

SCHEDULES

SCHEDULE 3

Section 139

MINOR AND CONSEQUENTIAL AMENDMENTS

The Marriage Act 1949 (c. 76)

- 1 Section 3 of the Marriage Act 1949 (marriage of person aged under eighteen) is amended as follows.
- 2 In subsection (1), for “person or persons specified in subsection (1A) of this section” there is substituted “appropriate persons”.
- 3 For subsection (1A) there is substituted—
 - “(1A) The appropriate persons are—
 - (a) if none of paragraphs (b) to (h) apply, each of the following—
 - (i) any parent of the child who has parental responsibility for him; and
 - (ii) any guardian of the child;
 - (b) where a special guardianship order is in force with respect to a child, each of the child’s special guardians, unless any of paragraphs (c) to (g) applies;
 - (c) where a care order has effect with respect to the child, the local authority designated in the order, and each parent, guardian or special guardian (in so far as their parental responsibility has not been restricted under section 33(3) of the Children Act 1989), unless paragraph (e) applies;
 - (d) where a residence order has effect with respect to the child, the persons with whom the child lives, or is to live, as a result of the order, unless paragraph (e) applies;
 - (e) where an adoption agency is authorised to place the child for adoption under section 19 of the Adoption and Children Act 2002, that agency or, where a care order has effect with respect to the child, the local authority designated in the order;
 - (f) where a placement order is in force with respect to the child, the appropriate local authority;
 - (g) where a child has been placed for adoption with prospective adopters, the prospective adopters (in so far as their parental responsibility has not been restricted under section 25(4) of the Adoption and Children Act 2002), in addition to those persons specified in paragraph (e) or (f);
 - (h) where none of paragraphs (b) to (g) apply but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the persons with whom he lived, or was to live, as a result of the order.”

Status: This is the original version (as it was originally enacted).

4 For subsection (1B) there is substituted—

“(1B) In this section—

“guardian of a child”, “parental responsibility”, “residence order”, “special guardian”, “special guardianship order” and “care order” have the same meaning as in the Children Act 1989;

“adoption agency”, “placed for adoption”, “placement order” and “local authority” have the same meaning as in the Adoption and Children Act 2002;

“appropriate local authority” means the local authority authorised by the placement order to place the child for adoption.”

5 In subsection (2), for “The last foregoing subsection” there is substituted “Subsection (1)”.

The Births and Deaths Registration Act 1953 (c. 20)

6 In section 10 of the Births and Deaths Registration Act 1953 (registration of father where parents not married)—

(a) in subsection (1)(d)(i), for “a parental responsibility agreement made between them in relation to the child” there is substituted “any agreement made between them under section 4(1)(b) of the Children Act 1989 in relation to the child”,

(b) in subsection (1)(d)(ii), for “the Children Act 1989” there is substituted “that Act”,

(c) in subsection (3), the words following “the Family Law Reform Act 1987” are omitted.

7 In section 10A of the Births and Deaths Registration Act 1953 (re-registration of father where parents not married)—

(a) in subsection (1)(d)(i), for “a parental responsibility agreement made between them in relation to the child” there is substituted “any agreement made between them under section 4(1)(b) of the Children Act 1989 in relation to the child”,

(b) in subsection (1)(d)(ii), for “the Children Act 1989” there is substituted “that Act”.

The Sexual Offences Act 1956 (c. 69)

8 In section 28 of the Sexual Offences Act 1956 (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under sixteen), in subsection (4), the “or” at the end of paragraph (a) is omitted, and after that paragraph there is inserted—

“(aa) a special guardianship order under that Act is in force with respect to her and he is not her special guardian; or”.

The Health Services and Public Health Act 1968 (c. 46)

9 The Health Services and Public Health Act 1968 is amended as follows.

10 In section 64 (financial assistance by the Secretary of State to certain voluntary organisations), in subsection (3)(a)(xviii), for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”.

Status: This is the original version (as it was originally enacted).

- 11 In section 65 (financial and other assistance by local authorities to certain voluntary organisations), in subsection (3)(b), for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”.

The Local Authority Social Services Act 1970 (c. 42)

- 12 The Local Authority Social Services Act 1970 is amended as follows.
- 13 In section 7D (default powers of Secretary of State as respects social services functions of local authorities), in subsection (1), after “the Children Act 1989” there is inserted “section 1 or 2(4) of the Adoption (Intercountry Aspects) Act 1999 or the Adoption and Children Act 2002”.
- 14 In Schedule 1 (enactments conferring functions assigned to social services committee)—
- (a) the entry relating to the Adoption Act 1976 is omitted,
 - (b) in the entry relating to the Children Act 1989, after “Consent to application for residence order in respect of child in care” there is inserted “Functions relating to special guardianship orders”,
 - (c) in the entry relating to the Adoption (Intercountry Aspects) Act 1999—
 - (i) in the first column, for “Section” there is substituted “Sections 1 and”,
 - (ii) in the second column, for “Article 9(a) to (c) of” there is substituted “regulations made under section 1 giving effect to” and at the end there is inserted “and functions under Article 9(a) to (c) of the Convention”,
- and at the end of the Schedule there is inserted—

“Adoption and Children Act 2002	Maintenance of Adoption Service; functions of local authority as adoption agency.”
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The Immigration Act 1971 (c. 77)

- 15 In section 33(1) of the Immigration Act 1971 (interpretation)—
- (a) in the definition of “Convention adoption”, after “1978” there is inserted “or in the Adoption and Children Act 2002”,
 - (b) in the definition of “legally adopted”, for “section 72(2) of the Adoption Act 1976” there is substituted “section 87 of the Adoption and Children Act 2002”.

The Legitimacy Act 1976 (c. 31)

- 16 The Legitimacy Act 1976 is amended as follows.
- 17 In section 4 (legitimation of adopted child)—
- (a) in subsection (1), after “1976” there is inserted “or section 67 of the Adoption and Children Act 2002”,
 - (b) in subsection (2)—
 - (i) in paragraph (a), after “39” there is inserted “or subsection (3)(b) of the said section 67”,

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(ii) in paragraph (b), after “1976” there is inserted “or section 67, 68 or 69 of the Adoption and Children Act 2002”.

18 In section 6 (dispositions depending on date of birth), at the end of subsection (2) there is inserted “or section 69(2) of the Adoption and Children Act 2002”.

The Adoption Act 1976 (c. 36)

19 In section 38 of the Adoption Act 1976 (meaning of “adoption” in Part 4), in subsection (2), after “1975” there is inserted “but does not include an adoption of a kind mentioned in paragraphs (c) to (e) of subsection (1) effected on or after the day which is the appointed day for the purposes of Chapter 4 of Part 1 of the Adoption and Children Act 2002”.

The National Health Service Act 1977 (c. 49)

20 In section 124A(3) of the National Health Service Act 1977 (information provided by the Registrar General to the Secretary of State), the “or” at the end of paragraph (a) is omitted and after that paragraph there is inserted—
 “(aa) entered in the Adopted Children Register maintained by the Registrar General under the Adoption and Children Act 2002; or”.

The Adoption (Scotland) Act 1978 (c. 28)

21 The Adoption (Scotland) Act 1978 is amended as follows.

22 In section 11 (restriction on arranging adoptions and placing of children)—

(a) in subsection (2)—

(i) for paragraph (a) there is substituted—

“(a) a registered adoption society (within the meaning of section 2(2) of the Adoption and Children Act 2002); and

(ii) for “section 1” there is substituted “section 3(1)”, and

(b) after subsection (2) there is inserted—

“(2A) In relation to the provision of any particular service by an adoption society, the reference in subsection (2)(a) to a registered adoption society does not include a voluntary organisation unless it is registered under Part 2 of the Care Standards Act 2000 in respect of that service or a service which, in England, corresponds to that service.”

23 In section 16 (parental agreement to adoption order)—

(a) in subsection (1), after paragraph (a) there is inserted—

“(aa) each parent or guardian of the child has consented under section 20 of the Adoption and Children Act 2002 (advance consent to adoption), has not withdrawn the consent and does not oppose the making of the adoption order;

(ab) subsection (3A) applies and no parent or guardian of the child opposes the making of the adoption order”, and

(b) after subsection (3) there is inserted—

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“(3A) This subsection applies where—

- (a) the child has been placed for adoption by an adoption agency (within the meaning of section 2(1) of the Adoption and Children Act 2002) with the prospective adopters in whose favour the adoption order is proposed to be made; and
- (b) the child was placed for adoption—
 - (i) under section 19 of that Act (placing children with parental consent) with the consent of each parent or guardian and the consent of the mother was given when the child was at least six weeks old; or
 - (ii) under an order made under section 21 of that Act (placement orders) and the child was at least six weeks old when that order was made.

(3B) A parent or guardian may not oppose the making of an adoption order under subsection (1)(aa) or (ab) without the leave of the court.

(3C) The court shall not give leave under subsection (3B) unless satisfied that there has been a change of circumstances since the consent of the parent or guardian was given or, as the case may be, the order under section 21 of that Act was made.

(3D) The withdrawal of—

- (a) any consent to the placement of a child for adoption—
 - (i) under section 19; or
 - (ii) under an order made under section 21, of the Adoption and Children Act 2002; or
- (b) any consent given under section 20 of that Act, is ineffective if it is given after an application for an adoption order is made.”

24 In section 29 (return of children taken away in breach of section 27 or 28)—

- (a) in subsection (1), for “section 27 or 28 of the Adoption Act 1976” there is substituted “section 30, 34, 35 or 36 of the Adoption and Children Act 2002”, and
- (b) in subsection (2), for “section 27 or 28 of the Adoption Act 1976”, in both places where those words occur, there is substituted “section 30, 34, 35 or 36 of the Adoption and Children Act 2002”.

25 In section 45 (Adopted Children Register)—

- (a) in subsection (6)(d), for sub-paragraph (ii) there is substituted—

“(ii) registered under Part II of the Care Standards Act 2000;”;
- (b) in subsection (6A)(b), for sub-paragraph (i) there is substituted—

“(i) Schedule 2 to the Adoption and Children Act 2002;”.

26 In section 47 (annulment etc. of overseas adoptions), in subsection (4), for “section 53 of the Adoption Act 1976” there is substituted “section 89(2) of the Adoption and Children Act 2002”.

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- 27 In section 50 (restriction on removal of children for adoption outside Great Britain), in subsection (1), for “section 55 of the Adoption Act 1976” there is substituted “section 84 of the Adoption and Children Act 2002”.
- 28 Section 52 (restriction on advertisements) is omitted.
- 29 In section 53 (effect of determination and orders made in England and Wales and overseas in adoption proceedings), in subsection (2), the words “England and Wales or” are omitted.
- 30 After section 53 there is inserted—

“53A Effect of certain orders made in England and Wales

- (1) An adoption order (within the meaning of section 46(1) of the Adoption and Children Act 2002) has effect in Scotland as it has in England and Wales but as if any reference to the parental responsibility for the child were to the parental responsibilities and parental rights in relation to the child.
- (2) An order made under section 21 of that Act (placement orders), and the variation or revocation of such an order under section 23 or 24 of that Act, have effect in Scotland as they have in England and Wales but as if any reference to the parental responsibility for the child were to the parental responsibilities and parental rights in relation to the child.

53B Effect of placing for adoption etc. under Adoption and Children Act 2002

- (1) If—
 - (a) a child is placed for adoption under section 19 of the Adoption and Children Act 2002 (placing children with parental consent); or
 - (b) an adoption agency is authorised to place a child for adoption under that section,
 sections 25 (parental responsibility) and 28(2) to (4) (further consequences of placement) of that Act have effect in Scotland as they have in England and Wales but with the modifications specified in subsection (2).
- (2) Those modifications are—
 - (a) in section 25, any reference to the parental responsibility for the child is to be read as a reference to the parental responsibilities and parental rights in relation to the child; and
 - (b) in section 28(2), the reference to the court is to be read as a reference to the authorised court.

53C Further consequences of placement and placement orders

- (1) Subsection (2) applies where—
 - (a) a child is placed for adoption under section 19 of the Adoption and Children Act 2002 (placing children with parental consent); or
 - (b) an adoption agency is authorised to place the child for adoption under that section.
- (2) No order under subsection (1) of section 11 of the Children (Scotland) Act 1995 (court orders relating to parental responsibilities etc.) of a kind referred

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to in subsection (2)(c) (residence orders) of that section may be made in respect of the child.

(3) On the making of an order under section 21 of the Adoption and Children Act 2002 (a “placement order”) in respect of a child, any order under subsection (1) of section 11 of the Children (Scotland) Act 1995 of a kind referred to in subsection (2)(c) to (f) (residence orders, contact orders, specific issue orders and interdicts in relation to parental responsibilities) of that section in respect of the child ceases to have effect.

(4) Where a placement order is in force—

- (a) no such order as is referred to in subsection (3) of this section; and
- (b) no order under section 55 of the Children (Scotland) Act 1995 (child assessment orders),

may be made in respect of the child.”

31 In section 54 (evidence of adoption in England, Wales and Northern Ireland), in paragraph (a), for “section 50(2) of the Adoption Act 1976” there is substituted “section 77(4) and (5) of the Adoption and Children Act 2002”.

32 In section 56 (authorised courts), in subsection (3), for “Great Britain” there is substituted “Scotland”.

33 In section 59 (rules of procedure)—

(a) in subsection (2)—

- (i) for the words from “in relation to” to “adoption”, where it secondly occurs, there is substituted “(except where an order has been made freeing the child for adoption)”; and
- (ii) for the words from “every” to “Act” there is substituted “any person mentioned in subsection (2A)”; and

(b) after subsection (2) there is inserted—

“(2A) The persons referred to in subsection (2) are—

- (a) every person who can be found and whose agreement or consent to the making of the order is required to be given or dispensed with under this Act or, if no such person can be found, any relative prescribed by rules who can be found;
- (b) every person who has consented to the making of the order under section 20 of the Adoption and Children Act 2002 (and has not withdrawn the consent) unless he has given a notice under subsection (4)(a) of that section which has effect;
- (c) every person who, if leave were given under section 16(3B), would be entitled to oppose the making of the order.”

34 In section 60 (orders, rules and regulations), after subsection (3) there is inserted—

“(3A) An order under section 65(2) shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.”

35 In section 65 (interpretation), in subsection (1)—

- (a) in the definition of “adoption agency”, for “section 1 of the Adoption Act 1976” there is substituted “section 2(1) of the Adoption and Children Act 2002”,

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- (b) in the definition of “adoption order”—
 - (i) in paragraph (b), for “section 12 of the Adoption Act 1976” there is substituted “section 46 of the Adoption and Children Act 2002”,
 - (ii) in paragraph (c), for “section 55 of the Adoption Act 1976” there is substituted “section 84 of the Adoption and Children Act 2002”,
 and
- (c) in the definition of “order freeing a child for adoption”, paragraph (a) and the word “and” immediately following that paragraph are omitted.

The Magistrates' Courts Act 1980 (c. 43)

- 36 The Magistrates' Courts Act 1980 is amended as follows.
- 37 In section 65 (meaning of family proceedings), in subsection (1), for paragraph (h) there is substituted—
- “(h) the Adoption and Children Act 2002;”.
- 38 In section 69 (sitting of magistrates' courts for family proceedings), in subsections (2) and (3), for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”.
- 39 In section 71 (newspaper reports of family proceedings)—
- (a) in subsection (1), “(other than proceedings under the Adoption Act 1976)” is omitted,
 - (b) in subsection (2)—
 - (i) for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”,
 - (ii) the words following “(a) and (b)” are omitted.
- 40 In Part 1 of Schedule 6 (fees to be taken by justices' chief executives), in the entry relating to family proceedings—
- (a) for “the Adoption Act 1976, except under section 21 of that Act”, there is substituted “the Adoption and Children Act 2002, except under section 23 of that Act”,
 - (b) in paragraph (c), for “section 21 of the Adoption Act 1976” there is substituted “section 23 of the Adoption and Children Act 2002”.

The Mental Health Act 1983 (c. 20)

- 41 In section 28 of the Mental Health Act 1983 (nearest relative of minor under guardianship, etc.), in subsection (3), after ““guardian”” there is inserted “includes a special guardian (within the meaning of the Children Act 1989), but”.

The Child Abduction Act 1984 (c. 37)

- 42 (1) Section 1 of the Child Abduction Act 1984 (offence of abduction of child by parent, etc.) is amended as follows.
- (2) In subsection (2), after paragraph (c) there is inserted—

“(ca) he is a special guardian of the child; or”.
 - (3) In subsection (3)(a), after sub-paragraph (iii) there is inserted—

“(iiia) any special guardian of the child;”.

Status: This is the original version (as it was originally enacted).

- (4) In subsection (4), for paragraphs (a) and (b) there is substituted—
- “(a) he is a person in whose favour there is a residence order in force with respect to the child, and he takes or sends the child out of the United Kingdom for a period of less than one month; or
 - (b) he is a special guardian of the child and he takes or sends the child out of the United Kingdom for a period of less than three months.”
- (5) In subsection (5A), the “or” at the end of sub-paragraph (i) of paragraph (a) is omitted, and after that sub-paragraph there is inserted—
- “(ia) who is a special guardian of the child; or”.
- (6) In subsection (7)(a), after “ “guardian of a child,”” there is inserted ““special guardian,””.
- 43 (1) The Schedule to that Act (modifications of section 1 for children in certain cases) is amended as follows.
- (2) In paragraph 3 (adoption and custodianship), for sub-paragraphs (1) and (2) there is substituted—
- “(1) This paragraph applies where—
 - (a) a child is placed for adoption by an adoption agency under section 19 of the Adoption and Children Act 2002, or an adoption agency is authorised to place the child for adoption under that section; or
 - (b) a placement order is in force in respect of the child; or
 - (c) an application for such an order has been made in respect of the child and has not been disposed of; or
 - (d) an application for an adoption order has been made in respect of the child and has not been disposed of; or
 - (e) an order under section 84 of the Adoption and Children Act 2002 (giving parental responsibility prior to adoption abroad) has been made in respect of the child, or an application for such an order in respect of him has been made and has not been disposed of.
 - (2) Where this paragraph applies, section 1 of this Act shall have effect as if—
 - (a) the reference in subsection (1) to the appropriate consent were—
 - (i) in a case within sub-paragraph (1)(a) above, a reference to the consent of each person who has parental responsibility for the child or to the leave of the High Court;
 - (ii) in a case within sub-paragraph (1)(b) above, a reference to the leave of the court which made the placement order;
 - (iii) in a case within sub-paragraph (1)(c) or (d) above, a reference to the leave of the court to which the application was made;
 - (iv) in a case within sub-paragraph (1)(e) above, a reference to the leave of the court which made the order or, as the case may be, to which the application was made;
 - (b) subsection (3) were omitted;
 - (c) in subsection (4), in paragraph (a), for the words from “in whose favour” to the first mention of “child” there were substituted

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“who provides the child’s home in a case falling within sub-paragraph (1)(a) or (b) of paragraph 3 of the Schedule to this Act”;
and

(d) subsections (4A), (5), (5A) and (6) were omitted.”

- (3) In paragraph 5 (interpretation), in sub-paragraph (a), for the words from “and “adoption order”” to the end there is substituted “, “adoption order”, “placed for adoption by an adoption agency” and “placement order” have the same meaning as in the Adoption and Children Act 2002; and”.

The Matrimonial and Family Proceedings Act 1984 (c. 42)

- 44 In section 40 of the Matrimonial and Family Proceedings Act 1984 (family proceedings rules), in subsection (2), in paragraph (a), after “the Adoption Act 1968” the “or” is omitted and after “the Adoption Act 1976” there is inserted “or section 141(1) of the Adoption and Children Act 2002”.

The Child Abduction and Custody Act 1985 (c. 60)

- 45 In Schedule 3 to the Child Abduction and Custody Act 1985 (custody orders), in paragraph 1, the “and” at the end of paragraph (b) is omitted and after that paragraph there is inserted—
- “(bb) a special guardianship order (within the meaning of the Act of 1989);
and”;
- and paragraph (c)(v) is omitted.

The Family Law Act 1986 (c. 55)

- 46 The Family Law Act 1986 is amended as follows.
- 47 In section 1 (orders to which Part 1 applies), in subsection (1), after paragraph (a) there is inserted—
- “(aa) a special guardianship order made by a court in England and Wales under the Children Act 1989;
(ab) an order made under section 26 of the Adoption and Children Act 2002 (contact), other than an order varying or revoking such an order”.
- 48 In section 2 (jurisdiction: general), after subsection (2) there is inserted—
- “(2A) A court in England and Wales shall not have jurisdiction to make a special guardianship order under the Children Act 1989 unless the condition in section 3 of this Act is satisfied.
- (2B) A court in England and Wales shall not have jurisdiction to make an order under section 26 of the Adoption and Children Act 2002 unless the condition in section 3 of this Act is satisfied.”
- 49 In section 57 (declarations as to adoptions effected overseas)—
- (a) for subsection (1)(a) there is substituted—
- “(a) a Convention adoption, or an overseas adoption, within the meaning of the Adoption and Children Act 2002, or”;
- (b) in subsection (2)(a), after “1976” there is inserted “or section 67 of the Adoption and Children Act 2002”.

The Family Law Reform Act 1987 (c. 42)

- 50 The Family Law Reform Act 1987 is amended as follows.
- 51 In section 1 (general principle), for paragraph (c) of subsection (3) there is substituted—
- “(c) is an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002”.
- 52 In section 19 (dispositions of property), in subsection (5), after “1976” there is inserted “or section 69 of the Adoption and Children Act 2002”.

The Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))

- 53 In Article 2(2) (interpretation), in the definition of “prescribed”, for “Articles 54” there is substituted “Articles 53(3B) and (3D), 54”.

The Children Act 1989 (c. 41)

- 54 The Children Act 1989 is amended as follows.
- 55 In section 8 (residence, contact and other orders with respect to children), in subsection (4), for paragraph (d) there is substituted—
- “(d) the Adoption and Children Act 2002;”.
- 56 In section 10 (power of court to make section 8 orders)—
- (a) in subsection (4)(a), for “or guardian” there is substituted “, guardian or special guardian”,
- (b) after subsection (4)(a) there is inserted—
- “(aa) any person who by virtue of section 4A has parental responsibility for the child;”,
- (c) after subsection (5) there is inserted—
- “(5A) A local authority foster parent is entitled to apply for a residence order with respect to a child if the child has lived with him for a period of at least one year immediately preceding the application.”,
- (d) after subsection (7) there is inserted—
- “(7A) If a special guardianship order is in force with respect to a child, an application for a residence order may only be made with respect to him, if apart from this subsection the leave of the court is not required, with such leave.”
- 57 In section 12 (residence orders and parental responsibility), in subsection (3)—
- (a) paragraph (a) is omitted,
- (b) in paragraph (b), for “section 55 of the Act of 1976” there is substituted “section 84 of the Adoption and Children Act 2002”.
- 58 In section 16 (family assistance orders), in subsection (2)(a), for “or guardian” there is substituted “, guardian or special guardian”.
- 59 In section 20 (provision of accommodation for children: general), in subsection (9), the “or” at the end of paragraph (a) is omitted and after that paragraph there is inserted—
- “(aa) who is a special guardian of the child; or”.

Status: This is the original version (as it was originally enacted).

- 60 In section 24 (persons qualifying for advice and assistance)—
- (a) for subsection (1) there is substituted—
- “(1) In this Part “a person qualifying for advice and assistance” means a person to whom subsection (1A) or (1B) applies.
- (1A) This subsection applies to a person—
- (a) who has reached the age of sixteen but not the age of twenty-one;
- (b) with respect to whom a special guardianship order is in force (or, if he has reached the age of eighteen, was in force when he reached that age); and
- (c) who was, immediately before the making of that order, looked after by a local authority.
- (1B) This subsection applies to a person to whom subsection (1A) does not apply, and who—
- (a) is under twenty-one; and
- (b) at any time after reaching the age of sixteen but while still a child was, but is no longer, looked after, accommodated or fostered.”,
- (b) in subsection (2), for “subsection (1)(b)” there is substituted “subsection (1B)(b)”,
- (c) in subsection (5), before paragraph (a) there is inserted—
- “(za) in the case of a person to whom subsection (1A) applies, a local authority determined in accordance with regulations made by the Secretary of State;”.
- 61 In section 24A (advice and assistance for qualifying persons)—
- (a) in subsection (2)(b), after “a person” there is inserted “to whom section 24(1A) applies, or to whom section 24(1B) applies and”,
- (b) in subsection (3)(a), after “if” there is inserted “he is a person to whom section 24(1A) applies, or he is a person to whom section 24(1B) applies and”.
- 62 In section 24B (assistance with employment, education and training), in each of subsections (1) and (3)(b), after “of” there is inserted “section 24(1A) or”.
- 63 In section 33 (effect of care order)—
- (a) in subsection (3)(b), for “a parent or guardian of the child” there is substituted “—
- (i) a parent, guardian or special guardian of the child;
or
- (ii) a person who by virtue of section 4A has parental responsibility for the child,”,
- (b) in subsection (5), for “a parent or guardian of the child who has care of him” there is substituted “a person mentioned in that provision who has care of the child”,
- (c) in subsection (6)(b)—
- (i) sub-paragraph (i) is omitted,
- (ii) in sub-paragraph (ii), for “section 55 of the Act of 1976” there is substituted “section 84 of the Adoption and Children Act 2002”,

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- (d) in subsection (9), for “a parent or guardian of the child” there is substituted “a person mentioned in that provision”.
- 64 In section 34 (parental contact etc. with children in care)—
- (a) in subsection (1)(b), after “guardian” there is inserted “or special guardian”, and
- (b) after subsection (1)(b) there is inserted—
- “(ba) any person who by virtue of section 4A has parental responsibility for him;”.
- 65 In section 80 (inspection of children’s homes by persons authorised by Secretary of State), in subsection (1), paragraphs (e) and (f) are omitted.
- 66 In section 81 (inquiries), in subsection (1), paragraph (b) is omitted.
- 67 In section 88 (amendments of adoption legislation), subsection (1) is omitted.
- 68 In section 91 (effect and duration of orders, etc.)—
- (a) after subsection (5) there is inserted—
- “(5A) The making of a special guardianship order with respect to a child who is the subject of—
- (a) a care order; or
- (b) an order under section 34, discharges that order.”,
- (b) in subsection (7), after “4(1)” there is inserted “4A(1)”,
- (c) in subsection (8)(a), after “4” there is inserted “or 4A”.
- 69 In section 102 (power of constable to assist in exercise of certain powers to search for children or inspect premises), in subsection (6), paragraph (c) is omitted.
- 70 In section 105 (interpretation), in subsection (1)—
- (a) in the definition of “adoption agency”, for “section 1 of the Adoption Act 1976” there is substituted “section 2 of the Adoption and Children Act 2002”,
- (b) at the appropriate place there is inserted—
- ““section 31A plan” has the meaning given by section 31A(6);”,
- (c) in the definition of “parental responsibility agreement”, for “section 4(1)” there is substituted “sections 4(1) and 4A(2)”,
- (d) the definition of “protected child” is omitted,
- (e) after the definition of “special educational needs” there is inserted—
- ““special guardian” and “special guardianship order” have the meaning given by section 14A;”.
- 71 In Schedule 1 (financial provision for children)—
- (a) in paragraph 1 (orders for financial relief against parents)—
- (i) in sub-paragraph (1), for “or guardian” there is substituted “, guardian or special guardian”, and
- (ii) in sub-paragraph (6), after “order” there is inserted “or a special guardianship order”,
- (b) in paragraph 6 (variation etc of orders for periodical payments), in sub-paragraph (8), after “guardian” there is inserted “or special guardian”,

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- (c) in paragraph 8 (financial relief under other enactments), in sub-paragraph (1) and in sub-paragraph (2)(b), after “residence order” there is inserted “or a special guardianship order”,
 - (d) in paragraph 14 (financial provision for child resident in country outside England and Wales), in sub-paragraph (1)(b), after “guardian” there is inserted “or special guardian”.
- 72 In Schedule 2, in paragraph 19 (arrangements by local authorities to assist children to live abroad)—
- (a) in sub-paragraph (4) (arrangements to assist children to live abroad), after “guardian,” there is inserted “special guardian,”
 - (b) in sub-paragraph (6), for the words from the beginning to “British subject” there is substituted “Section 85 of the Adoption and Children Act 2002 (which imposes restrictions on taking children out of the United Kingdom)”
 - (c) after sub-paragraph (8) there is inserted—
 - “(9) This paragraph does not apply to a local authority placing a child for adoption with prospective adopters.”
- 73 In Schedule 8 (privately fostered children), in paragraph 5, for sub-paragraphs (a) and (b) there is substituted “he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of—
- (a) section 2 of the Adoption and Children Act 2002;
 - (b) section 1 of the Adoption (Scotland) Act 1978; or
 - (c) Article 3 of the Adoption (Northern Ireland) Order 1987”.
- 74 Part 1 of Schedule 10 is omitted.
- 75 In Schedule 11 (jurisdiction), in paragraphs 1 and 2, for the words “the Adoption Act 1976”, wherever they occur, there is substituted “the Adoption and Children Act 2002”.

The Human Fertilisation and Embryology Act 1990 (c. 37)

- 76 The Human Fertilisation and Embryology Act 1990 is amended as follows.
- 77 In section 27 (meaning of mother), in subsection (2), for “child of any person other than the adopter or adopters” there is substituted “woman’s child”.
- 78 In section 28 (meaning of father), in subsection (5)(c), for “child of any person other than the adopter or adopters” there is substituted “man’s child”.
- 79 In section 30 (parental orders in favour of gamete donors), in subsection (10) for “Adoption Act 1976” there is substituted “Adoption and Children Act 2002”.

The Courts and Legal Services Act 1990 (c. 41)

- 80 In section 58A of the Courts and Legal Services Act 1990 (conditional fee agreements: supplementary), in subsection (2), for paragraph (b) there is substituted—
- “(b) the Adoption and Children Act 2002;”.

The Child Support Act 1991 (c. 48)

- 81 In section 26 of the Child Support Act 1991 (disputes about parentage), in subsection (3), after “1976” there is inserted “or Chapter 4 of Part 1 of the Adoption and Children Act 2002”.

The Children (Scotland) Act 1995 (c. 36)

- 82 Section 86 of the Children (Scotland) Act 1995 (parental responsibilities order: general) is amended as follows.
- 83 In subsection (3), in paragraph (a), for “section 18 (freeing for adoption) or 55 (adoption abroad) of the Adoption Act 1976” there is substituted “section 19 (placing children with parental consent) or 84 (giving parental responsibility prior to adoption abroad) of the Adoption and Children Act 2002”.
- 84 In subsection (6), in paragraph (b), for the words from the beginning to “Adoption Act 1976” there is substituted—
- “(b) he becomes the subject of an adoption order within the meaning of the Adoption (Scotland) Act 1978;
 - (bb) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, is authorised to place him for adoption under section 19 of that Act (placing children with parental consent) or he becomes the subject of an order under section 21 of that Act (placement orders) or under section 84 of that Act (giving parental responsibility prior to adoption abroad)”.

The Family Law Act 1996 (c. 27)

- 85 The Family Law Act 1996 is amended as follows.
- 86 In section 62 (meaning of “relevant child” etc.)—
- (a) in subsection (2), in paragraph (b), after “the Adoption Act 1976” there is inserted “, the Adoption and Children Act 2002”,
 - (b) in subsection (5), for the words from “has been freed” to “1976” there is substituted “falls within subsection (7)”.
- 87 At the end of that section there is inserted—
- “(7) A child falls within this subsection if—
- (a) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, has power to place him for adoption under section 19 of that Act (placing children with parental consent) or he has become the subject of an order under section 21 of that Act (placement orders), or
 - (b) he is freed for adoption by virtue of an order made—
 - (i) in England and Wales, under section 18 of the Adoption Act 1976,
 - (ii) in Scotland, under section 18 of the Adoption (Scotland) Act 1978, or
 - (iii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987.”
- 88 In section 63 (interpretation of Part 4)—

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- (a) in subsection (1), for the definition of “adoption order”, there is substituted—

““adoption order” means an adoption order within the meaning of section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002;”,

- (b) in subsection (2), after paragraph (h) there is inserted—

“(i) the Adoption and Children Act 2002.”

The Housing Act 1996 (c. 52)

89 Section 178 of the Housing Act 1996 (meaning of associated person) is amended as follows.

90 In subsection (2), for the words from “has been freed” to “1976” there is substituted “falls within subsection (2A)”.

91 After that subsection there is inserted—

“(2A) A child falls within this subsection if—

- (a) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, is authorised to place him for adoption under section 19 of that Act (placing children with parental consent) or he has become the subject of an order under section 21 of that Act (placement orders), or
- (b) he is freed for adoption by virtue of an order made—
- (i) in England and Wales, under section 18 of the Adoption Act 1976,
- (ii) in Scotland, under section 18 of the Adoption (Scotland) Act 1978, or
- (iii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987.”

92 In subsection (3), for the definition of “adoption order”, there is substituted—

““adoption order” means an adoption order within the meaning of section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002;”.

The Police Act 1997 (c. 50)

93 In section 115 of the Police Act 1997 (enhanced criminal records), in subsection (5) (h), for “section 11 of the Adoption Act 1976” there is substituted “section 2 of the Adoption and Children Act 2002”.

The Protection of Children Act 1999 (c. 14)

94 In section 2B of the Protection of Children Act 1999 (individuals named in the findings of certain inquiries), in subsection (7), after paragraph (a) there is inserted—

“(vi) section 17 of the Adoption and Children Act 2002;”.

The Adoption (Intercountry Aspects) Act 1999 (c. 18)

- 95 The following provisions of the Adoption (Intercountry Aspects) Act 1999 cease to have effect in relation to England and Wales: sections 3, 6, 8, 9 and 11 to 13.
- 96 Section 2 of that Act (accredited bodies) is amended as follows.
- 97 In subsection (2A)—
- (a) for the words from the beginning to “2000” there is substituted “A registered adoption society”,
 - (b) for “agency” there is substituted “society”.
- 98 For subsection (5) there is substituted—
- “(5) In this section, “registered adoption society” has the same meaning as in section 2 of the Adoption and Children Act 2002 (basic definitions); and expressions used in this section in its application to England and Wales which are also used in that Act have the same meanings as in that Act.”
- 99 In subsection (6)—
- (a) the words “in its application to Scotland” are omitted,
 - (b) after “expressions” there is inserted “used in this section in its application to Scotland”.
- 100 Section 14 (restriction on bringing children into the United Kingdom for adoption) is omitted.
- 101 In section 16(1) (devolution: Wales), the words “, or section 17 or 56A of the 1976 Act,” are omitted.

The Access to Justice Act 1999 (c. 22)

- 102 In Schedule 2 to the Access to Justice Act 1999 (Community Legal Service: excluded services), in paragraph 2(3)(c)—
- (a) for “section 27 or 28 of the Adoption Act 1976” there is substituted “section 36 of the Adoption and Children Act 2002”,
 - (b) for “an order under Part II or section 29 or 55” there is substituted “a placement order or adoption order (within the meaning of the Adoption and Children Act 2002) or an order under section 41 or 84”.

The Care Standards Act 2000 (c. 14)

- 103 The Care Standards Act 2000 is amended as follows.
- 104 In section 4 (basic definitions), in subsection (7), for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”.
- 105 At the end of section 5 (registration authorities) there is inserted—
- “(2) This section is subject to section 36A.”
- 106 In section 11 (requirement to register), in subsection (3), for “reference in subsection (1) to an agency does” there is substituted “references in subsections (1) and (2) to an agency do”.
- 107 In section 14 (2) (offences conviction of which may result in cancellation of registration), for paragraph (d) there is substituted—

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- “(d) an offence under regulations under section 1(3) of the Adoption (Intercountry Aspects) Act 1999,
- (e) an offence under the Adoption and Children Act 2002 or regulations made under it”.
- 108 In section 16(2) (power to make regulations providing that no application for registration may be made in respect of certain agencies which are unincorporated bodies), “or a voluntary adoption agency” is omitted.
- 109 In section 22(10) (disapplication of power to make regulations in the case of voluntary adoption agencies), at the end there is inserted “or adoption support agencies”.
- 110 In section 23 (standards), at the end of subsection (4)(d) there is inserted “or proceedings against a voluntary adoption agency for an offence under section 9(4) of the Adoption Act 1976 or section 9 of the Adoption and Children Act 2002”.
- 111 In section 31 (inspections by authorised persons), in subsection (3)(b), for “section 9(2) of the Adoption Act 1976” there is substituted “section 9 of the Adoption and Children Act 2002”.
- 112 In section 43 (introductory), in subsection (3)(a)—
- (a) for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”,
- (b) after “children” there is inserted “or the provision of adoption support services (as defined in section 2(6) of the Adoption and Children Act 2002)”.
- 113 In section 46 (inspections: supplementary), in subsection (7)(c), for “section 9(3) of the Adoption Act 1976” there is substituted “section 9 of the Adoption and Children Act 2002”.
- 114 In section 48 (regulation of fostering functions), at the end of subsection (1) there is inserted—
- “(f) as to the fees or expenses which may be paid to persons assisting local authorities in making decisions in the exercise of such functions”.
- 115 In section 55(2)(b) (definition of “social care worker”), for “or a voluntary adoption agency” there is substituted “, a voluntary adoption agency or an adoption support agency”.
- 116 In section 121 (general interpretation)—
- (a) in subsection (1), in the definition of “voluntary organisation”, for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”,
- (b) in subsection (13), in the appropriate place in the table there is inserted—
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| “Adoption support agency | Section 4”. |
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- 117 In Schedule 4 (minor and consequential amendments), paragraph 27(b) is omitted.

Status: This is the original version (as it was originally enacted).

The Criminal Justice and Court Services Act 2000 (c. 43)

- 118 In section 12(5) of the Criminal Justice and Court Services Act 2000 (meaning of “family proceedings” in relation to CAFCASS), paragraph (b) (supervision orders under the 1989 Act) and the preceding “and” are omitted.