

Status: Point in time view as at 06/04/2010.

Changes to legislation: Human Fertilisation and Embryology Act 2008, Cross Heading: Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) is up to date with all changes known to be in force on or before 04 May 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. (See end of Document for details)

SCHEDULES

SCHEDULE 6

AMENDMENTS RELATING TO PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

PART 3

ENACTMENTS RELATING ONLY TO NORTHERN IRELAND

Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))

- 70 In Article 2 of the Children (Northern Ireland) Order 1995, in paragraph (2), in the definition of “parental responsibility agreement”, for “Article 7(1)(b)” substitute “Article 7(1ZB)”.

Commencement Information

- II** Sch. 6 para. 70 wholly in force at 1.9.2009; Sch. 6 para. 70 not in force at Royal Assent see s. 68; Sch. 6 para. 70 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 71 (1) Article 5 of the Children (Northern Ireland) Order 1995 (parental responsibility for children) is amended as follows.
- (2) After paragraph (1) insert—
- “(1A) Where a child—
- (a) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008; or
- (b) has a parent by virtue of section 43 of that Act and is a person to whom Article 155(3) applies,
- the child's mother and the other parent shall each have parental responsibility for the child.”
- (3) After paragraph (2) insert—
- “(2A) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom Article 155(3) applies—
- (a) the mother shall have parental responsibility for the child;
- (b) the other parent shall have parental responsibility for the child if she has acquired it (and has not ceased to have it) in accordance with the provisions of this Order.”

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Commencement Information

I2 Sch. 6 para. 71 wholly in force at 1.9.2009; Sch. 6 para. 71 not in force at Royal Assent see s. 68; Sch. 6 para. 71 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 72 (1) Article 7 of the Children (Northern Ireland) Order 1995 (acquisition of parental responsibility) is amended as follows.
- (2) In paragraph (1)(b), omit “(a “parental responsibility agreement”)”.
- (3) After paragraph (1) insert—
- “(1ZA) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom Article 155(3) applies, that parent shall acquire parental responsibility for the child if—
- (a) she becomes registered as a parent of the child;
- (b) she and the child's mother make an agreement providing for her to have parental responsibility for the child; or
- (c) the court, on her application, orders that she shall have parental responsibility for the child.
- (1ZB) An agreement under paragraph (1)(b) or (1ZA)(b) is known as a “parental responsibility agreement”.”
- (4) After paragraph (2) insert—
- “(2A) In paragraph (1)(a) “registered” means registered under—
- (a) Article 14(3)(a), (b) or (c) of the Births and Deaths Registration (Northern Ireland) Order 1976;
- (b) paragraph (a), (b) or (c) of section 10(1) or 10A(1) of the Births and Deaths Registration Act 1953; or
- (c) paragraph (a), (b)(i) or (c) of section 18(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.
- (2B) In paragraph (1ZA)(a) “registered” means registered under—
- (a) Article 14ZA(3)(a), (b) or (c) of the Births and Deaths Registration (Northern Ireland) Order 1976;
- (b) paragraph (a), (b) or (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953; or
- (c) paragraph (a), (b) or (d) of section 18B(1) of, or sections 18B(3)(a) and 20(1)(a) of, the Registration of Births, Deaths and Marriages (Scotland) Act 1965.”
- (5) In paragraph (3), omit the words from “and “registered”” to the end.
- (6) In paragraph (3A), after “paragraph (1)” insert “ , (1ZA) ”.
- (7) In paragraph (4)—
- (a) for “the father” substitute “ a parent ”, and
- (b) after “paragraph (1)(c)” insert “ or (1ZA)(c) ”.

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Commencement Information

- I3** Sch. 6 para. 72 wholly in force at 1.9.2009; Sch. 6 para. 72 not in force at Royal Assent see s. 68; Sch. 6 para. 72 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 73 In Article 8 of the Children (Northern Ireland) Order 1995 (residence, contact and other orders with respect to children), in paragraph (4), for sub-paragraph (g) substitute—

“(g) section 54 of the Human Fertilisation and Embryology Act 2008;”.

- 74 (1) Article 12 of the Children (Northern Ireland) Order 1995 (residence orders and parental responsibility) is amended as follows.

- (2) After paragraph (1) insert—

“(1A) Where the court makes a residence order in favour of a person who is a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 it shall, if that person would not otherwise have parental responsibility for the child, also make an order under Article 7(1ZA) giving her that responsibility.”

- (3) In paragraph (4)—

- (a) after “(1)” insert “ or (1A) ”, and
(b) for “father” substitute “ parent ”.

Commencement Information

- I4** Sch. 6 para. 74 wholly in force at 1.9.2009; Sch. 6 para. 74 not in force at Royal Assent see s. 68; Sch. 6 para. 74 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 75 (1) Article 155 of the Children (Northern Ireland) Order 1995 (parents not being married to each other to have no effect in law on relationships) is amended as follows.

- (2) In paragraph (3), after sub-paragraph (b) insert—

“(ba) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008 (which relates to treatment provided to a woman who is at the time of treatment a party to a civil partnership or, in certain circumstances, a void civil partnership);

(bb) has a parent by virtue of section 43 of that Act (which relates to treatment provided to woman who agrees that second woman to be parent) who—

- (i) is the civil partner of the child's mother at the time of the child's birth, or
(ii) was the civil partner of the child's mother at any time during the period beginning with the time mentioned in section 43(b) of that Act and ending with the child's birth;”.

- (3) After paragraph (4) insert—

“(4A) A child whose parents are parties to a void civil partnership shall, subject to paragraph (4B), be treated as falling within paragraph (3)(bb) if at the time

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when the parties registered as civil partners of each other both or either of the parties reasonably believed that the civil partnership was valid.

(4B) Paragraph (4A) applies only where the woman who is a parent by virtue of section 43 was domiciled in Northern Ireland at the time of the birth or, if she died before the birth, was so domiciled immediately before her death.

(4C) Paragraph (4A) applies even though the belief that the civil partnership was valid was due to a mistake as to law.

(4D) It shall be presumed for the purposes of paragraph (4A), unless the contrary is shown, that one of the parties to a void civil partnership reasonably believed at the time of the formation of the civil partnership that the civil partnership was valid.”

Commencement Information

I5 Sch. 6 para. 75 wholly in force at 1.9.2009; Sch. 6 para. 75 not in force at Royal Assent see s. 68; Sch. 6 para. 75 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

76 In Article 179 of the Children (Northern Ireland) Order 1995 (effect and duration of orders etc), in paragraph (7), after “7(1)” insert “, (1ZA)”.

Commencement Information

I6 Sch. 6 para. 76 wholly in force at 1.9.2009; Sch. 6 para. 76 not in force at Royal Assent see s. 68; Sch. 6 para. 76 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

77 (1) Schedule 1 to the Children (Northern Ireland) Order 1995 (financial provision for children) is amended as follows.

(2) At the end of paragraph 5 insert—

“(5) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, any reference in subparagraph (2), (3) or (4) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.”

(3) At the end of paragraph 12 insert—

“(8) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in subparagraph (1)(a) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.”

Commencement Information

I7 Sch. 6 para. 77 wholly in force at 1.9.2009; Sch. 6 para. 77 not in force at Royal Assent see s. 68; Sch. 6 para. 77 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

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- 78 (1) Paragraph 1 of Schedule 6 to the Children (Northern Ireland) Order 1995 (succession on intestacy where parents not married to each other) is amended as follows.
- (2) At the end of sub-paragraph (2) insert—
- “(2A) In the case of a person who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent), the second and third references in paragraph (2) to the person's father are to be read as references to the woman who is a parent of the person by virtue of that section.”
- (3) In sub-paragraph (3) for “section 19(1) of that Act” substitute “ section 19(1) of the Administration of Estates Act (Northern Ireland) 1955 ”.

Commencement Information

- 18** Sch. 6 para. 78 wholly in force at 1.9.2009; Sch. 6 para. 78 not in force at Royal Assent see s. 68; Sch. 6 para. 78 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

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