaning assigned to it by [<sup>F24</sup> Article 10 of the Criminal Justice (Northern Ireland) Order 1996];

“prohibited steps order” has the meaning given in Article 8(1);

“protected child” means a child who is a protected child for the purposes of Part IV of the Adoption Order;

“public body” means a body established by or under any statutory provision;

*Definition rep. by 2003 NI 9*

[<sup>F5</sup>“ [<sup>F25</sup> RQIA]” means the <sup>F26</sup>[Health and Social Care Regulation and Quality Improvement Authority] ;]

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“relative”, in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or<sup>F6</sup> by marriage or civil partnership)], or step-parent;

“residence order” has the meaning given in Article 8(1);

“residential care home” has the meaning assigned to it by<sup>F5</sup> Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;];

“rules of court” includes family proceedings rules, county court rules and magistrates' courts rules (as well as rules of court as defined in section 21(4) of the Interpretation Act (Northern Ireland) 1954);

“school” has the meaning assigned to it by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986<sup>F27</sup>;

“service”, in relation to any provision made under Part IV, includes any facility;

“special educational needs” has the meaning assigned to it by<sup>F28</sup> Article 3 of the Education (Northern Ireland) Order 1996];

“special agency” means a special health and [<sup>F29</sup>social care] agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990<sup>F30</sup>;

“specific issue order” has the meaning given in Article 8(1);

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

“supervision order” has the meaning given in Article 49(1);

“supervised child” and “supervisor”, in relation to a supervision order or an education supervision order, mean respectively the child who is (or is to be) under supervision and the person under whose supervision he is (or is to be) by virtue of the order;

*Definition rep. by 1998 NI 9*

“upbringing”, in relation to any child, includes the care of the child but not his maintenance;

“voluntary home” has the meaning given in Article 74(1);

“voluntary organisation” has the meaning given in Article 74(1).

(3) Where a function is exercisable by a [<sup>F31</sup>Health and Social Care trust] by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994<sup>F32</sup>, references to an authority are, to the extent that that function is exercisable by that trust, references to that trust.

(4) References in this Order to the area of an authority in relation to any function are—

(a) where the references are to the area of a [<sup>F33</sup>Health and Social Care trust], references to the operational area of that trust (as defined in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972) in relation to that function;

(b) where the references are to the area of a Board, references to so much of the area of the Board as does not fall within the operational area of a [<sup>F34</sup>Health and Social Care trust] in relation to that function.

(5) References in this Order to a child whose father and mother were, or (as the case may be) were not, married to<sup>F35</sup>, or civil partners of,] each other at the time of his birth shall be construed in accordance with Article 155.

(6) References in this Order—

(a) to a person with whom a child lives, or is to live, as the result of a residence order; or

(b) to a person in whose favour a residence order is in force,

shall be construed as references to the person named in the order as the person with whom the child is to live.

(7) References in this Order—

- (a) to a child who is in the care of an authority shall be construed as references to a child who is in the care of the authority by virtue of a care order;
- (b) to a child who is looked after by an authority shall be construed in accordance with Article 25.

(8) References in this Order<sup>F36</sup> except in Articles 34C and 35B] to accommodation provided by an authority are references to accommodation and maintenance provided as described in Article 27(2).

(9) In determining the “ordinary residence” of a child for any purpose of this Order, there shall be disregarded any period in which he lives in any place—

- (a) which is a school or other institution;
- (b) in compliance with a residence requirement of a probation order or of a supervision order under this Order or<sup>F37</sup> or with a juvenile justice centre order]; or
- (c) while he is being provided with accommodation by or on behalf of an authority.

(10) References in this Order to children who are in need shall be construed in accordance with Article 17 (children in need and their families).

- F3** 1954 c. 33 (NI)
- F4** 1987 NI 22
- F5** 2003 NI 9
- F6** 2004 c.33
- F7** 1986 NI 3
- F8** 1999 c.10
- F9** 1992 c. 7
- F10** 1998 NI 6
- F11** 1992 c. 7
- F12** 1993 NI 6
- F13** Words in art. 2(2) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(c\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)
- F14** 1991 NI 1
- F15** 1988 NI 23
- F16** 1972 NI 14
- F17** 1995 NI 15
- F18** Art. 2(2): definition of "income-related employment and support allowance" inserted (27.10.2008) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\), ss. 28\(1\), 60\(1\), Sch. 3 para. 5\(2\)](#) (with transitional provisions in s. 29, Sch. 4); S.R. 2008/276, [art. 2\(2\)\(d\)](#), Sch. Pt. 2
- F19** 1986 NI 3
- F20** 1983 c. 54
- F21** Words in art. 2(2) in definition of "parental responsibility agreement" substituted (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), ss. 56, 68\(2\), Sch. 6 para. 70; S.I. 2009/479, art. 6\(1\)\(e\)\(f\)\(2\)](#) (with transitional provisions in art.7, Sch. 1)
- F22** Words in art. 2(2) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(a\)](#) (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, [art. 2](#)
- F23** 1986 NI 4
- F24** 1996 NI 24
- F25** Words in Order substituted (11.4.2014) by [Health and Social Care \(Amendment\) Act \(Northern Ireland\) 2014 \(c. 5\), Sch. para. 1\(1\)\(b\)](#) (with Sch. para. 1(2))

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- F26** Words in Order substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **Sch. para. 1(1)(a)** (with Sch. para. 1(2))
- F27** 1986 NI 3
- F28** 1996 NI 1
- F29** Words in art. 2(2) 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)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**
- F30** 1990 NI 3
- F31** Words in art. 2(3) 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)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F32** 1994 NI 2
- F33** Words in art. 2(4)(a) 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)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F34** Words in art. 2(4)(b) 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)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F35** Words in art. 2(5) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **27(2)** (with regs. 6-9)
- F36** 2002 c. 11 (NI)
- F37** 1998 NI 9

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