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PROSPECTIVE

## SCHEDULES

### SCHEDULE 3

#### Minor and consequential amendments

#### PART 1

#### Amendments of primary legislation

##### *The Children (Northern Ireland) Order 1995*

- 22.** In Article 2 (interpretation), in paragraph (2)—
- (a) omit the definition of “Adoption Order”;
  - (b) insert the following at the appropriate places—
    - ““adoption order” means an adoption order within the meaning of section 43(1) of the Adoption and Children Act (Northern Ireland) 2022”;
    - ““Article 50A plan” has the meaning given by Article 50A(6);”;
    - ““special guardian” and “special guardianship order” have the meanings given by Article 14A;”;
  - (c) omit the definition of “protected child”.

#### Commencement Information

- II** Sch. 3 para. 22 not in operation at Royal Assent, see [s. 160\(1\)](#)

- 23.** In Article 7 (acquisition of parental responsibility), in paragraph (1B)—
- (a) in sub-paragraph (a) for “Article 17 of the Adoption Order” substitute “section 16 of the Adoption and Children Act (Northern Ireland) 2022”;
  - (b) in sub-paragraph (b) for “Article 57 of the Adoption Order” substitute “section 83 of the Adoption and Children Act (Northern Ireland) 2022”.

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#### Commencement Information

**I2** Sch. 3 para. 23 not in operation at Royal Assent, see [s. 160\(1\)](#)

**24.** In Article 8 (residence, contact and other orders with respect to children), in paragraph (4), for sub-paragraph (e) substitute—

“(e) the Adoption and Children Act (Northern Ireland) 2022;”.

#### Commencement Information

**I3** Sch. 3 para. 24 not in operation at Royal Assent, see [s. 160\(1\)](#)

**25.** In Article 9 (restrictions on making Article 8 orders), in paragraph (5)(a) after “order” insert “or an order under section 49 of the Adoption and Children Act (Northern Ireland) 2022 (post-adoption contact)”.

#### Commencement Information

**I4** Sch. 3 para. 25 not in operation at Royal Assent, see [s. 160\(1\)](#)

**26.** In Article 10 (power of court to make Article 8 orders)—

(a) in paragraph (4)(a), for “or guardian” substitute “, guardian or special guardian”;

(b) after paragraph (5) insert—

“(5A) An authority foster parent is entitled to apply for a residence order with respect to a child if the child has lived with the authority foster parent for a period of at least one year immediately preceding the application.”;

(c) after paragraph (7) insert—

“(7A) If a special guardianship order is in force with respect to a child, an application for a residence order may only be made with respect to the child, if apart from this paragraph the leave of the court is not required, with such leave.”.

#### Commencement Information

**I5** Sch. 3 para. 26 not in operation at Royal Assent, see [s. 160\(1\)](#)

**27.** In Article 12 (residence orders and parental responsibility), in paragraph (3)

(a) in sub-paragraph (a) for “Article 17 of the Adoption Order” substitute “section 16 of the Adoption and Children Act (Northern Ireland) 2022”;

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(b) in sub-paragraph (b), for “Article 57 of the Adoption Order” substitute “section 83 of the Adoption and Children Act (Northern Ireland) 2022”.

**Commencement Information**

**I6** Sch. 3 para. 27 not in operation at Royal Assent, see [s. 160\(1\)](#)

**28.** In Article 16 (family assistance orders), in paragraph (2)(a) for “or guardian” substitute “, guardian or special guardian”.

**Commencement Information**

**I7** Sch. 3 para. 28 not in operation at Royal Assent, see [s. 160\(1\)](#)

**29.** In Article 22 (powers of person with parental responsibility), in paragraph (3) omit the “or” at the end of sub-paragraph (a) and after that sub-paragraph insert—

“(aa) who is a special guardian of the child; or”.

**Commencement Information**

**I8** Sch. 3 para. 29 not in operation at Royal Assent, see [s. 160\(1\)](#)

**30.** In Article 28 (regulations under Article 27), in paragraph (1) omit sub-paragraph (d).

**Commencement Information**

**I9** Sch. 3 para. 30 not in operation at Royal Assent, see [s. 160\(1\)](#)

**31.** In Article 33 (arrangements to assist children to live abroad)—

(a) in paragraph (4) after “guardian,” insert “special guardian,”;

(b) in paragraph (6) for the words from the beginning to “adoption)” substitute “Section 84 of the Adoption and Children Act (Northern Ireland) 2022 (restrictions on taking children out)”;

(c) at the end add—

“(9) This Article does not apply to an authority placing a child for adoption with prospective adopters.”.

**Commencement Information**

**I10** Sch. 3 para. 31 not in operation at Royal Assent, see [s. 160\(1\)](#)

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### 32. In Article 34E (personal advisers)—

#### (a) in paragraph (1)—

- (i) for “21” substitute “25 (or such other age as may be prescribed)”;
- (ii) in sub-paragraph (b) omit “or”;
- (iii) after sub-paragraph (c) insert “; or
- (d) persons to whom Article 34DC applies.”;

#### (b) after paragraph (2) insert—

“(3) Where an authority ceases to be under a duty to provide a personal adviser for a person under any provision of this Part, that does not affect any other duties under this Part to provide a personal adviser for the person.

(4) Where an authority has more than one duty under this Part to provide a personal adviser for a person, each duty is discharged by the provision of the same personal adviser (the authority is not required to provide more than one personal adviser for the person).”.

#### Commencement Information

**III** Sch. 3 para. 32 not in operation at Royal Assent, see [s. 160\(1\)](#)

### 33. In Article 34F (pathway plans)—

#### (a) in paragraph (1)—

##### (i) after sub-paragraph (a) (but before the “and” at the end) insert—

“(aa) in the case of a plan prepared under Article 34DB, the advice and support that the authority intend to provide;”;

##### (ii) in sub-paragraph (b) after “Article 34C” insert “or Article 34DC”;

#### (b) after paragraph (1) insert—

“(1A) An authority may carry out an assessment under Article 34DB(5) of a person’s needs at the same time as any assessment of the person’s needs is made under Article 34DC(3).

(1B) The Department may by regulations make provision as to assessments for the purposes of Article 34C(3), 34DB(5) or 34DC.

(1C) Regulations under paragraph (1B) may in particular make provision about—

- (a) who is to be consulted in relation to an assessment;
- (b) the way in which an assessment is to be carried out, by whom and when;
- (c) the recording of the results of an assessment;

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(d) the considerations to which an authority is to have regard in carrying out an assessment.

(1D) An authority must keep each pathway plan prepared by them under Article 34C, 34DB or 34DC under review.”.

#### Commencement Information

**I12** Sch. 3 para. 33 not in operation at Royal Assent, see [s. 160\(1\)](#)

**34.** In Article 35 (persons qualifying for advice and assistance)—

(a) for paragraph (1) substitute—

“(1) In this Part “a person qualifying for advice and assistance” means a person to whom paragraph (1A) or (1B) applies.

(1A) This paragraph applies to a person—

- (a) who has reached the age of 16 but not the age of 21;
- (b) with respect to whom a special guardianship order is in force (or, if the person has reached the age of 18, was in force when the person reached that age); and
- (c) who was, immediately before the making of that order, looked after by an authority.

(1B) This paragraph applies to a person to whom paragraph (1A) does not apply, and who—

- (a) is under 21; and
- (b) at any time after reaching the age of 16 but while still a child was, but is no longer, looked after, accommodated or fostered.”;
- (b) in paragraph (2), for “paragraph (1)(b)” substitute “paragraph (1B)(b)”;
- (c) in paragraph (5), before sub-paragraph (a) insert—

“(za) in the case of a person to whom paragraph (1A) applies, an authority determined in accordance with regulations made by the Department;”.

#### Commencement Information

**I13** Sch. 3 para. 34 not in operation at Royal Assent, see [s. 160\(1\)](#)

**35.** In Article 35A (advice and assistance for qualifying persons)—

- (a) in paragraph (2)(b), after “a person” insert “to whom Article 35(1A) applies, or to whom Article 35(1B) applies and”;
- (b) in paragraph (3)(a), after “if” insert “he is a person to whom Article 35(1A) applies, or he is a person to whom Article 35(1B) applies and”.

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#### Commencement Information

**I14** Sch. 3 para. 35 not in operation at Royal Assent, see [s. 160\(1\)](#)

- 36.** In Article 35B (assistance with employment, education and training)—
- (a) in each of paragraphs (1) and (3)(b) after “of” insert “Article 35(1A) or”;
  - (b) in paragraph (3)(a) for “24” substitute “25 (or such other age as may be prescribed)”.

#### Commencement Information

**I15** Sch. 3 para. 36 not in operation at Royal Assent, see [s. 160\(1\)](#)

- 37.** In Article 52 (effect of care order)—
- (a) in paragraph (3)(b) for “or guardian” substitute “, guardian or special guardian”;
  - (b) in paragraph (5) for “a parent or guardian of the child who has care of him” substitute “a person mentioned in that provision who has care of the child”;
  - (c) in paragraph (6)(b)—
    - (i) in head (i) for “Article 17 of the Adoption Order” substitute “section 16 of the Adoption and Children Act (Northern Ireland) 2022”;
    - (ii) in head (ii) for “Article 57 of that Order” substitute “section 83 of the Adoption and Children Act (Northern Ireland) 2022”;
  - (d) in paragraph (9) for “a parent or guardian of the child” substitute “a person mentioned in that provision”.

#### Commencement Information

**I16** Sch. 3 para. 37 not in operation at Royal Assent, see [s. 160\(1\)](#)

- 38.** In Article 53 (parental contact etc with children in care)—
- (a) in paragraph (1)(b) after “guardian” insert “or special guardian”; and
  - (b) after paragraph (1)(b) insert—
    - “(ba) any person who by virtue of Article 7(1A) has parental responsibility for the child;”.

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**I17** Sch. 3 para. 38 not in operation at Royal Assent, see [s. 160\(1\)](#)

**39.** In Article 153 (child care training), in paragraph (3) for “Adoption Order” substitute “Adoption and Children Act (Northern Ireland) 2022”.

#### Commencement Information

**I18** Sch. 3 para. 39 not in operation at Royal Assent, see [s. 160\(1\)](#)

**40.** In Article 155 (parents not being married to, or civil partners of, each other to have no effect in law on relationships), in paragraph (3) for sub-paragraph (c) substitute—

“(c) is an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act (Northern Ireland) 2022; or”.

#### Commencement Information

**I19** Sch. 3 para. 40 not in operation at Royal Assent, see [s. 160\(1\)](#)

**41.** In Article 178 (power of constable to assist in exercise of certain powers to search for children or inspect premises), in paragraph (6) omit sub-paragraph (c).

#### Commencement Information

**I20** Sch. 3 para. 41 not in operation at Royal Assent, see [s. 160\(1\)](#)

**42.** In Article 179 (effect and duration of orders, etc.), after paragraph (5) insert—

“(5A) The making of a special guardianship order with respect to a child who is the subject of—

(a) a care order; or

(b) an order under Article 53,

discharges that order.”.

#### Commencement Information

**I21** Sch. 3 para. 42 not in operation at Royal Assent, see [s. 160\(1\)](#)

**43.** In Schedule 1 (financial provision for children)—

(a) in paragraph 2 (orders for financial relief against parents)—

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- (i) in sub-paragraph (1), for “or guardian” substitute “, guardian or special guardian”; and
- (ii) in sub-paragraph (6), after “order” insert “or a special guardianship order”;
- (b) in paragraph 7 (variation etc. of orders for periodical payments), in sub-paragraph (8), after “guardian” insert “or special guardian”;
- (c) in paragraph 10 (financial relief under other statutory provisions), in sub-paragraph (1) and in sub-paragraph (2)(b), after “residence order” insert “or a special guardianship order”.

#### **Commencement Information**

**I22** Sch. 3 para. 43 not in operation at Royal Assent, see [s. 160\(1\)](#)

**44.** In Schedule 6 (property rights etc.), in paragraph 2 (dispositions of property), in sub-paragraph (5) at the end insert “or section 68 of the Adoption and Children Act (Northern Ireland) 2022 (rules of interpretation for instruments concerning property).”.

#### **Commencement Information**

**I23** Sch. 3 para. 44 not in operation at Royal Assent, see [s. 160\(1\)](#)



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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by S.I. 2018/412, Sch. 3 (as substituted) by [2022 c. 18 \(N.I.\) Sch. 3 para. 83](#)