

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 2

The Adoption Process

Section 25 - Return of child placed for adoption by adoption agency

94. This section applies where a child has been placed with prospective adopters under arrangements made by an adoption agency or registered adoption society, but where no adoption order has been made.
95. By virtue of subsection (2), prospective adopters with whom a child has been placed can notify the adoption agency or society of their intention to cease caring for the child.
96. By virtue of subsection (3), the adoption agency or society can notify prospective adopters with whom a child has been placed of their intention to remove the child from their care. Where an application for an adoption order has been made, then, by virtue of subsection (4), an adoption agency or society can only do so if leave of the court has been given.
97. Under subsections (5) and (6), where notice is given under subsection (2) or (3) or where an application for an adoption order is refused or withdrawn, prospective adopters must, before the expiry of the “relevant period”, return the child to the adoption agency or society or to a person nominated by the adoption agency or society.
98. Subsection (7) defines the “relevant period”. Where notice is given by virtue of subsection (2) or (3), the relevant period is 7 days beginning with the day on which notice was given. Where an application for an adoption order is refused or withdrawn, the relevant period is 7 days beginning with the day on which the application was refused or withdrawn. Where the court refuses the application for an adoption order it may, before the relevant period expires, make an order extending the period for the return of the child by a period not exceeding 6 weeks.
99. By virtue of subsection (8) it is an offence for a person to fail to return a child within the relevant period and such a person is liable to imprisonment for a period of up to three months or a fine not exceeding level 5 on the standard scale or both.
100. By virtue of subsection (9), where a court convicts a person under subsection (8), it may order that the child be returned to his or her parents or guardian the adoption agency or registered adoption society.