



Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

2001 CHAPTER 11

An Act to make provision for giving effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption concluded at the Hague on 29th May 1993; to make further provision in relation to adoptions with an international element; and for connected purposes. [2nd July 2001]

Implementation of Convention

Regulations giving effect to Convention

1.—(1) Subject to the provisions of this Act, regulations made by the Department of Health, Social Services and Public Safety (“the Department”) may make provision for giving effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993 (“the Convention”).

(2) The text of the Convention (so far as material) is set out in the Schedule.

(3) Regulations under this section may—

- (a) apply, with or without modifications, any statutory provision relating to adoption;
- (b) provide that any person who contravenes any provision of the regulations is to be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both; and

(c) make such incidental, supplementary, consequential or transitional provision as appears to the Department to be expedient.

(4) Regulations under this section shall be subject to negative resolution.

(5) Any power to make subordinate legislation under or for the purposes of any statutory provision relating to adoption includes power to do so with a view to giving effect to the provisions of the Convention.

Central Authority and accredited bodies

2.—(1) The functions under the Convention of the Central Authority shall be discharged in relation to Northern Ireland by the Department.

(2) A communication may be sent to the Central Authority in relation to Northern Ireland by sending it to the Central Authority in relation to England (for forwarding to the Central Authority in relation to Northern Ireland).

[^{F1}(2A) A voluntary adoption agency in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 is an accredited body for the purposes of the Convention if, in accordance with the conditions of the registration, the agency may provide facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders.]

(3) A registered adoption society is an accredited body for the purposes of the Convention if its registration extends to the provision of facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders.

(4) The functions under Article 9(a) to (c) of the Convention are to be discharged by Boards, [^{F2}HSC trust] and accredited bodies on behalf of the Central Authority.

[^{F3}(5) In this section “voluntary adoption agency” has the same meaning as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; and expressions which are also used in the Adoption (Northern Ireland) Order 1987 (NI 22) (“the 1987 Order”) have the same meaning as in that Order.]

F1 S. 2(2A) inserted (29.10.2010) by [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, [art. 3](#), Sch. 1

F2 Words in Order substituted (1.4.2009) by virtue of [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](#)

F3 S. 2(5) substituted (29.10.2010) by [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, [art. 3](#), Sch. 1

Convention adoptions

Convention adoption orders

3. After Article 16 of the 1987 Order (parental agreement) there shall be inserted the following Article—

“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.”.

Effect of Convention adoptions

4.—(1) In paragraph (1) of Article 39 of the 1987 Order (meaning of “adoption” for purposes of provisions relating to status of adopted children), after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(cc) which is a Convention adoption; or” .

(2) In paragraph (2) of Article 40 of that Order (status conferred by adoption), for the words “paragraph (3)” there shall be substituted the words “paragraphs (3) and (3A)”.

(3) After paragraph (3) of that Article there shall be inserted the following paragraphs—

“(3A) Where, in the case of a Convention adoption, the High Court is satisfied, on an application under this paragraph—

- (a) that under the law of the country in which the adoption was effected the adoption is not a full adoption;
- (b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption, or that the United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention); and
- (c) that it would be more favourable to the adopted child for a direction to be given under this paragraph,

the High Court may direct that paragraph (2) shall not apply, or shall not apply to such extent as may be specified in the direction.

(3B) In paragraph (3A) “full adoption” means an adoption by virtue of which the adopted child falls to be treated in law as if he were not the child of any person other than the adopters or adopter.

(3C) The following provisions of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4)—

- (a) Article 35 (provisions relating to the Attorney-General); and
 - (b) Article 36 (supplementary provisions as to declarations),
- shall apply in relation to, and to an application for, a direction under paragraph (3A) as they apply in relation to, and to an application for, a declaration under Part V of that Order.” .

Annulment, etc., of Convention adoptions, etc.

5. After Article 55 of the 1987 Order (revocation of adoptions on legitimation) there shall be inserted the following Articles—

“Annulment etc. of overseas adoptions

55A.—(1) The High Court may, on an application under this paragraph, by order annul a Convention adoption or a Convention adoption order on the ground that the adoption or order is contrary to public policy.

(2) The High Court may, on an application under this paragraph—

- (a) order that an overseas adoption or a determination shall cease to be valid in Northern Ireland on the ground that the adoption or determination is contrary to public policy or that the authority which purported to authorise the adoption or make the determination was not competent to entertain the case;
- (b) decide the extent, if any, to which a determination has been affected by a subsequent determination.

(3) Except as provided by this Article the validity of a Convention adoption, a Convention adoption order, an overseas adoption or a determination shall not be impugned in proceedings in any court in Northern Ireland.

Provisions supplementary to Article 55A

55B.—(1) Any application for an order under Article 55A or a decision under paragraph (2)(b) of that Article shall be made in the prescribed manner and within such period, if any, as may be prescribed.

(2) No application shall be made under Article 55A(1) unless immediately before the application is made the person adopted or the adopter habitually resides in Northern Ireland or, as the case may be, both adopters habitually reside there.

(3) In deciding in pursuance of Article 55A whether such an authority as is mentioned in Article 58ZB was competent to entertain a particular case, the court shall be bound by any finding of fact made by the authority and stated by the authority to be so made for the purpose of determining whether the authority was competent to entertain the case.

Changes to legislation: There are currently no known outstanding effects for the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001. (See end of Document for details)

(4) In Article 55A “determination” means such a determination as is mentioned in Article 58ZB.”.

Meaning of “Convention adoption” and related expressions in 1987 Order

6. In Article 2(2) of the 1987 Order (interpretation), after the definition of “child” there shall be inserted the following definitions—

““the Convention” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993;

“Convention adoption” means an adoption effected under the law of a Convention country outside the United Kingdom, the Channel Islands and the Isle of Man and certified in pursuance of Article 23(1) of the Convention;

“Convention adoption order” means an adoption order made in accordance with Article 16A;

“Convention country” means any country or territory in which the Convention is in force;” .

Intercountry adoptions

Adoption Service to include intercountry adoptions etc.

7. In Article 3 of the 1987 Order (Adoption Service), after paragraph (2) there shall be inserted the following paragraph—

“(2A) In this Part references to adoption are to the adoption of children, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the United Kingdom, the Channel Islands and the Isle of Man.” .

Registration of adoption societies to provide intercountry adoption services

8. ^{F4}

F4 S. 8 repealed (29.10.2010) by [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(2), Sch. 5; S.R. 2010/288, [art. 3](#), Sch. 1

Six months residence required for certain intercountry adoptions

9. In Article 13 of the 1987 Order (child to live with adopters before order made), after paragraph (3) there shall be added the following paragraph—

“(4) In relation to—