
STATUTORY INSTRUMENTS

1987 No. 2203

The Adoption (Northern Ireland) Order 1987

PART III

ADOPTION ORDERS

The making of adoption orders

Adoption orders

12.—(1) An adoption order is an order vesting the parental rights and duties relating to a child in 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 the parental rights and duties so far as they relate to any period before the making of the order.

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

(a) any parental right or duty relating to the child which—

(i) is vested in a person (not being one of the adopters) who was the parent or guardian of the child immediately before the making of the order, or

(ii) is vested in any other person by virtue of the order of any court; and

(b) 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 for any period after the making of the adoption order or any other matter comprised in the parental duties and relating to such a period.

(4) Paragraph (3)(b) 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.

(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.

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 married 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 within whose area the home is.

Adoption by married couple

14.—(1) An adoption order may be made on the application of a married couple where each has attained the age of 21 years but an adoption order shall not otherwise be made on the application of more than one person.

(2) An adoption order shall not be made on the application of a married 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.

(3) If the married couple consist of a parent and step-parent of the child, the court shall dismiss the application if it considers the matter would be better dealt with under Article 45 (orders for custody, etc.) of the Matrimonial Causes (Northern Ireland) Order 1978(1).

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, 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.

(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, 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.

(4) If the applicant is a step-parent of the child the court shall dismiss the application if it considers the matter would be better dealt with under Article 45 (orders for custody, etc.) of the Matrimonial Causes (Northern Ireland) Order 1978(2).

(1) 1978 NI 15

(2) 1978 NI 15

Parental agreement

16.—(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⁽³⁾ (freeing children for adoption in England and Wales) or made in Scotland under section 18 of the Adoption (Scotland) Act 1978⁽⁴⁾ (freeing children for adoption in Scotland); 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 the parental duties in relation to 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 the rights and powers of a parent of the child by virtue of—

- (a) section 91 of, or paragraph 14(1) of Schedule 5 to the Children and Young Persons Act (Northern Ireland) 1968⁽⁵⁾ (which relate to the exercise of parental rights in respect of children and young persons committed to the care of fit persons or ordered to be sent to training schools);
- (b) section 105 of that Act (which applies to children in respect of whom the parental rights are vested in the Department by virtue of a parental rights order made under section 104 of that Act).

(3) 1976 c. 36
(4) 1978 c. 28
(5) 1968 c. 34 (N.I.)