
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply, with modifications, certain sections of the Adoption Act 1976 (“the 1976 Act”) (in regulation 2 and Schedule 1) and Articles of the Adoption (Northern Ireland) Order 1987 (“the Order”) (in regulation 3 and Schedule 2) to give effect to the arrangements by which a parental order may be obtained under section 30 of the Human Fertilisation and Embryology Act 1990 in England, Wales and Northern Ireland. Such an order may be granted by a court in respect of a child who is born as a result of a surrogacy arrangement and who is the genetic child of at least one of the applicants for the parental order.

Certain adoption provisions are applied by the Regulations which set out the approach to be followed in applications for parental orders. In particular, the duty to safeguard and promote the welfare of the child throughout his childhood as the first consideration of the court will attach to any decision of a court relating to parental orders.

They make provision for the interpretation of certain events that may be affected by the making of such an order. These include the rules of construction for instruments concerning property, property devolving with peerages and the protection of trustees and personal representatives.

The Regulations also make provision for the procedural aspects of applications under section 30.

The Regulations also make provision for the registration of parental orders in a Parental Order Register to be maintained by the Registrar General at the General Register Office.

There are detailed provisions as to the making of entries in the Parental Order Register and the marking of existing entries in the Register of Births. The Regulations make provision for the issue of a certified copy of an entry in the Register, which may be received as evidence of the birth of the child.

The Regulations also make provision for the person who is the subject of a parental order to be supplied with information enabling him to obtain a certified copy of the record of his birth. The provisions require that he must first be advised of the counselling services available to him.

Further consequential provisions are set out in Schedule 3.

The Department of Health has prepared guidance on the Regulations which sets out the text of the provisions of the 1976 Act and Order as modified by the Regulations. Copies may be obtained free of charge from HP(A)3C Division, Department of Health, Wellington House, 133-155 Waterloo Road, London SE1 8UG.