

# **CHILDREN (EMERGENCY PROTECTION ORDERS) ACT (NORTHERN IRELAND) 2007**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Children (Emergency Protection Orders) Act (Northern Ireland) 2007 which received Royal Assent on 14 December 2007. They have been prepared by the Department of Health, Social Services and Public Safety (“the Department”) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The Notes need to be read in conjunction with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or Schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The effect of an Emergency Protection Order (“EPO”) is to give parental responsibility to the applicant (usually a Health and Social Care Trust) in addition to the parents. The Order may direct that the child be removed or kept where he is, and the court may give directions about medical examinations or assessment and contact.
4. An EPO may only last up to a maximum of 8 days but can be extended for up to a maximum of 7 further days. It cannot be extended beyond that. Once an EPO is made there are provisions to deal with its discharge. An application to discharge can be made as soon as the EPO is made but, under Article 64 (8) of the Children (Northern Ireland) Order 1995, the application could not be heard until the expiry of the 72 hours from the making of the Order.
5. On a recent judicial review, the High Court determined that Article 64(8) is incompatible with Articles 6 and 8 of the European Convention of Human Rights (“ECHR”) pursuant to Section 3 of the Human Rights Act 1998.
6. On considering that decision, the Minister for Health, Social Services and Public Safety decided to introduce legislation to remove the incompatibility. This Act repeals Article 64(8) which means that in future an application to discharge an EPO can be heard at any time after it is made.

### **CONSULTATION**

7. The repeal of Article 64(8) was not publicly consulted upon as there was no alternative to the repeal due to its incompatibility with ECHR. Officials did, however, consult with professional colleagues in the Office of Social Services, Department of Health, Social Services and Public Safety. The conclusion was

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that the repeal could be effected without detriment to the safety of children as it would have minimal impact due to the low numbers of EPOs involved. The police and social services have other powers available to them to act should an EPO be discharged and they continue to have concerns about the safety of a child.

### **OPTIONS CONSIDERED**

8. As Article 64(8) was held to be incompatible with the ECHR, the only appropriate option was to repeal it in the shortest time possible.

### **OVERVIEW**

9. The Act contains two sections.

### **COMMENTARY ON SECTIONS**

10. Section 1 removes the restriction which prevents an application for the discharge of an Emergency Protection Order being heard by a court within 72 hours of the making of the Order.
11. Section 2 sets out the short title of the Act and provides for it to come into operation as soon as Royal Assent is obtained.

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