



THE CHILDREN AND YOUNG PERSONS ACT 2001

THE PARENTAL ORDERS REGULATIONS 2001

*Approved by Tynwald*

*11<sup>th</sup> December 2001*

*Coming into Operation*

*1<sup>st</sup> January 2002*

In exercise of the powers conferred on the Department of Health and Social Security by section 89(8) of the Children and Young Persons Act 2001<sup>1</sup>, and all other enabling powers, the following Regulations are hereby made :-

**1. Citation commencement and interpretation**

(1) These Regulations may be cited as the Parental Orders Regulations 2001 and, subject to section 102(2) of the 2001 Act, shall come into operation on the 1<sup>st</sup> January 2002.

(2) In these Regulations -

“the 2001 Act” means the Children and Young Persons Act 2001;

“the 1984 Act” means the Adoption Act 1984<sup>2</sup>;

“parental order” means an order under section 89 of the 2001 Act (parental orders in favour of gamete donors) providing for a child to be treated in law as a child of the parties to a marriage.

**2. Application of Adoption Act 1984 provisions to parental orders etc.**

(1) The provisions of the 1984 Act set out in column 1 of the Schedule shall have effect with the modifications (if any) set out in column 2 of the Schedule in relation to parental orders and applications for such orders, as they have effect in relation to adoption and applications for adoption orders.

(2) In construing any provision of the 1984 Act which is modified by paragraph (1), a reference to any other provision so modified shall be taken as a reference to the latter provision as so modified.

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<sup>1</sup>2001 c.20    <sup>2</sup>1984 c.14

### 3. References in 2001 Act to be read as references to parental orders etc

(1) The reference in section 57(6)(c) of the 2001 Act to a person who proposes to adopt a child under arrangements made by an adoption agency within the meaning of the 1984 Act shall be read as including a reference to a person who proposes to be treated as the parent of a child by virtue of a parental order and the 1984 Act as applied by these Regulations.

(2) The references in sections 86(2) and 87(5)(c) of the 2001 Act to a child who is treated by virtue of adoption as not being the child of any person other than the adopter or adopters shall be read as including references to a child who is treated by virtue of the making of a parental order as not being the child of any person other than the husband and wife as defined by section 89 of the 2001 Act.

Regulation 2.

#### SCHEDULE

##### APPLICATION OF PROVISIONS OF ADOPTION ACT 1984 TO PARENTAL ORDERS ETC.

<i>Provisions of 1984 Act</i>	<i>Modifications</i>
Section 1(1) to (3) (adoption orders)	(a) For "an adoption order" (in each place) substitute "a parental order"; (b) In subsection (1), for "adopters" substitute "husband and wife".
Section 9(1) (restrictions on making adoption orders)	(a) For "an adoption order" substitute "a parental order"; (b) for "a British adoption order" substitute "such an order".
Section 12 (duty to promote the welfare of the child)	(a) For "the adoption of a child" substitute "an application for a parental order"; (b) omit "or an adoption agency"
Section 17(1) and (2) (restrictions on removal while application is pending)	For "an adoption order is pending in a case where a parent or guardian of the child has agreed to the making of the adoption order (whether or not he knows the identity of the applicant)" substitute "a parental order is pending".
Section 19 (return of a child taken away in breach of section 17 or 18)	In section 19(1) and (2), omit "or 18" (in each place).
Section 29(1)(a), (2), (4) and (6) (status conferred by adoption)	(a) For "an adopted child" (in each place) substitute "a child who is the subject of a parental order"; (b) in section 29(1)(a), omit "where the adopters are a married couple," and for "child of the marriage" substitute "child of the marriage of the husband and wife"; (c) in section 29(2), omit ", subject to subsection (3)," and for "adopters or adopter" substitute "persons who obtain the parental order"; (d) in section 29(6), omit "Subject to the provisions of this Part," for "adoption" substitute "the making of the parental order", and omit ", or after the commencement of this section, whichever is the later".
Section 31 (rules of construction for instruments concerning property)	(a) In section 31(2), for "section 29(1)" substitute "section 29(1)(a)"; (b) in section 31(2), for "of the adoptive parent or parents" substitute "in respect of whom the husband and wife have

*Provisions of 1984 Act*

*Modifications*

- obtained a parental order";
- (c) in section 31(2)(a) for "adopted child" substitute "child the subject of the parental order", and for "adoption" substitute "the parental order";
- (d) in section 31(2)(b) for "adopted" substitute "in respect of whom parental orders were made";
- (e) in section 31(4), for "adopted child" substitute "child the subject of the parental order" and for "adoption" substitute "making of the parental order";
- (f) in section 31(5) for "adopt" substitute "obtain a parental order in respect of".
- Section 32 (property devolving with peerages etc) For "an adoption" substitute "the making of a parental order".
- Section 33 (protection of trustees and personal representatives) In section 33(1), for "adoption has been effected" substitute "parental order has been made".
- Section 34 (meaning of "disposition") (a) For "this Part" (in each place) substitute "sections 39, 42, 44, 45 and 47"; and  
(b) in section 34(2) for "applies" substitute "apply".
- Section 35 (miscellaneous enactments) For subsection (1) substitute —  
"(1) Section 39(2) does not apply so as to prevent a child who is the subject of a parental order from continuing to be treated as the child of a person who was in law the child's mother or father before the order was made, for the purposes of the table of kindred and affinity in Schedule 1 to the Marriage Act 1984 and of section 7 (incest) of the Sexual Offences Act 1992".
- Section 38 (Adopted Children Register) (a) For "Adopted Children Register" (in each place, except in the second place in section 38(3)), substitute "Parental Orders Register";  
(b) in section 38(1) for "adoption orders" substitute "parental orders";  
(c) in section 38(2) for "adoption" substitute "parental order";  
(d) in section 38(2) for "adopted person" substitute "person who is the subject of the parental order";  
(e) in section 38(3) for "any person shall be entitled to search that index at any time when the General Registry is open for that purpose and to have a certified copy of any entry in the Adopted Children Register" substitute "the Chief Registrar shall cause a search to be made of that index on behalf of any person or permit that person to search that index himself, and issue to any person a certified copy of any entry in the Parental Order Register,";  
(f) in section 38(4), for "marked "Adopted"" substitute "marked "Re-registered by the Chief Registrar pursuant to the Parental Orders Regulations 2001";  
(g) in section 38(6) for "adoptions and the amendment of adoption orders" substitute "parental orders and the amendment of such orders".
- Section 39(1) to (5) (disclosure of birth records of adopted children) (a) In section 39(1), for "an adopted person" substitute "a person who is the subject of a parental order";

*Provisions of 1984 Act*

*Modifications*

- (b) in section 39(2) for "an adopted person under the age of 18 years" substitute "a person who is the subject of a parental order and who is under the age of 18 years";
- (c) in section 39(3) omit "and every approved adoption society", and for "adopted persons" substitute "persons the subject of parental orders";
- (d) in section 39(4) for paragraphs (a) and (b) substitute "from the Department";
- (e) in section 39(5), omit "or an adoption society" and "or to the adoption society of the applicant's choice".
- Section 49(1) (evidence of agreement and consent)
- (a) for "this Act" substitute "section 89 of the Children and Young Persons Act 2001";
- (b) omit "(other than an order to which section 6(6) applies)"; and
- (c) for "and, if the document signifying the agreement or consent is witnessed in accordance with rules, it" substitute "and any such written consent".
- Section 50 (proceedings to be in private)
- Omit "Subject to section 49A(4)", and for "this Act" substitute "section 89 of the Children and Young Persons Act 2001".
- Section 58(1) (interpretation)
- (a) omit the definitions of "adoption agency", "adoption order", "adoption society", "approved adoption society", "authorised officer", "body of persons", "British adoption order", "British territory", "the Convention", "Convention adoption order", "Convention country", "internal law", "National", "overseas adoption", "place of safety", and "relative";
- (b) after the definition of "guardian" insert ""husband and wife" means, in relation to the provisions of this Act as they have effect in relation to parental orders and applications for such orders, the husband and wife as defined in section 89 of the Children and Young Persons Act 2001;"; and
- (b) after the definition of "notice" insert ""parental order" means an order under section 89 of the Children and Young Persons Act 2001;".
- Schedule 2 (registration of adoptions) paragraphs 1 and 4
- (a) *Paragraph 1:*
- (i) in paragraph 1(1) for "adoption order" substitute "parental order";
- (ii) in paragraph 1(1) for "Adopted Children Register" substitute "Parental Orders Register";
- (iii) omit paragraph 1(2);
- (iv) in paragraph 1(3) for from "application to the Court" to "time in force)" substitute "application to the Court for a parental order", for "any adoption order" substitute "any parental order", and for "marked with "Adopted"" substitute "marked with the words "Re-registered by the Chief Registrar"";
- (v) omit paragraph 1(4);
- (b) *paragraph 4:*
- (i) for "an adoption order" (in each place) substitute "a parental order";
- (ii) for "Adopted Children Register" (in each place) substitute

"Parental Orders Register";

(iii) in paragraph 4(1) for "adopter or of the adopted person" substitute "husband or wife or of the person who is the subject of the parental order";

(iv) in paragraph 4(1)(a) for "adopter or the adopted person" substitute "husband or wife or the person who is the subject of the parental order", for "given to the adopted person" substitute "given to that person" and omit ", or taken by him,";

(v) in paragraph 4(1)(b) omit "or (4)";

(vi) omit paragraph 4(5).

MADE

*5 November*

2001

*Ben Christian*

Minister for Health and Social Security

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations apply with modifications certain sections of the Adoption Act 1984 to give effect to the arrangements by which a parental order may be obtained under section 89 of the Children and Young Persons Act 2001. Such an order may be granted by the High Court in respect of a child who is born as a result of a surrogacy arrangement and who is the genetic child of at least one of the applicants for the parental order.

The Regulations —

- (a) apply certain adoption provisions which set out the approach to be followed in applications for parental orders;
- (b) make provision for the interpretation of certain events that may be affected by the making of such an order, including the rules of construction for instruments concerning property; and
- (c) make provision for the procedural aspects of applications under section 89, and for the registration of parental orders in a Parental Order Register to be maintained in the General Registry.