



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.]

Annotations:

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\(1\)](#)

,

Status: Point in time view as at 29/10/2010.

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)

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.

(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}

Annotations:

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—

- (a) an adoption proposed to be effected by a Convention adoption order; or
- (b) an adoption of a child habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man which is proposed to be effected by an adoption order other than a Convention adoption order,

paragraph (1) shall have effect as if the reference to the preceding 13 weeks were a reference to the preceding 6 months.” .

Registration of certain intercountry adoptions

10.—(1) In Article 50 of the 1987 Order (Adopted Children Register), in paragraph (1)(a) for the words from “shall be made” to “no other entries” there shall be substituted the following words “such entries as may be—

- (i) directed to be made in it by adoption orders, or
- (ii) required to be made under Article 53,

and no other entries, shall be made”.

(2) In Article 53 of that Order (registration of adoptions made outside Northern Ireland)—

(a) after paragraph (3) there shall be inserted the following paragraphs—

“(3A) If the Registrar General is satisfied, on an application under this paragraph, that he has sufficient particulars relating to a child adopted under a registrable foreign adoption to enable an entry in the form set out in Schedule 2 to be made in the Adopted Children Register for the child—

- (a) he shall make the entry accordingly; and
- (b) if he is also satisfied that an entry in the Register of Births relates to the child, he shall mark the entry “Adopted” or “Re-adopted”, as the case may be, followed by the name in brackets of the country in which the adoption was effected.

(3B) An application under paragraph (3A) shall be made, in the prescribed manner, by a prescribed person and give the prescribed particulars.

(3C) If the Registrar General is satisfied—

(a) that a Convention adoption, a Convention adoption order or an overseas adoption has ceased to have effect, whether on annulment or otherwise; or

(b) that any entry or mark was erroneously made in pursuance of paragraph (3A) in any register mentioned in that paragraph,

he may cause such alterations to be made in any such register as he considers are required in consequence of the cesser or to correct the error; and where an entry in such a register is amended in pursuance of this paragraph, any copy or extract of the entry shall be deemed to be accurate if and only if it shows the entry as amended but without indicating that it has been amended.

(3D) In this Article “registrable foreign adoption” means a Convention or overseas adoption which satisfies prescribed requirements.” ;

(b) in paragraph (4) for the words “and (3)” there shall be substituted the words “, (3) and (3C)”.

Construction of certain references

11. In Article 2 of the 1987 Order (interpretation), after paragraph (3) there shall be inserted the following paragraphs—

“(3A) In this Order, in relation to the proposed adoption of a child resident outside the United Kingdom, the Channel Islands and the Isle of Man, references to arrangements for the adoption of a child include references to arrangements for an assessment for the purpose of indicating whether a person is suitable to adopt a child or not.

(3B) In this Order, in relation to—

(a) an adoption proposed to be effected by a Convention adoption order; or

(b) an adoption of a child habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man which is proposed to be effected by an adoption order other than a Convention adoption order,

references to a child placed with any persons by an adoption agency include references to a child who, in pursuance of arrangements made by such an agency, has been adopted by or placed with those persons under the law of a country or territory outside the United Kingdom, the Channel Islands and the Isle of Man.” .

Miscellaneous and supplementary

Restriction on bringing children into the United Kingdom for adoption

12. After Article 58 of the 1987 Order (restriction on removal of children for adoption outside Northern Ireland) there shall be inserted the following Article—

“Restriction on bringing children into the United Kingdom for adoption

58ZA.—(1) A person habitually resident in the British Islands who at any time brings into the United Kingdom for the purpose of adoption a child who is habitually resident outside those Islands shall be guilty of an offence unless such requirements as may be prescribed are satisfied either—

(a) before that time; or

(b) within such period beginning with that time as may be prescribed.

(2) Paragraph (1) does not apply where the child is brought into the United Kingdom for the purpose of adoption by a parent, guardian or relative.

(3) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

(4) Proceedings for an offence under this Article may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecution to warrant the proceedings came to its knowledge; but no such proceedings shall be brought by virtue of this paragraph more than 3 years after the commission of the offence.

(5) In this Article “the British Islands” means the United Kingdom, the Channel Islands and the Isle of Man.”

Effect of determinations in Convention countries, etc.

13. After Article 58ZA of the 1987 Order (inserted by Article 12) (restriction on bringing children into the United Kingdom for adoption) there shall be inserted the following Article—

“Effect of determinations in Convention countries, etc.

58ZB. Where—

(a) an authority of a Convention country (other than the United Kingdom) having power under the law of that country—

(i) to authorise, or review the authorisation of, a Convention adoption; or

- (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order; or
- (b) an authority of any of the Channel Islands, the Isle of Man or any colony having power under the law of that territory—
 - (i) to authorise, or review the authorisation of, a Convention adoption or an adoption effected in that territory; or
 - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order,
 makes a determination in the exercise of that power, then, subject to Article 55A and any subsequent determination having effect under this Article, the determination shall have effect in Northern Ireland for the purpose of effecting, confirming or terminating the adoption in question or confirming its termination as the case may be.”.

Minor and consequential amendments and repeals

14.—(1) In Article 2(2) of the 1987 Order (interpretation)—

- (a) after the definition of “order freeing a child for adoption” there shall be inserted the following definition—

““overseas adoption” means an adoption which is an overseas adoption for the purposes of the Adoption Act 1976 or the Adoption (Scotland) Act 1978;” ;

- (b) in the definition of “prescribed”, after “4,” there shall be inserted “16A, 58ZA”.

(2) In Article 33(1) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4) (declarations as to adoptions effected overseas), for sub-paragraph (a) there shall be substituted the following sub-paragraph—

- “(a) a Convention adoption as defined by Article 2(2) of the Adoption (Northern Ireland) Order 1987 or an overseas adoption as so defined; or” .

(3) The following provisions of the Adoption (Hague Convention) Act (Northern Ireland) 1969 (c. 22) are hereby repealed—

- (a) in section 5(1), the words “or a specified order” in paragraph (a) and the words “a specified order” in paragraph (b); and
- (b) section 8(1).

(4) In Article 39(1) of the 1987 Order, the word “or” at the end of sub-paragraph (c) is hereby repealed.

Interpretation

15. In this Act—

Status: Point in time view as at 29/10/2010.

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)

“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;

“the Department” means the Department of Health, Social Services and Public Safety;

“the 1987 Order” means the Adoption (Northern Ireland) Order 1987 (NI 22);

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

Short title and commencement

16.—(1) This Act may be cited as the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001.

(2) This Act, except this section and section 15, shall come into operation on such day or days as the Department may by order appoint^{F5}.

Annotations:

F5 fully exercised by SR 2001/322; 2002/22, 45

SCHEDULE

Section 1

CONVENTION ON PROTECTION OF CHILDREN AND CO-
OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

The States signatory to the present Convention,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the United Nations Convention on the Rights of the Child, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions—

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are—

- (a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law;
- (b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- (c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

Article 2

1. The Convention shall apply where a child habitually resident in one Contracting State (“the State of origin”) has been, is being, or is to be moved to another Contracting State (“the receiving State”) either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

2. The Convention covers only adoptions which create a permanent parent-child relationship.

Article 3

The Convention ceases to apply if the agreements mentioned in Article 17, subparagraph (c), have not been given before the child attains the age of eighteen years.

CHAPTER II

REQUIREMENTS FOR INTERCOUNTRY ADOPTIONS

Article 4

An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin—

- (a) have established that the child is adoptable;
- (b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;
- (c) have ensured that—
 - (i) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,
 - (ii) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,
 - (iii) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and
 - (iv) the consent of the mother, where required, has been given only after the birth of the child; and
- (d) have ensured, having regard to the age and degree of maturity of the child, that—

- (i) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,
- (ii) consideration has been given to the child's wishes and opinions,
- (iii) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and
- (iv) such consent has not been induced by payment or compensation of any kind.

Article 5

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State—

- (a) have determined that the prospective adoptive parents are eligible and suited to adopt;
- (b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and
- (c) have determined that the child is or will be authorised to enter and reside permanently in that State.

CHAPTER III

CENTRAL AUTHORITIES AND ACCREDITED BODIES

Article 6

1. A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

2. Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

1. Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.

2. They shall take directly all appropriate measures to—

Status: Point in time view as at 29/10/2010.

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)

- (a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;
- (b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Article 8

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

Article 9

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to—

- (a) collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- (b) facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- (c) promote the development of adoption counselling and post-adoption services in their States;
- (d) provide each other with general evaluation reports about experience with intercountry adoption;
- (e) reply, in so far as is permitted by the law of their State, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation.

Article 10

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11

An accredited body shall—

- (a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- (b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and

- (c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Article 12

A body accredited in one Contracting State may act in another Contracting State only if the competent authorities of both States have authorised it to do so.

Article 13

The designation of the Central Authorities and, where appropriate, the extent of their functions, as well as the names and addresses of the accredited bodies shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law.

CHAPTER IV

PROCEDURAL REQUIREMENTS IN INTERCOUNTRY ADOPTION

Article 14

Persons habitually resident in a Contracting State, who wish to adopt a child habitually resident in another Contracting State, shall apply to the Central Authority in the State of their habitual residence.

Article 15

1. If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care.

2. It shall transmit the report to the Central Authority of the State of origin.

Article 16

1. If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall—

- (a) prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;
- (b) give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;
- (c) ensure that consents have been obtained in accordance with Article 4; and

Status: Point in time view as at 29/10/2010.

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)

- (d) determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.

2. It shall transmit to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the reasons for its determination on the placement, taking care not to reveal the identity of the mother and the father if, in the State of origin, these identities may not be disclosed.

Article 17

Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if—

- (a) the Central Authority of that State has ensured that the prospective adoptive parents agree;
- (b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;
- (c) the Central Authorities of both States have agreed that the adoption may proceed; and
- (d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorised to enter and reside permanently in the receiving State.

Article 18

The Central Authorities of both States shall take all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State.

Article 19

1. The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.

2. The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.

3. If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

Article 20

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Article 21

1. Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular—

- (a) to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;
- (b) in consultation with the Central Authority of the State of origin, to arrange without delay a new placement of the child with a view to adoption or, if this is not appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;
- (c) as a last resort, to arrange the return of the child, if his or her interests so require.

2. Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article.

Article 22

1. The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.

2. Any Contracting State may declare to the depositary of the Convention that the functions of the Central Authority under Articles 15 to 21 may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by bodies or persons who—

- (a) meet the requirements of integrity, professional competence, experience and accountability of that State; and
- (b) are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption.

3. A Contracting State which makes the declaration provided for in paragraph 2 shall keep the Permanent Bureau of the Hague Conference on Private International Law informed of the names and addresses of these bodies and persons.

4. Any Contracting State may declare to the depositary of the Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with paragraph 2.

5. Notwithstanding any declaration made under paragraph 2, the reports provided for in Articles 15 and 16 shall, in every case, be prepared under the responsibility of the Central Authority or other authorities or bodies in accordance with paragraph 1.

CHAPTER V

RECOGNITION AND EFFECTS OF THE ADOPTION

Article 23

1. An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognised by operation of law in the other Contracting States. The certificate shall specify when and by whom the agreements under Article 17, sub-paragraph c, were given.

2. Each Contracting State shall, at the time of signature, ratification, acceptance, approval or accession, notify the depositary of the Convention of the identity and the functions of the authority or the authorities which, in that State, are competent to make the certification. It shall also notify the depositary of any modification in the designation of these authorities.

Article 24

The recognition of an adoption may be refused in a contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

Article 25

Any Contracting State may declare to the depositary of the convention that it will not be bound under this Convention to recognise adoptions made in accordance with an agreement concluded by application of Article 39, paragraph 2.

Article 26

1. The recognition of an adoption includes recognition of—
 - (a) the legal parent-child relationship between the child and his or her adoptive parents;
 - (b) parental responsibility of the adoptive parents for the child;
 - (c) the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.

2. In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognised, rights equivalent to those resulting from adoptions having this effect in each such State.

3. The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognises the adoption.

Article 27

1. Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognises the adoption under the Convention, be converted into an adoption having such an effect—

- (a) if the law of the receiving State so permits; and
- (b) if the consents referred to in Article 4, sub-paragraphs c and d, have been or are given for the purpose of such an adoption.

2. Article 23 applies to the decision converting the adoption.

CHAPTER VI

GENERAL PROVISIONS

Article 28

The Convention does not affect any law of a State of origin which requires that the adoption of a child habitually resident within that State take place in that State or which prohibits the child's placement in, or transfer to, the receiving State prior to adoption.

Article 29

There shall be no contact between the prospective adoptive parents and the child's parents or any other person who has care of the child until the requirements of Article 4, sub-paragraphs a to c, and Article 5, sub-paragraph a, have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin.

Article 30

1. The competent authorities of a Contracting State shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.

*Status: Point in time view as at 29/10/2010.
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)*

2. They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State.

Article 31

Without prejudice to Article 30, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

Article 32

1. No one shall derive improper financial or other gain from an activity related to an intercountry adoption.

2. Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.

3. The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

Article 33

A competent authority which finds that any provision of the Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State. This Central Authority shall be responsible for ensuring that appropriate measures are taken.

Article 34

If the competent authority of the State of destination of a document so requests, a translation certified as being in conformity with the original must be furnished. Unless otherwise provided, the costs of such translation are to be borne by the prospective adoptive parents.

Article 35

The competent authorities of the contracting States shall act expeditiously in the process of adoption.

Article 36

In relation to a State which has two or more systems of law with regard to adoption applicable in different territorial units—

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of that State shall be construed as referring to the law in force in the relevant territorial unit;
- (c) any reference to the competent authorities or to the public authorities of that State shall be construed as referring to those authorised to act in the relevant territorial unit;
- (d) any reference to the accredited bodies of that State shall be construed as referring to bodies accredited in the relevant territorial unit.

Article 37

In relation to a State which with regard to adoption has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 38

A State within which different territorial units have their own rules of law in respect of adoption shall not be bound to apply the Convention where a State with a unified system of law would not be bound to do so.

Article 39

1. The convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by the States parties to such instrument.

2. Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

Article 40

No reservation to the Convention shall be permitted.

Article 41

The Convention shall apply in every case where an application pursuant to Article 14 has been received after the Convention has entered into force in the receiving State and the State of origin.

Article 42

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.

Status:

Point in time view as at 29/10/2010.

Changes to legislation:

There are currently no known outstanding effects for the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001.