
STATUTORY INSTRUMENTS

1995 No. 756

NORTHERN IRELAND

**The Children (Northern Ireland
Consequential Amendments) Order 1995**

Made - - - - 15th March 1995

Coming into force in accordance with Article 1(2)

At the Court at Buckingham Palace, the 15th day of March 1995

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 38(2) of the Northern Ireland Constitution Act 1973(1), as extended by paragraph 1(7) of Schedule 1 to the Northern Ireland Act 1974(2), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title, commencement and extent

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

(2) This Order comes into force on such day or days as may be appointed by order made under Article 1(2) of the Children (Northern Ireland) Order 1995(3).

(3) Subject to paragraphs (4) to (7), this Order extends to the whole of the United Kingdom.

(4) Articles 6 and 12(5)(a), (b) and (c) extend to England and Wales only.

(5) Articles 7(2) and (3) and 12(3) extend to England and Wales and Northern Ireland.

(6) Article 12(5)(d) and (e) extend to Scotland only.

(7) Article 13 extends to England and Wales and Scotland.

(1) 1973 c. 36; section 38 was amended by the Northern Ireland Act 1982 (c. 38), Schedule 2 paragraph 6.

(2) 1974 c. 28.

(3) S.I. 1995/755 (N.I. 2). Provision is made by Article 1(2) and (3) for the coming into force of this Order.

The Maintenance Orders Act 1950

2.—(1) The Maintenance Orders Act 1950(4) shall have effect subject to the following provisions of this Article.

(2) In section 12 (contributions under enactments relating to children, etc.)—

(a) in subsection (1)(a) for the words from “section 156” to “that Act)” there shall be substituted the words “Article 41 of the Children (Northern Ireland) Order 1995 (which provides for the recovery from persons liable to contribute of sums in respect of children looked after by an authority under that Order)”;

(b) in subsection (2) for the words “section 156” there shall be substituted the words “Article 41”.

(3) In section 15(1)(a) (service of process), for sub-paragraph (v) there shall be substituted the following sub-paragraph—

“(v) Article 164 of and Schedule 7 to the Children (Northern Ireland) Order 1995 or Article 165(2)(g) of that Order; or”.

(4) In section 16(2)(c) (application of Part II)—

(a) for sub-paragraph (ii) there shall be substituted the following sub-paragraph—

“(ii) Schedule 1 to the Children (Northern Ireland) Order 1995;”;

(b) in sub-paragraph (iv) for the words from the beginning to “1968” there shall be substituted “Article 41 of the Children (Northern Ireland) Order 1995”.

(5) In section 18(3) (enforcement of registered orders), for the words from “if it were” to the end there shall be substituted the words “an order made by that court to which Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 applies, subject to the modifications of that Article specified in subsection (3ZA) of this section”.

(6) In section 25 (rules as to procedure of courts of summary jurisdiction), after subsection (2) there shall be inserted the following subsection—

“(2A) Without prejudice to the generality of the power to make rules under Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981, for the purpose of giving effect to this Part of this Act such rules may make, in relation to any proceedings brought under or by virtue of this Part of this Act, any provision not covered by subsection (2) above which—

(a) falls within paragraph (2) of Article 165 of the Children (Northern Ireland) Order 1995, and

(b) may be made in relation to relevant proceedings under that Article.”

(4) 1950 c. 37; section 12(1)(a) and (2) were amended by Article 2(1)(b) and (e) of the Supplementary Benefits, etc., (Consequential Provisions) (Northern Ireland) Order 1977 (S.I. 1977/2158) (“the 1977 Order”) and paragraph 38 of Schedule 10 to the Social Security Act 1986 (c. 50) (“the 1986 Act”); section 15(1)(a)(v) was inserted by the Maintenance Orders (Northern Ireland Consequential Amendments) Order 1980 (S.I. 1980/564) (“the 1980 Order”) Article 3(3); section 16(2)(c) was amended by the Matrimonial Causes Act 1973 (c. 18) Schedule 2 paragraph 3(1)(b), Article 2(1)(f) of the 1977 Order, Article 3(4) of the 1980 Order, paragraph 39(c) of Schedule 10 to the 1986 Act, the Matrimonial and Family Proceedings (Northern Ireland Consequential Amendment) Order 1989 (S.I. 1989/678) Article 2 and the Social Security (Consequential Provisions) Act 1992 (c. 6) Schedule 2 paragraph 3(1); section 18(3) was amended and repealed in part by the Ministry of Social Security Act 1966 (c. 20) Schedule 8, the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) Schedule 6 Part I paragraph 5 and the Family Law (Northern Ireland Consequential Amendments) Order 1993 (S.I. 1993/1577) Article 2(2)(a); section 25(2) was amended by Part II of Schedule 5 to the Judicature (Northern Ireland) Act 1978 (c. 23).

The Army Act 1955

3. In section 151 (1A) of the Army Act 1955(5) (deductions from pay for maintenance of wife or child), for paragraph (c) there shall be substituted the following paragraph—

“(c) he is being looked after by an authority (within the meaning of the Children (Northern Ireland) Order 1995).”.

The Air Force Act 1955

4. In section 151(1A) of the Air Force Act 1955(6) (deductions from pay for maintenance of wife or child), for paragraph (c) there shall be substituted the following paragraph—

“(c) he is being looked after by an authority (within the meaning of the Children (Northern Ireland) Order 1995).”.

The Social Work (Scotland) Act 1968

5.—(1) The Social Work (Scotland) Act 1968(7) shall have effect subject to the following provisions of this Article.

(2) In section 72 (supervision of children moving to England or Northern Ireland), for subsection (2) there shall be substituted the following subsections—

“(2) A juvenile court to which notification of a supervision requirement is sent under this section may make in respect of the child subject to that requirement—

- (a) if he is over the age of ten years but has not attained the age of fourteen years, a supervision order placing the child under the supervision of a probation officer;
- (b) if he is over the age of fourteen years, a probation order; or
- (c) in any case, a supervision order placing him under the supervision of an authority within the meaning of the Children (Northern Ireland) Order 1995.

(2A) An order under subsection (2) shall be for a period not exceeding one year beginning with the day on which the notification was sent.

(2B) Subject to subsection (2A), the provisions of the Children and Young Persons Act (Northern Ireland) 1968 shall apply to a supervision order under paragraph (a) of subsection (2), the provisions of the Probation Act (Northern Ireland) 1950 shall apply to a probation order under paragraph (b) of that subsection and the provisions of the Children (Northern Ireland) Order 1995 shall apply to a supervision order under paragraph (c) of that subsection as if the supervision or probation order had been made under that Act or Order.”.

(3) In section 74 (parent of a child in a residential establishment under a supervision requirement moving to England or Wales or Northern Ireland), for subsection (5) there shall be substituted the following subsection—

“(5) An order under this section committing a child to the care of an authority within the meaning of the Children (Northern Ireland) Order 1995 shall have effect as if it were a care order under that Order, but as if Article 50(9) were omitted.”.

(5) 1955 c. 18; section 151(1A) was added by the Armed Forces Act 1976 (c. 52), section 18(3) and amended by the Children Act 1989 (c. 41), Schedule 12 paragraph 7.

(6) 1955 c. 19; section 151(1A) was added by the Armed Forces Act 1976 (c. 52), section 18(3) and amended by the Children Act 1989 (c. 41), Schedule 12 paragraph 9.

(7) 1968 c. 49; section 72(2) was amended and repealed in part by the Children and Young Persons Act 1969 (“the 1969 Act”) (c.54) Schedule 5 paragraph 58(2) and Schedule 6 and amended by the Criminal Justice Act 1991 (c. 53) Schedule 3 paragraph 9(c); section 74(5) was repealed in part by Schedule 6 to the 1969 Act; section 75(2) and (3) were amended and repealed in part by Schedule 5 paragraph 61 and Schedule 6 to the 1969 Act and amended by the Children Act 1989 (c. 41) Schedule 13 paragraph 22; section 76(4) was amended and repealed in part by Schedule 5 paragraph 62 and Schedule 6 to the 1969 Act; the definition of “supervision order” in section 94(1) was amended by the Courts and Legal Services Act 1990 (c. 41) Schedule 16 paragraph 36.

(4) In section 75 (parent of a child subject to a training school order or a committal order moving to Scotland)—

- (a) in subsection (2), for the words from “a welfare authority in Northern Ireland” to “1947 or” there shall be substituted the words “an authority within the meaning of the Children (Northern Ireland) Order 1995 in Northern Ireland by a care order (other than an interim order) within the meaning of that Order or an order under”;
- (b) in subsection (3), for the word “welfare” there shall be substituted the word “other”.

(5) In section 76(4) (procedure)—

- (a) for the words “or of a welfare authority” there shall be substituted the words “or of an authority within the meaning of the Children (Northern Ireland) Order 1995”;
- (b) for the words “or welfare” there shall be substituted the words “or other”.

(6) In section 94(1) (interpretation) in the definition of “supervision order”, for the words from “has the meaning assigned to it by section 63(1)(d)” to “1950” there shall be substituted the words “means a supervision order under the Children and Young Persons Act (Northern Ireland) 1968 or the Children (Northern Ireland) Order 1995”.

The Civil Evidence Act 1968

6. In section 12 of the Civil Evidence Act 1968(8) (findings of adultery and paternity as evidence in civil proceedings)—

- (a) in subsection (1)(b), after the words “England and Wales” there shall be inserted the words “or Northern Ireland”;
- (b) in subsection (5), in the definition of “relevant proceedings”, after paragraph (d) add the following paragraph—
 - “(e) proceedings which are relevant proceedings as defined in section 8(5) of the Civil Evidence Act (Northern Ireland) 1971”.

The Children and Young Persons Act 1969

7.—(1) The Children and Young Persons Act 1969(9) shall be amended in accordance with the following provisions of this Article.

(2) In subsection (1) of section 25 (transfers between England or Wales and Northern Ireland) for the words “by a fit person order or by virtue of a training school order or by any order which has effect as if it were a fit person order or by an order under subsection (2) below” there shall be substituted the words “by a relevant order”.

(3) After subsection (1) of section 25 there shall be inserted the following subsection—

- “(1A) In subsection (1) above “by a relevant order” means—
- (a) by a fit person order;
 - (b) by virtue of a training school order; or
 - (c) by an order under subsection (2) below;

(8) 1968 c. 64; subsection (1) of section 12 was amended by the Family Law Reform Act 1987 (c. 42) section 29, and the definition of “relevant proceedings” in subsection (5) was substituted by the Courts and Legal Services Act 1990 (c. 41) Schedule 16 paragraph 2 and amended by the Child Support Act 1991 (c. 48) section 27(5).

(9) 1969 c. 54; section 25(1) was amended by the [Transfer of Functions \(Local Government, etc.\) \(Northern Ireland\) Order 1973 \(S.R. & O. \(N.I.\) 1973 No. 256\)](#) Article 3, Schedule 2, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) Schedule 2 paragraph 15(a), and the Children (Prescribed Orders — Northern Ireland, Guernsey and Isle of Man) Regulations 1991 (S.I. 1991/2032), Article 8(1)(a); section 32(1) was repealed in part by the Children Act 1975 (c. 72) section 68(2) and the Child Care Act 1980 (c. 5), Schedule 6.

where the order in question is not by virtue of Schedule 8 to the Children (Northern Ireland) Order 1995 deemed to be a care order within the meaning of that Order.”.

(4) In subsection (1) of section 32 (detention of absentees), in paragraph (d), after the word “1968” there shall be inserted the words “(but not deemed by virtue of Schedule 8 to the Children (Northern Ireland) Order 1995 to be the subject of a care order within the meaning of that Order)”.

The Maintenance Orders (Reciprocal Enforcement) Act 1972

8. In section 27B(3) of the Maintenance Orders (Reciprocal Enforcement) Act 1972(**10**) (sending application to appropriate magistrates' court), for “28C” substitute “28D(1)”.

The Armed Forces Act 1981

9. In section 14(9A) of the Armed Forces Act 1981(**11**) (temporary removal to, and detention in, place of safety abroad or in the United Kingdom of service children in need of care or control), for the words “Children and Young Persons Act (Northern Ireland) 1968” there shall be substituted the words “Children (Northern Ireland) Order 1995”.

The Civil Jurisdiction and Judgements Act 1982

10. In paragraph 5(a) of Schedule 5 to the Civil Jurisdiction and Judgments Act 1982(**12**) (contributions in respect of children in care, etc.), for the words or section 156 of the “Children and Young Persons Act (Northern Ireland) 1968” there shall be substituted the words “section 156 of the Children and Young Persons Act (Northern Ireland) 1968 or Article 41 of the Children (Northern Ireland) Order 1995”.

The Child Abduction and Custody Act 1985

11.—(1) The Child Abduction and Custody Act 1985(**13**) shall have effect subject to the following provisions of this Article.

(2) In sections 9(a) and 20(2)(a) (suspension of court’s powers in cases of wrongful removal and in certain other cases), for the words “section 95(1), 97(2), 143(6) or 144 of the Children and Young Persons Act (Northern Ireland) 1968 (not being a custody order)” there shall be substituted the words “Article 50 of the Children (Northern Ireland) Order 1995”.

(3) In section 20(2)(a) (suspension of court’s powers), at the end there shall be added the word “or”.

(4) In section 27(4) (references to decision relating to rights of access), after the words “England and Wales” there shall be inserted the words “or Northern Ireland”.

(5) In Part III of Schedule 3 (orders in Northern Ireland which are custody orders for the purposes of the Act), for paragraph 8 there shall be substituted the following paragraph—

“**8.** The following orders—

(a) a care order under the Children (Northern Ireland) Order 1995 (as defined by Article 49(1) of that Order read with Article 2(2) and Schedule 8);

(10) 1972 c. 18; section 27B was substituted by the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56) Schedule 1 paragraph 13.

(11) 1981 c. 55; section 14(9A) was substituted by the Armed Forces Act 1986 (c. 21), section 13(5). Section 14 is prospectively repealed by the Armed Forces Act 1991.

(12) 1982 c. 27; paragraph 5(a) of Schedule 5 was amended by the Children Act 1989 (c. 41), Schedule 13 paragraph 47.

(13) 1985 c. 60; sections 9(a) and 20(2)(a) were amended by the Children Act 1989 (c. 41), Schedule 13 paragraph 57(1); section 20(2)(aa) was inserted by the Family Law Act 1986 (c. 55), Schedule 1 paragraph 29; section 27(4) was added by the Children Act 1989 (c. 41), Schedule 13 paragraph 57(2).

- (b) a residence order (as defined by Article 8 of that Order);
- (c) any order made by a court in Northern Ireland under any of the following enactments—
 - (i) section 5 of the Guardianship of Infants Act 1886 (except so far as it relates to costs);
 - (ii) section 49 of the Mental Health Act (Northern Ireland) 1961;
 - (iii) Article 45(1) or (2) or 46 of the Matrimonial Causes (Northern Ireland) Order 1978;
 - (iv) Article 10(2)(a), 12(1) or 20(1)(ii) of the Domestic Proceedings (Northern Ireland) Order 1980;
 - (v) Article 27(1)(b) of the Adoption (Northern Ireland) Order 1987.”.

The Family Law Act 1986

12.—(1) The Family Law Act 1986(**14**) shall have effect subject to the following provisions of this Article.

(2) In section 1 (orders to which Part I applies)—

(a) in subsection (1)—

(i) for paragraph (c) there shall be substituted the following paragraph—

“(c) an Article 8 order made by a court in Northern Ireland under the Children (Northern Ireland) Order 1995, other than an order varying or discharging such an order;”, and

(ii) for paragraph (e) there shall be substituted the following paragraph—

“(e) an order made by the High Court in Northern Ireland in the exercise of its inherent jurisdiction with respect to children—

(i) so far as it gives care of a child to any person or provides for contact with, or the education of, a child; but

(ii) excluding an order varying or discharging such an order;”;

(b) in subsection (3), after “1989” there shall be inserted the words “or the Children (Northern Ireland) Order 1995, as the case may be”.

(3) In section 34(3) (power to order recovery of child), for paragraph (b) there shall be substituted the following paragraph—

“(b) Article 14 (enforcement of residence orders) of the Children (Northern Ireland) Order 1995.”.

(4) In section 42 (general interpretation of Part I), in subsection (4)(c), for the words “has been boarded out with those parties by or on behalf of the Department of Health and Social Services” there shall be substituted “is placed with those parties as foster parents by an authority within the meaning of the Children (Northern Ireland) Order 1995”.

(5) In the following provisions—

(a) section 2A(3)(a) (jurisdiction in or in connection with matrimonial proceedings),

(b) section 3(3)(a)(habitual residence or presence of child),

(c) section 6(4)(a) (duration and variation of custody orders),

(14) 1986 c. 55; subsections (1)(e) and (3) of section 1 were substituted by the Children Act 1989 (c. 41) Schedule 13 paragraph 63; section 2A was substituted by paragraph 64 of that Schedule; section 34(3) was amended by paragraph 70 of that Schedule; section 42(4) was amended by paragraph 71 of that Schedule.

(d) section 11(2)(a) (provisions supplementary to sections 9 and 10), and
(e) section 13(5)(a) (jurisdiction ancillary to matrimonial proceedings),
for the words “21(5)” there shall be substituted the words “19A(4)”.

The Child Support Act 1991

- 13.** In section 26(2) of the Child Support Act 1991⁽¹⁵⁾ (disputes about parentage)—
- (a) in paragraph (a)(i) of Case C after the words “Family Law Act 1986” there shall be inserted the words “or Article 32 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989”;
 - (b) in paragraph (a)(i) of Case F after the words “Civil Evidence Act 1968” there shall be inserted the words “or in proceedings before any court in Northern Ireland which are relevant proceedings for the purposes of section 8 of the Civil Evidence Act (Northern Ireland) 1971”.

The Armed Forces Act 1991

14.—(1) The Armed Forces Act 1991⁽¹⁶⁾ shall have effect subject to the following provisions of this Article.

(2) In section 17(4)(f) (power to make service family child assessment orders), after the words “Children Act 1989” there shall be added the words “or Article 53 of the Children (Northern Ireland) Order 1995”.

(3) In section 18(7)(f) (content, effect, variation and discharge of assessment orders), after the words “Children Act 1989” there shall be added the words “or Article 53 of the Children (Northern Ireland) Order 1995”.

(4) In section 20(8)(e) (content and effect of protection orders), after the words “Children Act 1989” there shall be added the words “or Article 53 of the Children (Northern Ireland) Order 1995”.

(5) In section 21(4)(b) (duration of protection orders), for the words “Children and Young Persons Act (Northern Ireland) 1968” there shall be substituted the words “Children (Northern Ireland) Order 1995”

- (6) In section 23(1) (interpretation of Part III)—
- (a) in the definition of “contact order”, after the words “Children Act 1989” there shall be added the words “or Article 8(1) of the Children (Northern Ireland) Order 1995 as the case may be”;
 - (b) in the definition of “parental responsibility” after the words “Children Act 1989” there shall be added the words “or Article 6 of the Children (Northern Ireland) Order 1995”.

Repeals and revocations

15. The statutory provisions set out in the Schedule are hereby repealed or revoked to the extent specified in the third column of that Schedule.

Saving

16. The repeal or revocation by this Order of any statutory provision relating to affiliation orders shall not affect any order to which paragraph 32 of Schedule 8 to the Children (Northern Ireland) Order 1995 (saving for affiliation orders, etc.) applies and sub-paragraph (3) of that paragraph (power

⁽¹⁵⁾ 1991 c. 48.

⁽¹⁶⁾ 1991 c. 62.

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of court to direct that affiliation order shall cease to have effect) shall have effect as if the reference to that Schedule included a reference to this Article.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

Article 15

REPEALS AND REVOCATIONS

Chapter or Number	Title	Extent of repeal or revocation
1950 c. 37.	The Maintenance Orders Act 1950.	Sections 10 and 11. Section 13(1). In section 16(2)(c) sub-paragraph (iii) and in sub-paragraph (v) the words from “or with section 12(2)” to “1971”.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 25(1) the words from “in a case in which there was a fit person order” to “in a case in which there was a training school order”.
S.I. 1977/2158.	The Supplementary Benefits, etc., (Consequential Provisions) (Northern Ireland) Order 1977.	In Article 2(1) sub-paragraph (a), (b) and (f)(i).
1978 c. 23.	The Judicature (Northern Ireland) Act 1978.	In Part II of Schedule 5 the entry relating to section 13(1) of the Maintenance Orders Act 1950.
S.I. 1980/564.	The Maintenance Orders (Northern Ireland Consequential Amendments) Order 1980.	Article 3(2) and (3).
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	In Part I of Schedule 6, paragraph 5.
1983 c. 41.	The Health and Social Services and Social Security Adjudications Act 1983.	In Schedule 2 paragraph 15(a).
1985 c. 60.	The Child Abduction and Custody Act 1985.	Section 9(e). Section 20(2)(e) and the immediately preceding “or”. Section 25(4) and (7). In Schedule 3, paragraphs 3 and 10.
1986. c.50.	The Social Security Act 1986.	In Part II of Schedule 10, paragraph 37.
1986 c. 55.	The Family Law Act 1986.	Section 1(2)(a) and (c).

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Chapter or Number	Title	Extent of repeal or revocation
		In section 42(6), the words from “(b)” to “in force”.
1989 c. 41.	The Children Act 1989.	In Schedule 13, paragraph 63(2).
1991 c. 53.	The Criminal Justice Act 1991.	In Part II of Schedule 3, paragraph 9(c).
S.I. 1991/2032	The Children (Prescribed Orders — Northern Ireland, Guernsey and Isle of Man) Regulations 1991.	Regulation 8(1)(a)(i).
S.I. 1993/1577	The Family Law (Northern Ireland Consequential Amendments) Order 1993.	Article 2(2)(a).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments which are consequential on the Children (Northern Ireland) Order 1995 (“the Children Order”).

Article 2 amends the Maintenance Orders Act 1950 to take account of the new arrangements under the Children Order relating to financial provision and jurisdiction. Articles 3 and 4 amend provisions of the Army Act 1955 and the Air Force Act 1955 relating to the maintenance of children in care and Article 5 amends provisions of the Social Work (Scotland) Act 1968 relating to the transfer of children who are subject to certain orders between Scotland and Northern Ireland.

Article 6 amends section 12 of the Civil Evidence Act 1968 (findings of paternity as evidence in civil proceedings) to take account of the abolition of affiliation proceedings by the Children Order and the amendment by that Order of section 8 of the Civil Evidence Act (Northern Ireland) 1971 (which makes similar provision in Northern Ireland).

Article 7 removes from the scope of sections 25 and 32 of the Children and Young Persons Act 1969 (transfers between England or Wales and Northern Ireland and detention of absentees) children deemed to be subject to a care order under the Children Order. Articles 8 to 10 make minor consequential amendments. Articles 11 and 12 amend the Child Abduction and Custody Act 1985 and the Family Law Act 1986 principally to take account of orders under the Children Order.

Article 13 inserts in section 26(2) of the Child Support Act 1991 (disputes about parentage) references to enactments amended by the Children Order and Article 14 amends the Armed Forces 1991 principally to take account of parental contact orders under Article 53 of the Children Order.

Article 15 and the Schedule make repeals and revocations including those which are consequential on the abolition of affiliation proceedings and Article 16 contains a saving for certain affiliation and other orders.

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