STATUTORY RULES OF NORTHERN IRELAND

2024 No. 186 (C. 7)

HEALTH AND PERSONAL SOCIAL SERVICES

The Adoption and Children (2022 Act) (Commencement No.3) Order (Northern Ireland) 2024

Made - - - - 29th October 2024

The Department of Health, in exercise of the powers conferred by sections 155(6) and 160(1) of the Adoption and Children Act (Northern Ireland) 2022(**a**), makes the following Order.

Citation

1. This Order may be cited as the Adoption and Children (2022 Act) (Commencement No.3) Order (Northern Ireland) 2024.

Appointed day

2. The day appointed for the coming into operation of the following provisions of the Adoption and Children Act (Northern Ireland) 2022 is 1st November 2024—

(a) section 133 (definition of harm); and

(b) in Schedule 3, (minor and consequential amendments)—

(i) paragraph 45;

(ii) paragraph 54; and

(iii) paragraph 55.

Sealed with the Official Seal of the Department of Health on 29th October 2024.

L.S.

Eilis McDaniel
A senior officer of the
Department of Health

(**a**) 2022 c.18 (N.I.)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made by the Department of Health under section 160(1) of the Adoption and Children Act (Northern Ireland) 2022 (the Act).

It brings into operation on 1st November 2024, the following provisions of the Act.

Section 133 inserts at the appropriate place, in Article 2(2) (Interpretation) of the Children (Northern Ireland) Order 1995 (the Children Order) a definition of "impairment of health or development". "Impairment of health or development" includes, for example, impairment suffered as a result of the ill-treatment of another, or behaviour directed at another that falls within section 2 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (what amounts to abusive behaviour), whether or not the child who suffered the impairment saw or heard, or was present during that ill-treatment or behaviour.

The effect of this insertion will bring the current definition of "harm" at Article 2(2) of the Children Order more in line with Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 and acknowledges that a child may be adversely impacted by domestic violence, even though the child has not been present when the abusive behaviour took place. One such impairment on the child may be that the victim of the domestic abuse may be unable to properly care for the child.

Section 133 will also amend Article 12A (Residence and contact orders and domestic violence) of the Children Order to reflect that when a court is considering making a residence or contact order in favour of a prohibited person, the court must consider whether the child has suffered or is at risk of suffering any harm as a result of any behaviour of the prohibited person. A prohibited person for the purposes of Article 12A of the Children Order is a person who is, or the court considers should be, prohibited by a non-molestation order under the Family Homes and Domestic Violence (Northern Ireland) Order 1998 from molesting another person.

Schedule 3, paragraphs 45, 54 and 55 make amendments to a number of pieces of legislation to bring that legislation up to date.

Paragraph 45 amends section 26(2)(b)(ii) (manner of provision of accommodation to child looked after by local authority) of the Children (Scotland) Act 1995 to replace the reference to "Article 27(2)(b) to (e)" of the Children Order to "Article 27(2)(aa)". The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 amended the Children Order to substitute Article 27(2)(aa) in April 2005 and the Children (Scotland) Act 1995 should have been amended at that time.

Paragraphs 54 and 55 omits references to "a Chairman of an Appeal Tribunal for the purposes of the Adoption (Northern Ireland) Order 1987" in Schedules 1 (listed judicial offices) and 6 (office-holders required to take judicial oath) of the Justice (Northern Ireland) Act 2002 respectively. Right of appeal under the Adoption (Northern Ireland) Order 1987 was revoked by the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 in April 2005 and the Justice (Northern Ireland) Act 2002 should have been amended at that time.

NOTE AS TO EARLIER COMMENCEMENT ORDER

(This note is not part of the Order)

Provision	*Date of Commencement*	*S.I. No.*
Section 137	13th February 2023	S.R. 2023/12
Sections 116, 118, 120, 143 and 158	1st April 2024	S.R. 2024/30

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