
STATUTORY INSTRUMENTS

1987 No. 2203

The Adoption (Northern Ireland) Order 1987

PART III

ADOPTION ORDERS

The making of adoption orders

Adoption orders

12 ^{F1}.—^{F2}(1) An adoption order is an order giving parental responsibility for a child to the adopters, and such an order may be made by an authorised court on the application of the adopters.

(2) The order does not affect parental responsibility so far as it relates to any period before the making of the order.

(3) The making of an adoption order operates to extinguish—

- (a) the parental responsibility which any person has for the child immediately before the making of the order;
- (b) any order of a court under the Children (Northern Ireland) Order 1995;
- (c) any duty arising by virtue of an agreement or the order of a court to make payments, so far as the payments are in respect of the child's maintenance or upbringing for any period after the making of the order.]

(4) Paragraph^{F3} (3)(c)] does not apply to a duty arising by virtue of an agreement—

- (a) which constitutes a trust, or
- (b) which expressly provides that the duty is not to be extinguished by the making of an adoption order.

(5) An adoption order may not be made in relation to a child who is or has been married^{F4} or who is or has been a civil partner].

(6) An adoption order may contain such terms and conditions as the court thinks fit.

(7) An adoption order may be made notwithstanding that the child is already an adopted child.

F1 mod. by SR 2003/16

F2 1995 NI 2

F3 1995 NI 2

F4 2004 c.33

Modifications etc. (not altering text)

C1 Art. 12(1)-(4) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, [Sch. 2](#)

Child to live with adopters before order made

13.—(1) Where—

- (a) the applicant, or one of the applicants, is a parent, step-parent or relative of the child, or
- (b) the child was placed with the applicants by an adoption agency or in pursuance of an order of the High Court,

an adoption order shall not be made unless the child is at least 19 weeks old and at all times during the preceding 13 weeks had his home with the applicants or one of them.

(2) Where paragraph (1) does not apply, an adoption order shall not be made unless the child is at least 12 months old and at all times during the preceding 12 months had his home with the applicants or one of them.

(3) An adoption order shall not be made unless the court is satisfied that sufficient opportunities to see the child with the applicant or, in the case of an application by a ^{F5}... couple, both applicants together in the home environment have been afforded—

- (a) where the child was placed with the applicant by an adoption agency, to that agency, or
- (b) in any other case, to the Board^{F6} or [^{F7}HSC trust]] within whose area the home is.

^{F8}(4) In relation to—

- (a) an adoption proposed to be effected by a Convention adoption order; or
- (b) an adoption of a child habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man which is proposed to be effected by an adoption order other than a Convention adoption order,

paragraph (1) shall have effect as if the reference to the preceding 13 weeks were a reference to the preceding 6 months.]

F5 Word in [art. 13\(3\)](#) omitted (13.1.2020) by virtue of [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), [30\(3\)](#) (with regs. 6-9)

F6 1994 NI 2

F7 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

F8 2001 c. 11 (NI)

^{F9}Adoption by ^{F10}... couple

14.—(1) An adoption order shall not be made on the application of more than one person except in the circumstances specified in paragraphs (2) and (3).

(2) An adoption order may be made on the application of a [^{F11}couple where both of them] have attained the age of 21 years.

(3) An adoption order may be made on the application of a ^{F12}... couple where—

- (a) [^{F13}one of the couple] —
 - (i) is the father or mother of the child; and
 - (ii) has attained the age of 18 years;
 and
- (b) [^{F14}the other] has attained the age of 21 years.

(4) An adoption order shall not be made on the application of a ^{F15}... couple unless at least one of them is domiciled in a part of the United Kingdom, or in any of the Channel Islands or in the Isle of Man.]

- F9** 1995 NI 2
- F10** Word in art. 14 heading omitted (13.1.2020) by virtue of *The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019* (S.I. 2019/1514), regs. 1(2), **30(4)(a)** (with regs. 6-9)
- F11** Words in art. 14(2) substituted (13.1.2020) by *The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019* (S.I. 2019/1514), regs. 1(2), **30(4)(b)** (with regs. 6-9)
- F12** Word in art. 14(3) omitted (13.1.2020) by virtue of *The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019* (S.I. 2019/1514), regs. 1(2), **30(4)(c)(i)** (with regs. 6-9)
- F13** Words in art. 14(3)(a) substituted (13.1.2020) by *The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019* (S.I. 2019/1514), regs. 1(2), **30(4)(c)(ii)** (with regs. 6-9)
- F14** Words in art. 14(3)(b) substituted (13.1.2020) by *The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019* (S.I. 2019/1514), regs. 1(2), **30(4)(c)(iii)** (with regs. 6-9)
- F15** Word in art. 14(4) omitted (13.1.2020) by virtue of *The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019* (S.I. 2019/1514), regs. 1(2), **30(4)(d)** (with regs. 6-9)

Modifications etc. (not altering text)

- C2** Art. 14(2) amendment earlier affecting provision 1969 c. 22 (NI) s. 2(a) (13.1.2020) by *The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019* (S.I. 2019/1514), regs. 1(2), **29(3)** (with regs. 6-9)

Adoption by one person

15.—(1) An adoption order may be made on the application of one person where he has attained the age of 21 years and—

- (a) is not married^{F16} or a civil partner], or
- (b) is married and the court is satisfied that—
- (i) his spouse cannot be found, or
- (ii) the spouses have separated and are living apart, and the separation is likely to be permanent, or
- (ii) his spouse is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order
- ^{F17}, or
- (c) is a civil partner and the court is satisfied—
- (i) the person's civil partner cannot be found, or
- (ii) the civil partners have separated and are living apart, and the separation is likely to be permanent, or
- (iii) the person's civil partner is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order, or
- (d) the court is satisfied—

- (i) the person, and a parent of the child, are a couple, and
- (ii) the person is not the child's parent.]

(2) An adoption order shall not be made on the application of one person unless he is domiciled in a part of the United Kingdom, or in any of the Channel Islands or in the Isle of Man.

(3) An adoption order shall not be made on the application of the mother or father of the child alone unless the court is satisfied that—

- (a) the other natural parent is dead or cannot be found^{F18} or, by virtue of the provisions specified in paragraph (3A), there is no other parent], or
- (b) there is some other reason justifying the exclusion of the other natural parent,

and where such an order is made the reason justifying the exclusion of the other natural parent shall be recorded by the court.

[^{F19}(3A) The provisions referred to in paragraph (3)(a) are—

- (a) section 28 of the Human Fertilisation and Embryology Act 1990 (disregarding subsections (5A) to (5I) of that section), or
- (b) sections 34 to 47 of the Human Fertilisation and Embryology Act 2008 (disregarding sections 39, 40 and 46 of that Act).]

Para. (4) rep. by 1995 NI 2

F16 2004 c.33

F17 Art. 15(1)(c)(d) and preceding word inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **30(5)** (with regs. 6-9)

F18 Words in art. 15(3)(a) substituted (6.4.2009 for certain purposes, otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68(2), **Sch. 6 para. 68(2)**; S.I. 2009/479, **art. 6(1)(e)(f)(2)** (with art. 7(1), Sch. 1) (as amended by S.I. 2009/2232, art. 3)

F19 Art. 15(3A) inserted (6.4.2009 for certain purposes, otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68(2), **Sch. 6 para. 68(3)**; S.I. 2009/479, **art. 6(1)(e)(f)(2)** (with art. 7(1), Sch. 1) (as amended by S.I. 2009/2232, art. 3)

Parental agreement

16^{F20}.—(1) An adoption order shall not be made unless—

- (a) the child is free for adoption by virtue of an order made in Northern Ireland under Article 17(1) or 18(1), made in England and Wales under section 18 of the Adoption Act 1976^{F21} (freeing children for adoption in England and Wales)^{F22}. . . ; or
 - [^{F23}(aa) the child is the subject of a Scottish permanence order which includes provision granting authority for the child to be adopted; or]
 - (b) in the case of each parent or guardian of the child the court is satisfied that—
 - (i) he freely, and with full understanding of what is involved, agrees—
 - (aa) either generally in respect of the adoption of the child or only in respect of the adoption of the child by a specified person, and
 - (ab) either unconditionally or subject only to a condition with respect to the religious persuasion in which the child is to be brought up,
- to the making of an adoption order; or

(ii) his agreement to the making of the adoption order should be dispensed with on a ground specified in paragraph (2).

(2) The grounds mentioned in paragraph (1)(b)(ii) are that the parent or guardian—

- (a) cannot be found or is incapable of giving agreement;
- (b) is withholding his agreement unreasonably;
- (c) has persistently failed without reasonable cause to discharge^{F24} his parental responsibility for] the child;
- (d) has abandoned or neglected the child;
- (e) has persistently ill-treated the child;
- (f) has seriously ill-treated the child (subject to paragraph (4)).

(3) Agreement by the mother of the child is ineffective for the purposes of paragraph (2)(b)(i) if given less than 6 weeks after the child's birth.

(4) Paragraph (2)(f) does not apply unless (because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of the parent or guardian is unlikely.

(5) The reference in paragraph (1)(b) to a parent of a child does not include a reference to any person having^{F25} parental responsibility for] the child by virtue of—

- ^{F26}(a) Article 53 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (which relates to parental responsibility for children ordered to be sent to juvenile justice centres);]

Sub#para. (b) rep. by 1995 NI 2

F20 mod. by SR 2003/16

F21 1976 c. 36

F22 Words in art. 16(1)(a) repealed (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 Pt. 3**

F23 Art. 16(1)(aa) inserted (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 para. 11(4)**

F24 1995 NI 2

F25 1995 NI 2

F26 1998 NI 9

Modifications etc. (not altering text)

C3 Art. 16(1)(a) modified (temp. from 2.11.2010 to 2.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Provisions\) Order 2010 \(S.I. 2010/2469\)](#), **arts. 5(b), 6**

^{F27}Convention adoption orders

16A. An adoption order shall be made as a Convention adoption order if—

- (a) the application is for a Convention adoption order; and
- (b) any prescribed requirements are complied with.]

F27 2001 c. 11 (NI)

Changes to legislation:

There are currently no known outstanding effects for the The Adoption (Northern Ireland) Order 1987, Cross Heading: The making of adoption orders.