
EXPLANATORY NOTE

(This note is not part of the Regulations)

This Order is made by the Department of Health under section 160(1) of the Adoption and Children Act (Northern Ireland) 2022 (the Act).

It brings into operation on 1st April 2024, the following sections of the Act.

Section 116 amends Article 8(4) of the Children (Northern Ireland) Order 1995 (the Children Order) to add proceedings for Female Genital Mutilation Protection Orders in Northern Ireland, under Part 2 of Schedule 2 to the Female Genital Mutilation Act 2003 (other than paragraph 20 of that Schedule), to the list of proceedings, which are “family proceedings” for the purpose of the Children Order.

Section 118 has the effect of amending, in relation to a child who is looked after by an authority, within the meaning of the Children Order, Articles 9(6) (restrictions on making Article 8 orders) and 179(10) (Effect and duration of orders etc.) of that Order. The effect of these modifications is that a residence order in respect of a child who is looked after by an authority will last until the child has reached 18 years old unless the court considers it should end earlier or another order is made discharging the residence order prior to that date. Residence orders made in relation to children who are not looked after by an authority, and other Article 8 orders (made in respect of all children) remain unchanged, ceasing to have effect at the age of 16, unless the court considers that the circumstances of the case are exceptional.

Section 120 amends Articles 18 (General duty of authority to provide social care for children in need, their families and others), to require an authority, so far as is reasonably practicable and consistent with the welfare of the child, to ascertain the child’s wishes and feelings in relation to the provision of those services and to give due consideration (having regard to the child’s age and understanding) to those wishes and feelings before determining what (if any) services to provide. Section 120 also makes similar amendment to Article 66 of the Children Order in relation to the authority’s duty to investigate. Section 120 also amends Article 21 (provision of accommodation for children: general) to provide that, in addition to ascertaining the wishes of a child, an authority must also consider the feelings of the child.

Section 143 amends Article 181 of the Children Order to require a report on the operation of the Children Order to be completed every 3 years instead of annually. The first report must be prepared and laid before the Assembly within the period of three years beginning on the date on which the Act received Royal Assent.

Section 158 places a duty on the Department to, at least once every three years, prepare and publish a report on the implementation of each of the provisions of Parts 1 and 2 of the Act and to lay a copy of the report before the Assembly. The first report must be prepared and published within 3 years of the date on which the Act is passed. The duty to report will cease to have effect on the tenth anniversary of the date on which the Act is passed, but only if all of the provisions in Parts 1 and 2 have been commenced and included in a report.