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## STATUTORY INSTRUMENTS

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# 1995 No. 755

## The Children (Northern Ireland) Order 1995

### PART V

#### CARE AND SUPERVISION

##### *[<sup>F1</sup>Children's court guardians]*

**F1** Art. 60 cross-heading substituted (13.2.2023) by [Adoption and Children Act \(Northern Ireland\) 2022](#) (c. 18), [ss. 137\(3\)](#), 160(1); S.R. 2023/12, [art. 2](#)

#### **Representation of child and of his interests in certain proceedings**

**60.**—(1) For the purpose of any specified proceedings, the court shall appoint a [<sup>F2</sup>children's court guardian] for the child concerned unless satisfied that it is not necessary to do so in order to safeguard his interests.

(2) The [<sup>F2</sup>children's court guardian] shall—

- (a) be appointed in accordance with rules of court; and
- (b) be under a duty to safeguard the interests of the child in the manner prescribed by such rules.

(3) Where—

- (a) the child concerned is not represented by a solicitor; and
- (b) any of the conditions mentioned in paragraph (4) is satisfied,

the court may appoint a solicitor to represent him.

(4) The conditions are that—

- (a) no [<sup>F2</sup>children's court guardian] has been appointed for the child;
- (b) the child has sufficient understanding to instruct a solicitor and wishes to do so;
- (c) it appears to the court that it would be in the child's best interests for him to be represented by a solicitor.

(5) Any solicitor appointed under this Article shall be appointed, and shall represent the child, in accordance with rules of court.

(6) In this Article “specified proceedings” means any proceedings—

- (a) on an application for a care or a supervision order;
- (b) in which the court has given a direction under Article 56(1) and has made, or is considering whether to make, an interim care order;
- (c) on an application for the discharge of a care order or the variation or discharge of a supervision order;

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- (d) on an application under Article 58(4);
  - (e) in which the court is considering whether to make a residence order with respect to a child who is the subject of a care order;
  - (f) with respect to contact between a child who is the subject of a care order and any other person;
  - (g) under Part VI;
  - (h) on an appeal against—
    - (i) the making of, or refusal to make, a care order, supervision order or any order under Article 53;
    - (ii) the making of, or refusal to make, a residence order with respect to a child who is the subject of a care order; or
    - (iii) the variation or discharge, or refusal of an application to vary or discharge, an order of a kind mentioned in head (i) or (ii);
    - (iv) the refusal of an application under Article 58(4); or
    - (v) the making of, or refusal to make, an order under Part VI; or
  - (i) which are specified, for the purposes of this Article, by rules of court.
- (7) The Department may by regulations provide for the establishment of panels of persons from whom [<sup>F3</sup>children's court guardians] appointed under this Article must be selected.
- (8) Paragraph (7) shall not be taken to prejudice the power of the [<sup>F4</sup>Lord Chief Justice] to confer or impose duties on the Official Solicitor under section 75(2) of the Judicature (Northern Ireland) Act 1978<sup>F5</sup>.
- (9) The regulations may, in particular, make provision—
- (a) for the constitution, administration and procedures of panels and for the appointment of panel managers;
  - (b) for the defrayment of expenses and for the payment of fees and allowances;
  - (c) as to the qualifications for appointment as a [<sup>F2</sup>children's court guardian];
  - (d) as to the training to be given to [<sup>F3</sup>children's court guardians] or to persons with a view to their appointment as [<sup>F3</sup>children's court guardians]; and
  - (e) for monitoring the work of [<sup>F3</sup>children's court guardians].
- (10) Rules of court may make provision as to—
- (a) the assistance which any [<sup>F2</sup>children's court guardian] may be required by the court to give to it;
  - (b) the consideration to be given by any [<sup>F2</sup>children's court guardian], where an order of a specified kind has been made in the proceedings in question, as to whether to apply for the variation or discharge of the order;
  - (c) the participation of [<sup>F3</sup>children's court guardians] in reviews, of a kind specified in the rules, which are conducted by the court.
- (11) Regardless of any statutory provision or rule of law which would otherwise prevent it from doing so, the court may take account of—
- (a) any statement contained in a report made by a [<sup>F2</sup>children's court guardian] who is appointed under this Article for the purpose of the proceedings in question; and
  - (b) any evidence given in respect of the matters referred to in the report,

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in so far as the statement or evidence is, in the opinion of the court, relevant to the question which the court is considering.

(12) The Department may, with the approval of the Department of Finance and Personnel, make such grants as the Department considers appropriate with respect to expenditure incurred under regulations made under paragraph (7).

- F2** Words in art. 60 substituted (13.2.2023) by Adoption and Children Act (Northern Ireland) 2022 (c. 18), ss. 137(2)(a), 160(1); S.R. 2023/12, art. 2
- F3** Words in art. 60 substituted (13.2.2023) by Adoption and Children Act (Northern Ireland) 2022 (c. 18), ss. 137(2)(b), 160(1); S.R. 2023/12, art. 2
- F4** Words in art. 60(8) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 95; S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(b)
- F5** 1978 c. 23

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

- C1** Art. 60 modified (1.11.2012) by Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010 (S.I. 2010/1898), regs. 1(2), 6(3)
- C2** Art. 60 modified (1.11.2012) by The Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010 (S.I. 2010/1898), regs. 1(2), 6(3)

**Right of [<sup>F6</sup>children's court guardian] to have access to records**

61.—(1) Where a person has been appointed as a [<sup>F6</sup>children's court guardian] under this Order he shall have the right at all reasonable times to examine and take copies of—

- (a) any records of, or held by, an authority or an authorised person which were compiled in connection with the making, or proposed making, by any person of any application under this Order with respect to the child concerned;
- (b) any records of, or held by, an authority which were compiled in connection with any relevant functions, so far as those records relate to that child; or
- (c) any records of, or held by, an authorised person which were compiled in connection with the activities of that person, so far as those records relate to that child.

(2) In paragraph (1) "relevant functions" means [<sup>F7</sup>social care] functions (including [<sup>F8</sup>social care and children functions within the meaning of Article 10A of the Health and Personal Social Services (Northern Ireland) Order 1991 and functions exercisable by virtue of a delegation direction under Article 10B(1) of that Order].

(3) Where a [<sup>F6</sup>children's court guardian] takes a copy of any record which he is entitled to examine under this Article, that copy or any part of it shall be admissible as evidence of any matter referred to in any—

- (a) report which he makes to the court in the proceedings in question; or
- (b) evidence which he gives in those proceedings.

(4) Paragraph (3) has effect regardless of any statutory provision or rule of law which would otherwise prevent the record in question being admissible in evidence.

- F6** Words in art. 61 substituted (13.2.2023) by Adoption and Children Act (Northern Ireland) 2022 (c. 18), ss. 137(2)(a), 160(1); S.R. 2023/12, art. 2

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- F7** Words in art. 61(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**
- F8** Words in art. 61(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 160**; S.R. 2022/102, art. 2(b)

**Status:**

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**Changes to legislation:**

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