
STATUTORY INSTRUMENTS

1994 No. 2767

HUMAN FERTILISATION AND EMBRYOLOGY

**The Parental Orders (Human Fertilisation
and Embryology) Regulations 1994**

Made - - - - *28th October 1994*

Coming into force - - *1st November 1994*

Whereas a draft of this instrument was laid before Parliament in accordance with section 45(4) of the Human Fertilisation and Embryology Act 1990⁽¹⁾ and approved by resolution of each House of Parliament.

The Secretary of State in exercise of the powers conferred on her by sections 30(9) and 45(1) and (3) of the Human Fertilisation and Embryology Act 1990 and of all other powers enabling her in that behalf hereby makes the following Regulations:—

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Parental Orders (Human Fertilisation and Embryology) Regulations 1994 and shall come into force on 1st November 1994.

(2) In these Regulations unless the context otherwise requires—

“the 1990 Act” means the Human Fertilisation and Embryology Act 1990;

“the 1976 Act” means the Adoption Act 1976⁽²⁾ and references to sections are to sections of the 1976 Act;

“the Order” means the Adoption (Northern Ireland) Order 1987⁽³⁾ and references to articles are to articles of the Order;

“parental order” means an order under section 30 of the 1990 Act (parental orders in favour of gamete donors) providing for a child to be treated in law as a child of the parties to a marriage.

(3) These Regulations extend to England and Wales and Northern Ireland.

Application of Adoption Act 1976 provisions with modifications to parental orders and applications for such orders

2. The provisions of the 1976 Act set out in column 1 of Schedule 1 to these Regulations shall have effect with the modifications (if any) set out in column 2 of that Schedule in relation to parental

(1) 1990 c. 37.

(2) 1976 c. 36.

(3) S.I. 1987 No. 2203 (N.I. 22). Articles 2, 54 and 66 have been amended by Schedule 1 to the [Health and Personal Social Services \(Northern Ireland\) Order 1994 \(1994 No. 429 \(N.I. 2\)\)](#).

orders made in England and Wales and applications for such orders, as they have effect in relation to adoption and applications for adoption orders.

Application of Adoption (Northern Ireland) Order 1987 provisions with modifications to parental orders and applications for such orders

3. The provisions of the Order set out in column 1 of Schedule 2 to these Regulations shall have effect with the modifications (if any) set out in column 2 of that Schedule in relation to parental orders made in Northern Ireland and applications for such orders as they have effect in relation to adoption and applications for adoption orders.

References in enactments to be read as references to parental orders etc

4. Schedule 3 shall have effect so that the references mentioned in column 2, where they appear in the enactments mentioned in relation to them in column 1, shall be read in relation to parental orders and applications for such orders as provided for in column 2.

Department of Health
28th October 1994

Virginia Bottomley
One of Her Majesty's Principal Secretaries of
State

SCHEDULE 1

Regulation 2

APPLICATION OF ADOPTION ACT 1976 PROVISIONS WITH MODIFICATIONS
TO PARENTAL ORDERS AND APPLICATIONS FOR SUCH ORDERS

<i>Column 1</i> <i>provisions of the 1976 Act</i>	<i>Column 2</i> <i>modifications</i>
Applications by Gamete Donors for a parental order	
(a) Section 6 (duty to promote the welfare of the child)	(i) As if for the words “the adoption of a child” there were substituted the words “an application for a parental order”; and (ii) as if the words “or adoption agency” were omitted.
(b) Section 12(1) to (3)(4) (adoption orders)	(i) As if for the words “an adoption order” on each occasion they appear there were substituted the words “a parental order”; (ii) as if in subsection (1) for the word “adopters” there were substituted the words “husband and wife” and as if for the words “an authorised” there were substituted the word “the”.
(c) Section 24(1) (restrictions on making adoption orders)	(i) As if for the words “an adoption order” there were substituted the words “a parental order”; and (ii) as if for the words “a British adoption order” there were substituted the words “such an order”.
(d) Section 27(1)(5) (restrictions on removal while application is pending)	As if for the words “an adoption order is pending in a case where a parent or guardian of the child has agreed to the making of the adoption order (whether or not he knows the identity of the applicant)” there were substituted the words “a parental order is pending”.
(e) Section 29(6) (return of a child taken away in breach of section 27 or 28 of the 1976 Act)	(i) As if for paragraphs (a) to (c) of subsections (1) and (2) there were substituted the words “(a) section 27 as applied with modifications by regulation 2 of and paragraph 1(d) of Schedule 1 to the Parental Orders (Human Fertilisation

(4) Section 12(1), (2) and (3) have been amended by section 88(1) of and paragraph 3 of Schedule 10 to the Children Act 1989 (c. 41).

(5) Section 27(1) has been amended by section 88(1) of and paragraph 12 of Schedule 10 to the Children Act 1989.

(6) Section 29 has been amended by section 88(1) of and paragraph 15 of Schedule 10 to the Children Act 1989.

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Statutory Instruments are not carried in their revised form on this site.

<i>Column 1</i> <i>provisions of the 1976 Act</i>	<i>Column 2</i> <i>modifications</i>
	<p>and Embryology) Regulations 1994,</p> <p>(b) section 27 of the Adoption (Scotland) Act 1978 as applied with modifications by regulation 2 of and Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) (Scotland) Regulations 1994,</p> <p>(c) Article 28 of the Adoption (Northern Ireland) Order 1987 as applied with modifications by regulation 3 of and paragraph 2(d) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994.”; and</p> <p>(ii) as if for the words “an authorised” there were substituted on each occasion they appear the word “the”.</p>
<p>Effect of a parental order</p>	
<p>2. Section 39(1)(a), (2), (4) and (6) (status conferred by adoption)</p>	<p>(i) As if for the words “an adopted child” there were substituted, on each occasion they appear, the words “a child who is the subject of a parental order”;</p> <p>(ii) as if in section 39(1)(a) the words “where the adopters are a married couple,” were omitted and for the words “child of the marriage” there were substituted the words “child of the marriage of the husband and wife”;</p> <p>(iii) as if in section 39(2) for the word “adopters” there were substituted the words “persons who obtain the parental order” and the words “or adopter” and the words “subject to subsection (3),” were omitted;</p> <p>(iv) as if in section 39(6) for the word “adoption” there were substituted the words “the making of the parental order” and the words “Subject to the provisions of this Part,” and “, or after 31st December 1975, whichever is the later” were omitted.</p>
<p>Interpretation of certain events consequent upon the making of a parental order</p>	

<i>Column 1 provisions of the 1976 Act</i>	<i>Column 2 modifications</i>
(a) Section 42 (rules of construction for instruments concerning property)	(i) As if in section 42(2) for the words “section 39(1)” there were substituted the words “section 39(1)(a) as applied with modifications by regulation 2 of and paragraph 2 of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”; (ii) as if in section 42(2), for the words “of the adoptive parent or parents” there were substituted the words “in respect of whom the husband and wife have obtained a parental order”; (iii) as if in section 42(2)(a) for the words “adopted child” there were substituted the words “child the subject of the parental order” and for the word “adoption” there were substituted the words “the parental order”; (iv) as if in section 42(2)(b) for the words “adopted” there were substituted the words “in respect of whom parental orders were made”; (v) as if in section 42(4) for the word “adoption” there were substituted the words “making of the parental order” and for the words “adopted child” there were substituted the words “child the subject of the parental order”; (vi) as if in section 42(5) for the word “adopt” there were substituted the words “obtain a parental order in respect of” and as if after the words in section 42(4) “section 39(2)” and, in section 42(5) “section 39”, there were inserted the words “as applied with modifications by regulation 2 of and paragraph 2 of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”.
(b) Section 44 (property devolving with peerages etc)	As if for the words “an adoption” on each occasion they appear there were substituted the words “the making of a parental order”.
(c) Section 45 (protection of trustees and personal representatives)	As if in section 45(1) for the words “adoption has been effected” there were substituted the words “parental order has been made”.
(d) Section 46 (meaning of “disposition”)	(i) As if for the words “this Part” on each occasion they appear and in section 46(5)

<i>Column 1</i> <i>provisions of the 1976 Act</i>	<i>Column 2</i> <i>modifications</i>
(e) Section 47(7) (miscellaneous enactments)	<p>the words “the Part”, there were substituted the words “sections 39, 42, 44, 45 and 47 as applied with modifications by regulation 2 of and paragraphs 2 and 3(a), (b), (c) and (e) respectively of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”; and</p> <p>(ii) as if in section 46(2) for the word “applies” there were substituted the word “apply”.</p> <p>(i) As if for subsection (1) there were substituted the words</p> <p style="padding-left: 2em;">“(1) Section 39(2) as applied with modifications by regulation 2 of and paragraph 2 of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994 does not apply so as to prevent a child who is the subject of a parental order from continuing to be treated as the child of a person who was in law the child’s mother or father before the order was made, for the purposes of the table of kindred and affinity in Schedule 1 to the Marriage Act 1949(8) and of Sections 10 and 11 (incest) of the Sexual Offences Act 1956(9)</p> <p>(ii) as if in subsection (2) for the words “Section 39” there were substituted the words “Section 39 as applied with modifications by regulation 2 of and paragraph 2 of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”.</p>
Registration	
(a) Section 50 (Adopted Children Register)	<p>(i) As if for the words “Adopted Children Register” on each occasion they appear, except on the second occasion in section 50(3), there were substituted the words “Parental Order Register”;</p> <p>(ii) as if in section 50(1) for the words “adoption orders” there were substituted the words “parental orders”;</p>

(7) Section 47 has been amended by section 52 of and Schedule 7 to the British Nationality Act 1981 (c. 61) and by article 8 of and the Schedule to the Hong Kong (British Nationality) Order 1986 (S.I. 1986/948).

(8) 1949 c. 76 Schedule 1 has been amended by section 1(6) of and Schedule 1 to the Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16) and section 108(1)(a) of and Schedule 3 to the Children Act 1975 (c. 72).

(9) 1956 c. 69.

<i>Column 1</i> <i>provisions of the 1976 Act</i>	<i>Column 2</i> <i>modifications</i>
	(iii) as if in section 50(2) for the word “adoption” there were substituted the words “parental order”;
	(iv) as if in section 50(2) for the words “adopted person” there were substituted the words “person who is the subject of the parental order”;
	(v) as if in section 50(3) for the words “every person shall be entitled to search that index and to have a certified copy of any entry in the Adopted Children Register in all respects upon and subject to the same terms” there were substituted the following words: “the Registrar General shall— (a) cause a search to be made of that index on behalf of any person or permit that person to search that index himself, and (b) issue to any person a certified copy of any entry in the Parental Order Register, in all respects, except as to the entitlement of any person to search that index, upon and subject to the same terms”;
	(vi) as if in section 50(4) for the words “marked “Adopted” ” there were substituted the words “marked “Re-registered by the Registrar General” pursuant to paragraph 1(3) of Schedule 1 as applied with modifications by regulation 2 of and paragraph 8(a) of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”;
	(vii) as if in section 50(5) after the words “section 51” there were inserted the words “as applied with modifications by regulation 2 of and paragraph 4(b) of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”;
	(viii) as if in section 50(5)(c) and (6) for the words “an adoption order” on each occasion they appear there were substituted the words “a parental order”; and

<i>Column 1</i> <i>provisions of the 1976 Act</i>	<i>Column 2</i> <i>modifications</i>
(b) Section 51(1) to (6) and (9)(10) (disclosure of birth records of adopted children)	<p>(ix) as if in section 50(7) for the words “adoptions and the amendment of adoption orders” there were substituted the words “parental orders and the amendment of such orders”.</p> <p>(i) As if in section 51(1) for the words “an adopted person” there were substituted the words “a person who is the subject of a parental order”;</p> <p>(ii) as if in section 51(2) for the words “an adopted person under the age of 18 years” there were substituted the words “a person who is the subject of a parental order and who is under the age of 18 years”;</p> <p>(iii) as if section 51(3)(a)(i) and (d) were omitted;</p> <p>(iv) as if in section 51(3)(a)(iii), (b)(ii) and (c)(ii) for the words “adoption order” there were substituted the words “parental order”;</p> <p>(v) as if in section 51(4) for the words from “Where” to “1978” there were substituted the words “Where a person who is the subject of a parental order and who is in England and Wales applies for information under subsection (1),”; and</p> <p>(vi) as if section 51(5)(a) and (c) were omitted.</p>
Procedure	
(a) Section 61(1) (evidence of agreement and consent)	<p>(i) As if for the words “this Act” there were substituted the words “section 30 of the Human Fertilisation and Embryology Act 1990”;</p> <p>(ii) as if the words “(other than an order to which section 17(6) applies)” were omitted; and</p> <p>(iii) as if for the words “and, if the document signifying the agreement or consent is witnessed in accordance with rules, it” there were substituted “and any such written consent”.</p>

(10) Section 51(1) was amended by section 88(1) of and paragraph 20(1) of Schedule 10 to the Children Act 1989 (c. 41); section 51(3) to (9) were substituted by paragraph 20(2) of that Schedule.

<i>Column 1 provisions of the 1976 Act</i>	<i>Column 2 modifications</i>
(b) Section 63(2)(11) (appeals etc)	(i) As if the words “Subject to subsection (3)” were omitted; and (ii) as if for the words “this Act” there were substituted the words “section 30 of the Human Fertilisation and Embryology Act 1990”.
(c) Section 64(12) (proceedings to be in private)	As if for the words “under this Act” there were substituted the words “pursuant to section 30 of the Human Fertilisation and Embryology Act 1990”.

Orders, rules and regulations

6. Section 67(1), (2), (5) and (6) (orders, rules and regulations)	(i) As if after the words “this Act” on each occasion they appear, there were inserted the words “as applied with modifications by regulation 2 of and Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”; (ii) as if in section 67(2) the words “, except section 3(1),” were omitted; and (iii) as if in section 67(6) after the words “paragraph 1(1)” there were inserted the words “as applied with modifications by regulation 2 of and paragraphs 4(b) and 8(a) respectively of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”.
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Interpretation

7. Section 72(1)(13) (interpretation)	(i) As if after the definition of “guardian” there were inserted the words ““husband and wife” means, in relation to the provisions of this Act as they have effect in relation to parental orders and applications for such orders, the husband and wife as defined in section 30 of the Human Fertilisation and Embryology Act 1990;”; and (ii) as if after the definition of “parent” there were inserted the words ““parental order” means an order under section 30 of the
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(11) Section 63(2) has been amended by section 30(1) of and Schedule 10 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

(12) Section 64 has been amended by sections 73 and 89 of and Schedule 3 to the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).

(13) Section 72 has been amended by section 154 of and paragraph 142 of Schedule 7 to the Magistrates' Courts Act 1980 (c. 43) and by section 9 of and paragraph 37 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) and by sections 7 and 33 of and paragraph 68 of Schedule 2 to the Family Law Reform Act 1987 (c. 42) and by section 88 and 108(7) of and paragraph 30 of Schedule 10 and Schedule 15 of Children Act 1989 (c. 41).

<i>Column 1</i> <i>provisions of the 1976 Act</i>	<i>Column 2</i> <i>modifications</i>
	Human Fertilisation and Embryology Act 1990;”.
Schedule 1 to the 1976 Act (registration of adoptions)	
(a) Schedule 1, paragraph 1	<ul style="list-style-type: none"> (i) As if in paragraph 1(1) for the words “adoption order” there were substituted the words “parental order”; (ii) as if in paragraph 1(1) for the words “Adopted Children Register” there were substituted the words “Parental Order Register”; (iii) as if paragraph 1(2) were omitted; (iv) as if in paragraph 1(3) for the words from “application to a court” to “time in force)” there were substituted the words “application to a court for a parental order”; (v) as if in paragraph 1(3) for the words “any adoption order” there were substituted the words “any parental order”; (vi) as if in paragraph 1(3) for the words “marked with the word “Adopted” ” there were substituted the words “marked with the words “Re-registered by the Registrar General” ”; (vii) as if paragraph 1(4) were omitted; and (viii) as if in paragraph 1(5) for the words “an adoption order” there were substituted the words “a parental order”.
(b) Schedule 1, paragraph 2	<ul style="list-style-type: none"> (i) As if in paragraph 2(1) for the words “an adoption order” there were substituted the words “a parental order”; (ii) as if in paragraph 2(1) the words “or the Adopted Children Register” were omitted; (iii) as if in paragraph 2(1) for the words ““Adopted (Scotland)” or, as the case may be, “Re-adopted (Scotland)” ” there were substituted the words ““Re-registered (Scotland)” ”; (iv) as if in paragraph 2(1) the words from “and where, after an entry has been so marked” to the end of the sub-paragraph were omitted;

<i>Column 1 provisions of the 1976 Act</i>	<i>Column 2 modifications</i>
(c) Schedule 1, paragraph 4	<ul style="list-style-type: none">(v) as if in paragraph 2(2) for the words “register of adoptions” there were substituted the words “register of parental orders”;(vi) as if in paragraph 2(2) for the words “an order has been made in that country authorising the adoption of a child” there were substituted the words “a parental order has been made in that country in respect of a child”;(vii) as if in paragraph 2(2) the words “or the Adopted Children Register” were omitted;(viii) as if in paragraph 2(2) for the words “marked with the word “Adopted” or “Re- adopted”, as the case may require” there were substituted the words “marked with the word “Re-registered” ”; and(ix) as if in paragraph 2(3) for the words “so marked” there were substituted the words “marked in accordance with the provisions of sub-paragraph (1) or (2)”;and(x) as if paragraph 2(4) and (5) were omitted.
	<ul style="list-style-type: none">(i) As if for the words “an adoption order” on each occasion they appear there were substituted the words “a parental order”;(ii) as if for the words “Adopted Children Register” on each occasion they appear there were substituted the words “Parental Order Register”;(iii) as if in paragraph 4(1) for the words “adopter or of the adopted person” there were substituted the words “husband or wife or of the person who is the subject of the parental order”;(iv) as if in paragraph 4(1)(a) for the words “adopter or the adopted person” there were substituted the words “husband or wife or the child who is the subject of the parental order”;(v) as if in paragraph 4(1)(a) for the words “given to the adopted person” there were substituted the words “given to that child” and the words “, or taken by him,” were omitted;

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<i>Column 1</i> <i>provisions of the 1976 Act</i>	<i>Column 2</i> <i>modifications</i>
	(vi) as if in paragraph 4(1)(b) the words “or (4)” were omitted;
	(vii) as if in paragraph 4(4) after the words “section 50” there were inserted the words “as applied with modifications by regulation 2 of and paragraph 4(a) of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”; and
	(viii) as if paragraph 4(5) were omitted.

SCHEDULE 2

Regulation 3

APPLICATION OF ADOPTION (NORTHERN IRELAND) ORDER 1987 PROVISIONS WITH MODIFICATIONS TO PARENTAL ORDERS AND APPLICATIONS FOR SUCH ORDERS

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
Interpretation	
1. Article 2 (interpretation)	(i) As if for the definition of “adoption rules” there were substituted the words ““rules” means rules of court, county court rules or rules made under article 12 of the Family Law (Northern Ireland) Order 1993(14);”;
	(ii) as if for the definition of “authorised court” there were substituted the words: ““authorised court” means—
	(a) in the case of an application for a parental order—

- (4) Section 12(1), (2) and (3) have been amended by section 88(1) of and paragraph 3 of Schedule 10 to the Children Act 1989 (c. 41).
- (5) Section 27(1) has been amended by section 88(1) of and paragraph 12 of Schedule 10 to the Children Act 1989.
- (6) Section 29 has been amended by section 88(1) of and paragraph 15 of Schedule 10 to the Children Act 1989.
- (7) Section 47 has been amended by section 52 of and Schedule 7 to the British Nationality Act 1981 (c. 61) and by article 8 of and the Schedule to the Hong Kong (British Nationality) Order 1986 (S.I. 1986/948).
- (8) 1949 c. 76 Schedule 1 has been amended by section 1(6) of and Schedule 1 to the Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16) and section 108(1)(a) of and Schedule 3 to the Children Act 1975 (c. 72).
- (9) 1956 c. 69.
- (10) Section 51(1) was amended by section 88(1) of and paragraph 20(1) of Schedule 10 to the Children Act 1989 (c. 41); section 51(3) to (9) were substituted by paragraph 20(2) of that Schedule.
- (11) Section 63(2) has been amended by section 30(1) of and Schedule 10 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).
- (12) Section 64 has been amended by sections 73 and 89 of and Schedule 3 to the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).
- (13) Section 72 has been amended by section 154 of and paragraph 142 of Schedule 7 to the Magistrates' Courts Act 1980 (c. 43) and by section 9 of and paragraph 37 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) and by sections 7 and 33 of and paragraph 68 of Schedule 2 to the Family Law Reform Act 1987 (c. 42) and by section 88 and 108(7) of and paragraph 30 of Schedule 10 and Schedule 15 of Children Act 1989 (c. 41).
- (14) S.I. 1993 No. 1576 (N.I. 6).

<i>Column 1 article of the Order having effect</i>	<i>Column 2 modifications</i>
	(i) the High Court; (ii) the county court within whose division the child is; (b) in the case of an application under Article 30 as applied with modifications by regulation 3 of and paragraph 2(c) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994— (i) the High Court; (ii) the county court within whose division the applicant lives”.
	(iii) as if after the definition of “guardian” there were inserted the words ““husband and wife” means, in respect of the provisions of this Order as they have effect in respect of parental orders and applications for such orders, the husband and wife as defined in section 30 of the Human Fertilisation and Embryology Act 1990;”;
	(iv) as if after the definition of “order freeing a child for adoption” there were inserted the words ““parental order” means an order under section 30 of the Human Fertilisation and Embryology Act 1990 (parental orders in favour of gamete donors);”.

Applications by gamete donors for a parental order

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| (a) Article 9 (duty to promote the welfare of the child) | (i) As if for the words “the adoption of a child” there were substituted “the application for a parental order”;
(ii) as if for the words “adoption, or adoption by a particular person or persons” there were substituted the words “the granting of such an order to the husband and wife”; and
(iii) as if the words “or adoption agency” were omitted. |
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<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
(b) Article 12(1) to (3) (adoption orders)	<ul style="list-style-type: none"> (i) As if for the words “an adoption order” on each occasion they appear, there were substituted the words “a parental order”; (ii) as if in article 12(3)(b) for the words “the adoption order” there were substituted the words “the parental order”; and (iii) as if for the words “the adopters” there were substituted the words “the husband and wife”.
(c) Article 25(1) (restrictions on making adoption orders)	<ul style="list-style-type: none"> (i) As if for the words “an adoption order” there were substituted the words “a parental order”; and (ii) as if for the words “a British adoption order” there were substituted the words “such an order”.
(d) Article 28(1) (restrictions on removal while application is pending)	As if for paragraph (1) of article 28 there were substituted the following paragraph “While an application for a parental order is pending a parent or guardian is not entitled, against the will of the person with whom the child has his home, to remove the child from the actual custody of that person except with the leave of the court”.
(e) Article 30 (return of a child taken away in breach of article 28 or 29)	<ul style="list-style-type: none"> (i) As if for the words “article 28 or 29” on each occasion they appear there were substituted the words “article 28 as applied with modifications by regulation 3 of and paragraph 2(d) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”; and (ii) as if after the words “under paragraph (1)” wherever they appear and “under paragraph (3)” in article 30(5) there were inserted the words “as applied with modifications by regulation 3 of and paragraph 2(e) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”.
Effect of a parental order	
3. Article 40(1)(a), (2), (3)(a), (4) and (6) (status conferred by adoption)	(i) As if for the words “an adopted child” there were substituted on each occasion they appear, the words “a child who is the subject of a parental order”;

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
	(ii) as if for the words “adopters” and “adopter” on each occasion they appear, except “adopter” in article 40(2), there were substituted the words “persons who obtain the parental order”;
	(iii) as if in article 40(1)(a) the words “where the adopters are a married couple,” were omitted and as if for the words in the same paragraph “child of the marriage” there were substituted the words “child of the marriage of the husband and wife”;
	(iv) as if in article 40(2) the words “subject to paragraph (3),” and “or adopter” were omitted;
	(v) as if in article 40(3)(a) after the words “does not apply” there were inserted the words “so as to prevent a child who is the subject of a parental order from continuing to be treated as the child of a person who was in law, the child’s mother or father before the order was made”;
	(vi) as if in article 40(6) for the word “adoption” there were substituted the words “parental order”; and
	(vii) as if in article 40(6) the words “Subject to the provisions of this Part” and “, or after the commencement of this Part, whichever is the later” were omitted.

Interpretation of certain events consequent upon the making of a parental order

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| (a) Article 42 (rules of construction for instruments concerning property) | (i) As if in article 42(2) for the words “article 40(1)” there were substituted the words “article 40(1)(a) as applied with modifications by regulation 3 of and paragraph 3 of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”; |
| | (ii) as if in article 42(2) for the words “of the adoptive parent or parents” there were substituted the words “in respect of whom the husband and wife have obtained a parental order”; |
| | (iii) as if in article 42(2) and (4) for the words “adopted child” there were substituted the words “child the subject of the parental order”; |

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
	<p>(iv) as if in article 42(2)(b) for the words “adopted” there were substituted the words “in respect of whom parental orders were made”;</p> <p>(v) as if in article 42(4) after the words “article 40(2)” there were inserted the words “as applied with modifications by regulation 3 of and paragraph 3 of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”;</p> <p>(vi) as if in article 42(4) for the word “adoption” there were substituted the words “making of the parental order”; and</p> <p>(vii) as if in article 42(5) for the word “adopt” there were substituted the words “obtain a parental order in respect of”; and</p> <p>(viii) as if in article 42(5) after the words “article 40” there were inserted the words “as applied with modifications by regulation 3 of and paragraph 3 of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”.</p>
(b) Article 44 (property devolving with peerages)	As if for the words “An adoption” on each occasion they appear there were substituted the words “The making of a parental order”.
(c) Article 45 (protection of trustees and personal representatives)	As if in article 45(1) for the word “adoption” there were substituted the words “parental order”.
(d) Article 46 (meaning of “disposition”)	As if for the words “this Part” each time they appear there were substituted the words “the application of articles 40, 42, 44, 45 and 47 as modified by regulation 3 of and paragraphs 3 and 4(a), (b), (c) and (e) respectively of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”.
(e) Article 47 (miscellaneous enactments)	(i) As if in article 47(1) for the words “article 40 does not apply” there were substituted the words “article 40(2) as modified by regulation 3 of and paragraph 3 of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994 does not apply so as to prevent a child who

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
	is the subject of a parental order from continuing to be treated as the child of a person who was in law the child's mother or father before the order was made"; and
	(ii) as if in article 47(2) for the words "article 40" there were substituted the words "article 40 as applied with modifications by regulation 3 of and paragraph 3 of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994".
Registration	
(a) Article 50 (Adopted Children Register)	(i) As if for the words "Adopted Children Register" on each occasion they appear there were substituted the words "Parental Order Register"; (ii) as if in article 50(1)(a) for the words "adoption orders" there were substituted the words "parental orders"; (iii) as if in article 50(1)(c) for the words "Adopted" pursuant to Article 51" there were substituted the words "Re-registered by the Registrar General" pursuant to Article 51(4) as applied with modifications by regulation 3 of and paragraph 5(b) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994"; (iv) as if in article 50(2) for the words "Every person shall be entitled to search the index mentioned in paragraph (1)(b) and to have a certified copy of any entry in the Adopted Children Register in all respects upon and subject to the same terms" there were substituted the following words: "The Registrar General shall— (a) cause a search to be made of the index of the Parental Order Register on behalf of any person or permit that person to search that index himself, and (b) issue to any person a certified copy of any entry in the Parental Order Register, in all respects, except as to the entitlement of any person to search

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
(b) Article 51 (1), (3), (4), (6) and (7) (registration of adoption orders)	<p>that index, upon and subject to the same terms”;</p> <p>(v) as if in article 50(3) after the words “Article 54” there were inserted the words “as applied with modifications by regulation 3 of and paragraph 5(e) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”; and</p> <p>(vi) as if in article 50(3)(b) for the words “an adoption order” there were substituted the words “a parental order”; and</p> <p>(vii) as if article 50(3)(c) were omitted.</p> <p>(i) As if in article 51(1) for the words “adoption order” there were substituted the words “parental order”;</p> <p>(ii) as if in article 51(1) for the words “Adopted Children Register” there were substituted the words “Parental Order Register”;</p> <p>(iii) as if in article 51(1) after the words “Schedule 2” there were inserted the words “as applied with modifications by regulation 3 of and paragraph 7 of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”;</p> <p>(iv) as if in article 51(1) the words “(subject to paragraph (2))” were omitted;</p> <p>(v) as if in article 51(3) for the words “Adopted Children Register under the heading in column 2 of Schedule 2” there were substituted the words “Parental Order Register under the heading in column 2 of Schedule 2 as applied with modifications by regulation 3 of and paragraph 7 of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”;</p> <p>(vi) as if in article 51(3) the word “and” in sub- paragraph (a) were omitted and sub-paragraph (b) were omitted;</p> <p>(vii) as if in article 51(4) for the words from “application for an adoption order” to “time in force)” there were substituted the words “application for a parental order”;</p>

<i>Column 1</i>	<i>Column 2</i>
<i>article of the Order having effect</i>	<i>modifications</i>
	(viii) as if in article 51(4) for the words “any adoption order” there were substituted the words “any parental order”;
	(ix) as if in article 51(4) for the words “marked with the word “Adopted” ” there were substituted the words “marked with the words “Re-registered by the Registrar General” ”;
	(x) as if in article 51(6) for the words “an adoption order shall cause the adoption order” there were substituted the words “a parental order shall cause the order”;
	(xi) as if in article 51(7) for the words “an adoption order” on each occasion they appear there were substituted the words “a parental order”; and
	(xii) as if in article 51(7) the words “or the country in which the child was previously adopted” and the words from “or the Adopted Children Register” to “the case may be,” were omitted.
(c) Article 52 (1) to (4) and (6) (amendment registers)	(i) As if for the words “Adopted Children of orders and rectification of Register” on each occasion they appear, except in article 52(6), there were substituted the words “Parental Order Register”;
	(ii) as if for the words “an adoption order” on each occasion they appear there were substituted the words “a parental order”;
	(iii) as if in article 52(1) for the words “adopter or of the adopted person” on each occasion they appear, namely in the general words of paragraph (1) and in sub-paragraph (a), there were substituted the words “husband or wife or of the person who is the subject of the parental order”;
	(iv) as if in article 52(1)(a) for the words “given to the adopted person” there were substituted the words “given to that child” and the words “, or taken by him,” were omitted;
	(v) as if in article 52(1)(b) for the words “Article 51(4) or (5)” there were substituted the words “Article 51(4) as applied with modifications by regulation 3 of and paragraph 5(b)

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
	<p>of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”;</p> <p>(vi) as if in article 52(4) after the words “Article 50(2)” there were inserted the words “ as applied with modifications by regulation 3 of and paragraph 5(a) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”;</p> <p>(vii) as if in article 52(6) after the words “Article 51(7)” there were inserted the words “as applied with modifications by regulation 3 of and paragraph 5(b) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”; and</p> <p>(viii) as if in article 52(6) the words “or an Adopted Children Register or any corresponding register of adoptions” were omitted.</p>
(d) Article 53(1) and (2) (registration of adoptions)	<p>(i) As if in article 53(1) for the words “register of adoptions made outside Northern Ireland” there were substituted the words “register of parental orders”;</p> <p>(ii) as if in article 53(1) for the words “an order has been made in that country authorising the adoption of a child” there were substituted the words “a parental order has been made in that country in respect of a child”;</p> <p>(iii) as if in article 53(1) the words “or the Adopted Children Register” were omitted;</p> <p>(iv) as if in article 53(1) for the words ““Adopted” or “Re-adopted”, as the case may require” there were substituted the word ““Re-registered” ”;</p> <p>(v) as if in article 53(2) for the words “so marked” there were substituted the words “marked in accordance with paragraph (1)”;</p> <p>(vi) as if in article 53(2) for the words “, that an appeal against the order has been allowed or that the order has been revoked” there were substituted the words</p>

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
(e) Article 54(1), (2), (4) and (5) (disclosure of birth records of adopted children)	<p>“or that an appeal against the order has been allowed”.</p> <p>(i) As if in article 54(1) for the words “Subject to paragraphs (4) and (6)” there were substituted the words “Subject to paragraph (4)”;</p> <p>(ii) as if in article 54(1) for the words “an adopted person” there were substituted the words “a person who is the subject of a parental order”;</p> <p>(iii) as if in article 54(2) for the words “an adopted person under the age of 18 years” there were substituted the words “a person who is the subject of a parental order and who is under the age of 18 years”;</p> <p>(iv) as if in article 54(4)(b) for the words “adoption order” there were substituted the words “parental order” and the word “or” at the end of that sub-paragraph were omitted;</p> <p>(v) as if article 54(4)(c) were omitted; and</p> <p>(vi) as if in article 54(5) the words “or society” were omitted.</p>
Procedure	
(a) Article 62(1) (evidence of agreement and consent)	<p>(i) As if for the words “this Order” there were substituted the words “section 30 of the Human Fertilisation and Embryology Act 1990”;</p> <p>(ii) as if the word “adoption” on each occasion it appears were omitted; and</p> <p>(iii) as if for the words “and, if the document signifying the agreement or consent is witnessed in accordance with adoption rules, it” there were substituted the words “and any such written consent”.</p>
(b) Article 63(1) and (2) (evidence of adoptions, etc.)	<p>(i) As if in article 63(1) for the words “Adopted Children Register” there were substituted the words “Parental Order Register”;</p> <p>(ii) as if in article 63(1)(a) for the word “adoption” there were substituted the words “parental order”;</p> <p>(iii) as if in article 63(1)(b) for the words “adopted person” there were substituted</p>

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
	<p>the words “person who is the subject of the parental order”; and</p> <p>(iv) as if in article 63(2) for the words “section 50(2) of the Adoption Act 1976 or section 45(2) of the Adoption (Scotland) Act 1978” there were substituted the words “section 50(2) of the Adoption Act 1976 as applied with modifications by regulation 2 of and paragraph 4(a) of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994, or section 45(2) of the Adoption (Scotland) Act 1978 as applied with modifications by regulation 2 of and paragraph 10 of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) (Scotland) Regulations 1994”.</p>
(c) Article 64(3) (removal of proceedings and appeals)	<p>As if for the words from “Subject to paragraphs (2) and (4)” to the words “under this Order” there were substituted the words “Without prejudice to Articles 61 and 65 of the County Courts (Northern Ireland) Order 1980 any person aggrieved with a decision of a county court on an application made to it for a parental order or on an application made to it under Article 30 as applied with modifications by regulation 3 of and paragraph 2(c) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994”.</p>
(d) Article 65 (proceedings to be in private)	<p>As if for the words “under Part III, article 30 and article 57” there were substituted the words “pursuant to section 30 of the Human Fertilisation and Embryology Act 1990”.</p>
(e) Article 66 (guardians ad litem)	<p>(i) As if for the words “an adoption order or an order freeing a child for adoption or an order under article 20 or 57, adoption” there were substituted the words “a parental order”; and</p> <p>(ii) as if in article 66(2) the word “adoption” were omitted.</p>
7. Schedule 2 (Form of Entry in Adopted Children Register)	<p>(i) As if for the words “adopted Children Register” in the heading there were substituted the words “Parental Order Register”;</p> <p>(ii) as if for the words “adopter or adopters” in column 5 there were substituted the</p>

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
	words “persons who obtained the parental order”; and (iii) as if for the words “adoption order” in column 6 there were substituted the words “parental order”.

SCHEDULE 3

Regulation 4

REFERENCES IN ENACTMENTS TO BE READ
AS REFERENCES TO PARENTAL ORDERS ETC

<i>Column 1</i> <i>article of the Order having effect</i>	<i>Column 2</i> <i>modifications</i>
1. Article 37 of the Birth and Deaths Registration (Northern Ireland) Order 1976 (15)	In article 37(1) the words “article 52(1)(a)” and “article 50” shall be read as though they were followed by the words “as applied with modifications by regulation 3 of and paragraph 5(c) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994.” and the reference to “Adopted Children Register” shall be read as a reference to “Parental Order Register”.
2. Paragraph 5(a) of Schedule 8 to the Children Act 1989 (16)	The reference in sub-paragraph (a) to a person who proposes to adopt a child under arrangements made by an adoption agency within the meaning of the Acts or Order mentioned in that sub-paragraph shall be read as including a reference to a person who proposes to be treated as the parent of a child by virtue of a parental order and the enactments about adoption as applied by these Regulations.
3. Sections 27(2) and 28(5)(c) of the 1990 Act	The references to a child who is treated by virtue of adoption as not being the child of any person other than the adopter or adopters shall be read as references to a child who is treated by virtue of the making of a parental order as not being the child of any person other than the husband and wife as defined by section 30 of the 1990 Act.

(14) S.I. 1993 No. 1576 (N.I. 6).

(15) S.I. 1976/1041 (NI 14). Article 37(1) was amended by paragraph 13 of Schedule 4 to the Adoption (NI) Order 1987 (S.I. 1987/2203) (NI 22).

(16) 1989 c. 41.

(15) S.I. 1976/1041 (NI 14). Article 37(1) was amended by paragraph 13 of Schedule 4 to the Adoption (NI) Order 1987 (S.I. 1987/2203) (NI 22).

(16) 1989 c. 41.

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.