STATUTORY INSTRUMENTS

1995 No. 755

The Children (Northern Ireland) Order 1995

PART XVII

MISCELLANEOUS AND GENERAL

Children accommodated in certain establishments

Children accommodated in hospitals

174.—[F1](1) . . . . . .

(2) Where a child is provided with accommodation in a hospital administered by a **[**[F2]Health and Social Care trust**]**—

(a) for a consecutive period of at least three months; or

(b) with the intention, on the part of the trust, of accommodating him for such a period,

the trust shall notify the responsible authority.

(3) Where paragraph [F3]... (2) applies, the [F4]... trust shall also notify the responsible authority when the child ceases to be accommodated in the hospital.

(4) Paragraphs **[**[F5](2) and**]** (3) shall not apply where the [F6]... trust is the responsible authority.

(5) In this Article "the responsible authority" means—

(a) the authority appearing to the [F7]... trust to be the authority within whose area the child was ordinarily resident immediately before being accommodated in that hospital; or

(b) where it appears to the [F7]... trust that the child was not resident within the area of any authority, the authority within whose area the hospital is situated.

(6) Where an authority has been notified under this Article or would but for paragraph (4) have been notified under this Article, it shall—

(a) take such steps as are reasonably practicable to enable it to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the [F8]... trust; and

(b) consider the extent to which (if at all) any functions under this Order should be exercised with respect to the child by it or another [F8]... trust.

(7) A person authorised by an authority may enter a hospital for the purpose of establishing whether the requirements of this Article have been complied with.

(8) Any person exercising the power conferred by paragraph (7) shall, if so required, produce some duly authenticated document showing his authority to do so.

F1 Art. 174(1) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 165(2)**; S.R. 2022/102, art. 2(b)

F2 Words in art. 174(2) 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)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

F3 Words in art. 174(3) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 165(3)(a)**; S.R. 2022/102, art. 2(b)

F4 Words in art. 174(3) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 165(3)(b)**; S.R. 2022/102, art. 2(b)

F5 Words in art. 174(4) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 165(4)(a)**; S.R. 2022/102, art. 2(b)

F6 Words in art. 174(4) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 165(4)(b)**; S.R. 2022/102, art. 2(b)

F7 Words in art. 174(5) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 165(5)**; S.R. 2022/102, art. 2(b)

F8 Words in art. 174(6) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 165(5)**; S.R. 2022/102, art. 2(b)

Children accommodated in certain homes and in private hospitals

175.—(1) Where a child is provided with accommodation in any residential care home, nursing home or private hospital—

(a) for a consecutive period of at least three months; or

(b) with the intention, on the part of the person taking the decision to accommodate him, of accommodating him for such a period,

the person carrying on the home or hospital shall notify the authority within whose area the home or hospital is carried on.

(2) Where paragraph (1) applies with respect to a child, the person carrying on the home or hospital shall also notify that authority when he ceases to accommodate the child.

(3) Where an authority has been notified under this Article, it shall—

(a) take such steps as are reasonably practicable to enable it to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated in the home or hospital; and

(b) consider the extent to which (if at all) the authority should exercise any of its functions under this Order with respect to the child.

(4) If the person carrying on any home or hospital fails, without reasonable excuse, to comply with this Article he shall be guilty of an offence.

(5) A person authorised by an authority may enter any residential care home, nursing home or private hospital within the authority's area for the purpose of establishing whether the requirements of this Article have been complied with.

(6) Any person who intentionally obstructs another in the exercise of the power of entry shall be guilty of an offence.

(7) Any person exercising the power of entry shall, if so required, produce some duly authenticated document showing his authority to do so.

(8) Any person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Children accommodated in schools

176.—(1) It shall be the duty of the managers of any school which provides accommodation for any child to safeguard and promote the child's welfare.

(2) Where accommodation is provided for a child by a school[F9 the [F10RQIA]] shall take such steps as are reasonably practicable to enable it to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the school.

(3) Where[F9 it] is of the opinion that there has been a failure to comply with paragraph (1) in relation to a child provided with accommodation by a school[F9 the [F10RQIA]] shall notify both the Department and the Department of Education.

[F9(4) Where accommodation is, or is to be, provided for a child by any school, a person authorised by the [F10RQIA] may, for the purpose of enabling that Authority to discharge its duty under this Article, enter at any time any premises which are, or are to be, premises of the school.]

(5) Any person entering a school in exercise of the power conferred by paragraph (4) may carry out such inspection of premises, children and records as is prescribed by regulations made by the Department for the purposes of this Article after consultation with the Department of Education.

(6) Any person exercising that power shall, if asked to so do, produce some duly authenticated document showing his authority to do so.

(7) Any person authorised under this Article to inspect records—

(a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used; or

(ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to afford him such assistance as he may reasonably require.

(8) Any person who intentionally obstructs another in the exercise of any power conferred by this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

F9 2003 NI 9

F10 Words in Order substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **Sch. para. 1(1)(b)** (with Sch. para. 1(2))

Children not accommodated in schools

177.—(1) Where a child is provided with accommodation by [F11the Education Authority] —

(a) for a consecutive period of at least three months; or

(b) with the intention, on the part of [F12the Education Authority] , of accommodating him for such a period,

[F11the Education Authority] shall notify the responsible authority.

(2) Paragraph (1) does not apply to accommodation to which Article 176(1) applies.

(3) Where paragraph (1) applies with respect to a child, [F13the Education Authority] shall also notify the responsible authority when it ceases to accommodate the child.

(4) In this Article "the responsible authority" means—

(a) the authority appearing to [F14the Education Authority] to be the authority within whose area the child was ordinarily resident immediately before being accommodated; or

(b) where it appears to **[**[F14]the Education Authority**]** that the child was not ordinarily resident within the area of any authority, the authority within whose area the accommodation is situated.

(5) Where an authority has been notified under this Article, it shall—

(a) take such steps as are reasonably practicable to enable it to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by **[**[F15]the Education Authority**]** ; and

(b) consider the extent to which (if at all) the authority should exercise any of its functions under this Order with respect to the child.

F11 Words in art. 177(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 14(26)(a)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

F12 Words in art. 177(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 14(26)(b)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

F13 Words in art. 177(3) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 14(27)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

F14 Words in art. 177(4) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 14(27)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

F15 Words in art. 177(5) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 14(27)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

Search warrants

Police assistance in exercise of powers of search and inspection

178.—(1) Where, on an application made by any person for a warrant under this Article, it appears to the court—

(a) that a person attempting to exercise powers under any provision specified in paragraph (6) has been prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned; or

(b) that any such person is likely to be so prevented from exercising any such powers,

it may issue a warrant authorising any constable to assist that person in the exercise of those powers, using reasonable force if necessary.

(2) Every warrant issued under this Article shall be addressed to, and executed by, a constable who shall be accompanied by the person applying for the warrant if—

(a) that person so desires; and

(b) the court by whom the warrant is issued does not direct otherwise.

(3) A court granting an application for a warrant under this Article may direct that the constable concerned may, in executing the warrant, be accompanied by a medical practitioner, registered nurse or registered health visitor if he so chooses.

(4) An application for a warrant under this Article shall be made in the manner and form prescribed by rules of court.

(5) Where—

(a) an application for a warrant under this Article relates to a particular child; and

(b) it is reasonably practicable to do so,

the application and any warrant granted on the application shall name the child; and where it does not name him it shall describe him as clearly as possible.

(6) The provisions referred to in paragraph (1) are—

(a) Articles 77, 93, 108, 130, 149, 175 and 176;

(b) paragraph 7(1)(b) or (2)(b) of Schedule 3;

(c) Article 34 of the Adoption Order (duty to secure that protected children are visited).

Effect and duration of orders, etc.

Effect and duration of orders, etc.

179.—(1) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.

(2) The making of a care order with respect to a child who is the subject of any Article 8 order discharges the Article 8 order.

(3) The making of a care order with respect to a child who is the subject of a supervision order discharges the supervision order.

(4) The making of a care order with respect to a child who is a ward of court brings that wardship to an end.

(5) The making of a care order with respect to a child who is the subject of a school attendance order made under Part I of Schedule 13 to the Education and Libraries (Northern Ireland) Order 1986[F16] discharges the school attendance order.

(6) Where an emergency protection order is made with respect to a child who is in care, the care order shall have effect subject to the emergency protection order.

(7) Any order made under Article 7(1) **[**[F17], (1ZA)**][**[F18] or (1A)**]** or 159(1) shall continue in force until the child reaches the age of 18, unless it is brought to an end earlier.

(8) Any—

(a) agreement under Article 7; or

(b) appointment under Article 160(1) or (2),

shall continue in force until the child reaches the age of 18, unless it is brought to an end earlier.

(9) An order under Schedule 1 has effect as specified in that Schedule.

(10) An Article 8 order shall, if it would otherwise still be in force, cease to have effect when the child reaches the age of 16, unless it is to have effect beyond that age by virtue of Article 9(6).

(11) Where an Article 8 order has effect with respect to a child who has reached the age of 16, it shall, if it would otherwise still be in force, cease to have effect when he reaches the age of 18.

(12) Any care order, other than an interim care order, shall continue in force until the child reaches the age of 18, unless it is brought to an end earlier.

(13) Any order made by a court under any other provision of this Order in relation to a child shall, if it would otherwise still be in force, cease to have effect when he reaches the age of 18.

(14) On disposing of any application for an order under this Order, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Order of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.

(15) Where an application ("the previous application") has been made for—

(a) the discharge of a care order;

(b) the discharge of a supervision order;

(c) the discharge of an education supervision order;

(d) the substitution of a supervision order for a care order; or

(e) a child assessment order,

no further application of a kind mentioned in sub-paragraphs (a) to (e) may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds six months.

(16) Paragraph (15) does not apply to applications made in relation to interim orders.

(17) Where—

(a) a person has made an application for an order under Article 53;

(b) the application has been refused; and

(c) a period of less than six months has elapsed since the refusal,

that person may not make a further application for such an order with respect to the same child, unless he has obtained the leave of the court.

F16 1986 NI 3

F17 Words in art. 179(7) 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. 76**; S.I. 2009/479, **art. 6(1)(e)(f)(2)** (with transitional provisions in art.7, Sch. 1)

F18 2001 c. 12 (NI)

Modifications etc. (not altering text)

C1 Art. 179(10) modified (1.4.2024) by Adoption and Children Act (Northern Ireland) 2022 (c. 18), **ss. 118(3)**, 160(1); S.R. 2024/30, art. 2(b)

The Isle of Man and the Channel Islands

180.—(1) Where a child who is in the care of an authority is lawfully taken to live in the Isle of Man or any of the Channel Islands, the care order in question shall cease to have effect if the prescribed conditions are satisfied.

(2) The Department may make regulations providing for prescribed orders which—

(a) are made by a court in the Isle of Man or in any of the Channel Islands; and

(b) appear to the Department to correspond in their effect to orders which may be made under this Order,

to have effect in prescribed circumstances for prescribed purposes of this Order as if they were orders of a prescribed kind made under this Order.

Miscellaneous

[[F19]Report on the operation of this Order]

181.—[[F20](1)] The Department shall, after consultation with the Lord Chancellor, the Department of Education and the Department of Finance and Personnel, cause an annual general report on the operation of this Order to be prepared and laid before the Assembly.

[[F21](2) The first report under paragraph (1) must be prepared and laid before the Assembly within the period of three years beginning on the date on which the Adoption and Children Act (Northern Ireland) 2022 receives Royal Assent.**]**

F19 Words in art. 181 heading substituted (1.4.2024) by Adoption and Children Act (Northern Ireland) 2022 (c. 18), **ss. 143(2)**, 160(1); S.R. 2024/30, art. 2(d)

F20 Art. 181 renumbered by Adoption and Children Act (Northern Ireland) 2022 (c. 18), **ss. 143(4)**, 160(1); S.R. 2024/30, art. 2(d)

F21 Art. 181(2) added (1.4.2024) by Adoption and Children Act (Northern Ireland) 2022 (c. 18), **ss. 143(5)**, 160(1); S.R. 2024/30, art. 2(d)

[[F22]Delegation of functions by Lord Chief Justice

181A.—(1) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise a delegable function—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).

(2) In paragraph (1) "delegable function" means a function under any of these provisions of this Order—

(a) Article 4(2);

(b) Article 166(14);

(c) Article 169(5);

(d) Article 170(5);

(e) in Schedule 1, paragraph 6(2);

(f) in Schedule 7—

(i) paragraph 1(1), (2) and (4);

(ii) paragraph 2(1) and (5);

(iii) paragraph 3;

(iv) paragraph 4(4), (6)(a) and (7).**]**

F22 Art. 181A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 99; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(b)

Temporary exercise of functions of authorities by Department

182.—(1) The Department may by regulations provide that until such date as may be prescribed the provisions to which paragraph (2) applies shall have effect as if for references to an authority there were substituted references to the Department.

(2) This paragraph applies to—

(a) Articles 78, 80 to 87, 94 and 96 to 103;

(b) regulations made for the purposes of Article 80(4) or 96(4);

(c) regulations made under Article 89(2)(j) or (k) or 105(2)(j) or (k); and

(d) such other provisions of this Order as may be prescribed.

(3) Regulations may make such modifications of this Order as appear to the Department to be necessary or expedient for the purposes of paragraph (1).

(4) Regulations under paragraph (1) shall not prescribe a date later than the expiration of six years from the commencement of this Article.

Regulations and orders

183.—(1) Subject to paragraphs (2)**[**[F23] to (4)**]**, regulations under this Order shall be subject to negative resolution.

(2) Orders under Article 18(4) or 156 shall be subject to affirmative resolution.

[[F24](3) Orders under this Order made by the Department of Justice shall be subject to negative resolution.**]**

[[F23](4) Regulations under Article 18(10) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

F23 2002 c. 21

F24 Art. 183(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 151** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Transitional provisions and savings

184.—(1) The transitional provisions and savings set out in Schedule 8 shall have effect.

(2) An order under Article 1(2) may make such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the provisions brought into operation by the order, including—

(a) provisions adding to or modifying the provisions of Schedule 8; and

(b) such adaptations—

(i) of the provisions brought into operation by the order; and

(ii) of any provisions of this Order then in operation,

as appear to the Secretary of State necessary or expedient in consequence of the partial operation of this Order.

Article 185— Amendments and Repeals

Changes to legislation:
The Children (Northern Ireland) Order 1995, PART XVII is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:
Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 45(2(e) words repealed by 2022 c. 18 (N.I.) Sch. 5
- art. 7(2A)(ba) substituted for word by 2009 c. 24 Sch. 6 para. 26(2)
- art. 7(2B)(ba) substituted for word by 2009 c. 24 Sch. 6 para. 26(3)
- art. 10(5A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 26(b)
- art. 10(7A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 26(c)
- art. 14A?-14F and cross-heading inserted by 2022 c. 18 (N.I.) s. 119(1)
- art. 14A(7) applied (with modifications) for specified purposes by 2022 c. 18 (N.I.) s. 26(6)
- art. 14C(1)(b) applied (with modifications) for specified purposes by 2022 c. 18 (N.I.) s. 26(7)(a)
- art. 14C(3)(4) excluded by 2022 c. 18 (N.I.) s. 26(7)(b)
- art. 18(6)-(6C) substituted for art. 18(6) by 2022 c. 18 (N.I.) s. 121(1)
- art. 22(3)(aa) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 29
- art. 26(1A) inserted by 2022 c. 18 (N.I.) s. 122(1)
- art. 26A inserted by 2022 c. 18 (N.I.) s. 123
- art. 27(7A) inserted by 2022 c. 18 (N.I.) s. 125(3)
- art. 27(8)(c) and word added by 2022 c. 18 (N.I.) s. 122(2)(b)
- art. 27(9A)-(9D) inserted by 2022 c. 18 (N.I.) s. 124
- art. 28(4) inserted by 2022 c. 18 (N.I.) s. 125(4)
- art. 28A inserted by 2022 c. 18 (N.I.) s. 126
- art. 28B inserted by 2022 c. 18 (N.I.) s. 127
- art. 33(9) added by 2022 c. 18 (N.I.) Sch. 3 para. 31(c)
- art. 34E(1)(d) and word inserted by 2022 c. 18 (N.I.) Sch. 3 para. 32(a)(iii)
- art. 34E(3)(4) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 32(b)
- art. 34F(1)(aa) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 33(a)(i)
- art. 34F(1A)-(1D) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 33(b)
- art. 34G inserted by 2022 c. 18 (N.I.) s. 129
- art. 34AA inserted by 2022 c. 18 (N.I.) s. 128(1)
- art. 34DA inserted by 2022 c. 18 (N.I.) s. 128(2)
- art. 34DB34DC inserted by 2022 c. 18 (N.I.) s. 128(3)
- art. 35(1)-(1B) substituted for art. 35(1) by 2022 c. 18 (N.I.) Sch. 3 para. 34(a)
- art. 35(5)(za) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 34(c)
- art. 35D(1)(aa)(ab) inserted by 2022 c. 18 (N.I.) s. 128(4)
- art. 35D(1A) inserted by 2022 c. 18 (N.I.) s. 130(1)
- art. 45(2)(e)(i)(ii) inserted by 2022 c. 18 (N.I.) s. 131(a)
- art. 45(2)(f)(i)-(iii) inserted by 2022 c. 18 (N.I.) s. 131(b)
- art. 45(3A)-(3C) inserted by 2022 c. 18 (N.I.) s. 130(4)
- art. 45(4A) inserted by 2022 c. 18 (N.I.) s. 130(6)
- art. 45(5A) inserted by 2022 c. 18 (N.I.) s. 130(7)
- art. 45A?? inserted by 2022 c. 18 (N.I.) s. 132
- art. 50A?? inserted by 2022 c. 18 (N.I.) s. 134(1)
- art. 53(1)(ba) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 38(b)
- art. 53(6A) inserted by 2022 c. 18 (N.I.) s. 135(3)
- art. 53(8)(za) inserted by 2022 c. 18 (N.I.) s. 135(4)
- art. 57(3A) inserted by 2022 c. 18 (N.I.) s. 119(3)
- art. 60(6)(ha) inserted by 2022 c. 18 (N.I.) s. 138

- art. 107(7)(c) added by 2022 c. 18 (N.I.) s. 139(4)
- art. 108(2A) inserted by 2022 c. 18 (N.I.) s. 140(3)
- art. 108(3)(c) and word added by 2022 c. 18 (N.I.) s. 140(4)(c)
- art. 112A inserted by 2022 c. 18 (N.I.) s. 141
- art. 159(1)(c) and word added by 2022 c. 18 (N.I.) s. 119(4)(b)
- art. 165(2)(k) inserted by 2011 c. 24 (N.I.) s. 95(3)
- art. 170(2)-(9A) modified by 2022 c. 18 (N.I.) s. 105(3)
- art. 170(9A) inserted by 2022 c. 18 (N.I.) s. 142
- art. 179(5A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 42
- art. 181(1) art. 181 renumbered as art. 181 (1) by 2022 c. 18 (N.I.) s, 143(3)
- art. 183(2A) inserted by 2022 c. 18 (N.I.) s. 130(8)