
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 16

**The Intercountry Adoption (Hague Convention)
Regulations (Northern Ireland) 2003**

PART III

**REQUIREMENTS AND PROCEDURE WHERE THE
UNITED KINGDOM IS THE STATE OF ORIGIN**

Duty of adoption agency in respect of assessment of a child

23.—(1) This regulation applies where

(a) a HSS trust—

- (i) has decided that adoption is in the best interests of a child under regulation 11(1) of the Adoption Agencies Regulations (“the first decision”);
- (ii) has considered the possibilities for placement of that child within the British Islands; and
- (iii) considers that adoption by a person habitually resident in a Convention country outside the British Islands may be in the child’s best interests; and

(b) the child is free for adoption by virtue of an order made under Article 17(1) or 18(1) of the 1987 Order, section 18 of the Adoption Act 1976(1) or section 18 of the Adoption (Scotland) Act 1978(2).

(2) Subject to paragraph (3), the HSS trust must refer the case of the child to the adoption panel together with—

(a) the documents referred to in regulation 7(2)(e) of the Adoption Agencies Regulations originally sent to the adoption panel; and

(b) a report from the child’s social worker—

- (i) as to why he considers that adoption by a person habitually resident in a Convention country outside the British Islands may be in the child’s best interest; and
- (ii) if appropriate, having regard to the child’s age and understanding, on the child’s views and wishes in relation to adoption.

(3) A HSS trust may not refer the case of the child to the adoption panel under paragraph (2) unless:

(a) more than 12 months have elapsed since the first decision; or

(b) there are significant overriding factors which indicate that the child should be referred to the adoption panel under paragraph (1) prior to the expiration of the 12 month period.

(1) 1976 c. 36

(2) 1978 c. 28

Adoption panel function

24.—(1) The adoption panel must consider the case of the child and make a recommendation to the HSS trust as to whether adoption by a person habitually resident in a Convention country outside the British Islands is in the best interests of the child.

(2) In considering what recommendation to make, the panel must have regard to the duties imposed upon the HSS trust by Article 9 of the 1987 Order (duty to promote welfare of the child) and—

- (a) must consider and take into account all the information and reports passed to it under regulation 23(2);
- (b) request the HSS trust to obtain any other relevant information which the panel considers necessary; and
- (c) obtain legal advice in relation to the case as may be necessary.

HSS trust decision and notification

25.—(1) The HSS trust must make a decision on the matter referred to the adoption panel under regulation 23(2) only after taking into account the recommendation of the adoption panel.

(2) No member of an adoption panel shall take part in any decision made by the HSS trust under paragraph (1).

(3) The HSS trust must notify the Central Authority of—

- (a) the name and age of the child;
- (b) the reasons why they consider that the child may be suitable for adoption by a person habitually resident in a Convention country outside the British Islands;
- (c) the date the freeing order under Article 17(1) or 18(1) of the 1987 Order or section 18 of the 1976 Act or section 18 of the Adoption (Scotland) Act 1987 was made; and
- (d) any other information the Central Authority may require.

(4) The Central Authority is to maintain a list of children of whom it is notified under paragraph (3) and shall make the contents of that list available for consultation by other Central Authorities within the British Islands.

(5) Where a HSS trust—

- (a) places for adoption a child whose details have been notified to the Central Authority under paragraph (3), or
- (b) determines that adoption by a person habitually resident in a Convention country outside the British Islands is no longer in the best interests of such a child,

it must notify the Central Authority accordingly and the Central Authority must remove the details relating to that child from the Convention list.

(6) In this regulation and regulation 26, “Convention list” means—

- (a) in relation to the Central Authority, a list of children notified to the Central Authority in accordance with paragraph (3), or
- (b) in relation to any other Central Authority within the British Islands, a list of children notified to that Central Authority in accordance with provisions which correspond to paragraph (3).

Receipt of Article 15 report from RSCA

26.—(1) This regulation applies where—

- (a) the Central Authority receives a report (“the Article 15 report”) from the RSCA which has been prepared for the purposes of Article 15 of the Convention⁽³⁾;
- (b) the Article 15 report relates to a prospective adopter who is habitually resident in that receiving State (“a Convention prospective adopter”); and
- (c) the Convention prospective adopter wishes to adopt a child who is habitually resident in Northern Ireland.

(2) If the Central Authority is satisfied that the Convention prospective adopter meets the requirements—

- (a) in respect of age and marital status as provided for in Articles 14 and 15 of the 1987 Order; and
- (b) prescribed in regulation 30(a),

the Central Authority must consult the Convention list and may, if the Central Authority considers it appropriate, consult any Convention list maintained by another Central Authority within the British Islands.

(3) The Central Authority may pass a copy of the Article 15 report to any other Central Authority within the British Islands for the purpose of enabling that Central Authority to consult its Convention list.

(4) Where the Central Authority identifies a child on the Convention list who may be suitable to be adopted by the Convention prospective adopter, the Central Authority must send the Article 15 report to the HSS trust which referred the child’s details to the Central Authority.

(5) The HSS trust must consider the Article 15 report and, where it considers that it may be appropriate to place the child for adoption with the Convention prospective adopter, it must refer the proposed placement for adoption to the adoption panel together with—

- (a) the Article 15 report;
- (b) the documents and report referred to in regulation 23(2);
- (c) its observations on the proposed placement; and
- (d) any other relevant information about the child.

Duty of adoption panel in respect of a proposed placement

27.—(1) The adoption panel must consider the proposed placement referred to it by the HSS trust under regulation 23(2) and make a recommendation to the HSS trust as to whether—

- (a) the Convention prospective adopter is a suitable adoptive parent for the child; and
- (b) the proposed placement is in the best interests of the child.

(2) In considering what recommendation to make under paragraph (1), the adoption panel—

- (a) must have regard to the child’s upbringing and his ethnic, religious and cultural background;
- (b) must have regard to the duties imposed upon it by Article 9 of the 1987 Order (duty to promote welfare of child);
- (c) must have regard to the Article 15 report and the documents referred to it under regulation 26(5);

(3) Article 15 provides for the RSCA, if satisfied that the applicants are eligible and suitable to adopt, to prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the child for whom they would be qualified to care

- (d) may request the HSS trust to obtain any other relevant information which the panel considers necessary; and
- (e) may obtain legal advice as it considers necessary in relation to the case.

HSS trust decision in respect of a placement

28.—(1) The HSS trust must make a decision about the proposed placement only after having taken into account the recommendations of the adoption panel.

(2) No member of an adoption panel shall take part in any decision made by the HSS trust under paragraph (1).

Preparation of the Article 16 report for RSCA

29.—(1) Where the HSS trust decides under regulation 28 that the proposed placement is in the best interests of the child and the adoption may proceed, it must prepare a report for the purposes of Article 16(1) of the Convention (“the Article 16 report”) which must include—

- (a) information about the child’s identity, suitability for adoption, background, social environment, family history, medical history including that of the child’s family, and any special needs of the child; and
- (b) the reasons for its decision.

(2) The HSS trust must send the Article 16 report to the Central Authority together with—

- (a) evidence that an order freeing the child for adoption has been made in respect of the child;
- (b) written observations relating to the child’s upbringing and to his ethnic, religious and cultural background; and
- (c) the report, if any, referred to in regulation 23(2)(b)(ii).

(3) The Central Authority must send the Article 16 report and other information referred to in paragraph (2) to the RSCA.

(4) The Central Authority may notify the RSCA that it is prepared to agree that the adoption may proceed provided that the RSCA has confirmed that—

- (a) the Convention prospective adopter has agreed to adopt the child and has received such counselling as may be necessary;
- (b) the Convention prospective adopter has confirmed that he will accompany the child to the receiving State;
- (c) it is content for the adoption to proceed; and
- (d) the child is or will be authorised to enter and reside permanently in the Convention country if a Convention adoption is made in that Convention country or a Convention adoption order is made in the United Kingdom.

(5) Subject to paragraph (7), the Central Authority may not make an agreement under Article 17(c) of the Convention with the RSCA unless the HSS trust has confirmed to the Central Authority that—

- (a) it has met the Convention prospective adopter;
- (b) the Convention prospective adopter has visited the child;
- (c) the Convention prospective adopter is content for the adoption to proceed; and
- (d) the HSS trust is content for the adoption to proceed.

(6) A HSS trust may not place a child for adoption with a Convention prospective adopter unless the agreement under Article 17(c) of the Convention has been made and the Central Authority has advised the HSS trust that the agreement has been made.

(7) In paragraph (5), “Convention prospective adopter” means, in the case where the Convention prospective adopters are a married couple, both of them.

Prescribed requirements for the purposes of making a Convention adoption order

30. For the purposes of Article 16A(4) of the 1987 Order (Convention adoption orders), the prescribed requirements are in the case where the United Kingdom is the State of origin—

- (a) both spouses (in the case of an application by a married couple) or the applicant (in the case of an application by one person) are habitually resident in a Convention country outside the British Islands on the date of the application;
- (b) the child to be adopted is free for adoption by virtue of an order made under Article 17(1) or 18(1) of the 1987 Order, section 18 of the Adoption Act 1976(5) or section 18 of the Adoption (Scotland) Act 1987(6);
- (c) the child to be adopted is habitually resident in any part of the British Islands on the date of the application; and
- (d) the child to be adopted has not attained the age of 18 years on the date of the application.

Procedural requirements following a Convention adoption order or Convention adoption – Article 23 of the Convention

31.—(1) Where a Convention adoption order is made, the court must send a copy of that order to the Central Authority.

(2) On receipt of an order under paragraph (1), the Central Authority must issue a certificate in the form set out in Schedule 2 certifying that the Convention adoption order has been made in accordance with the Convention.

(3) A copy of the certificate must be sent to—

- (a) the RSCA;
- (b) the adoptive parents; and
- (c) the HSS trust.

(4) Where the Central Authority receives a certification of the adoption having been made in accordance with the Convention from the RSCA, the Central Authority must send a copy of that certification to the HSS trust.

(4) Article 16A of the 1987 Order was inserted by section 3 of the 2001 Act

(5) 1976 c. 36

(6) 1978 c. 28