



Adoption Act 1976

1976 CHAPTER 36

PART I **E+W**

THE ADOPTION SERVICE

The Adoption Service

F1 Establishment of Adoption Service. **E+W**

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

F2 Local authorities' social services. **E+W**

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

Adoption societies

F3 Approval of adoption societies. **E+W**

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Changes to legislation: Adoption Act 1976 is up to date with all changes known to be in force on or before 08 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**

F14 **Withdrawal of approval.** **E+W**

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**

F15 **Procedure on refusal to approve, or withdrawal of approval from, adoption societies.** **E+W**

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**

Welfare of children

F16 **Duty to promote welfare of child.** **E+W**

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**

F17 **Religious upbringing of adopted child.** **E+W**

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**

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Supplemental

F18 Inactive or defunct adoption societies. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F19 Regulation of adoption agencies. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F19A Independent review of determinations E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F2F110 E+W

Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**
F2 S. 10 repealed by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), ss. 9, 30, Sch. 2 para. 30, **Sch. 10 Pt. I**

F11 Restriction on arranging adoptions and placing of children. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

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PART II E+W

ADOPTION ORDERS

The making of adoption orders

F1 12 Adoption orders. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

F1 13 Child to live with adopters before order made. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

F1 14 Adoption by married couple. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

F1 15 Adoption by one person. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

F1 16 Parental agreement. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

^{F1} 17 Convention adoption orders. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

Freeing for adoption

^{F1} 18 Freeing child for adoption. E+W

- (1) Where, on an application by an adoption agency, an authorised court is satisfied in the case of each parent or guardian of the child that—
 - (a) he freely, and with full understanding of what is involved, agrees generally and unconditionally to the making of an adoption order, or
 - (b) his agreement to the making of an adoption order should be dispensed with on a ground specified in section 16(2),the court shall make an order declaring the child free for adoption.

- (2) No application shall be made under subsection (1) unless—
 - (a) it is made with the consent of a parent or guardian of a child, or
 - (b) the adoption agency is applying for dispensation under subsection (1)(b) of the agreement of each parent or guardian of the child, and the child is in the care of the adoption agency.

^{F3}(2A) For the purposes of subsection (2) a child is in the care of an adoption agency if the adoption agency is a local authority and he is in their care.]

- (3) No agreement required under subsection (1)(a) shall be dispensed with under subsection (1)(b) unless the child is already placed for adoption or the court is satisfied that it is likely that the child will be placed for adoption.
- (4) An agreement by the mother of the child is ineffective for the purposes of this section if given less than 6 weeks after the child’s birth.
- (5) On the making of an order under this section, [^{F4}parental responsibility for the child is given to] the adoption agency, and subsections (2) [^{F5}to (4)] of section 12 apply as if the order were an adoption order and the agency were the adopters.
- (6) Before making an order under this section, the court shall satisfy itself, in relation to each parent or guardian [^{F6}of the child who can be found], that he has been given an opportunity of making, if he so wishes, a declaration that he prefers not to be involved in future questions concerning the adoption of the child; and any such declaration shall be recorded by the court.

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- [^{F7}(7) Before making an order under this section in the case of a child whose father does not have parental responsibility for him, the court shall satisfy itself in relation to any person claiming to be the father that—
- (a) he has no intention of applying for—
 - (i) an order under section 4(1) of the Children Act 1989, or
 - (ii) a residence order under section 10 of that Act, or
 - (b) if he did make any such application, it would be likely to be refused.
- (8) Subsections (5) and (7) of section 12 apply in relation to the making of an order under this section as they apply in relation to the making of an order under that section.]]

Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**
- F3** S. 18(2A) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.6(1)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F4** Words in s. 18(5) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.6(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F5** Words in s. 18(5) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 6(2)**; (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F6** Words substituted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 9, **Sch. 2 para. 31**
- F7** S. 18(7)(8) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.6(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Modifications etc. (not altering text)

- C1** S. 18 amended (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **ss. 12(3)(a)**, 33(6)(b)(i), 108 (with Sch. 14 para 1(1)); S.I. 1991/828, **art. 3(2)**

[^{F8}19 Progress reports to former parent. **E+W**

- (1) This section and section 20 apply to any person (“the former parent”) who was required to be given an opportunity of making a declaration under section 18(6) but did not do so.
- (2) Within the 14 days following the date 12 months after the making of the order under section 18 the adoption agency [^{F9}to which parental responsibility was given] on the making of the order, unless it has previously by notice to the former parent informed him that an adoption order has been made in respect of the child, shall by notice to the former parent inform him—
 - (a) whether an adoption order has been made in respect of the child, and (if not)
 - (b) whether the child has his home with a person with whom he has been placed for adoption.
- (3) If at the time when the former parent is given notice under subsection (2) an adoption order has not been made in respect of the child, it is thereafter the duty of the adoption agency to give notice to the former parent of the making of an adoption order (if and when made), and meanwhile to give the former parent notice whenever the child is placed for adoption or ceases to have his home with a person with whom he has been placed for adoption.

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- (4) If at any time the former parent by notice makes a declaration to the adoption agency that he prefers not to be involved in future questions concerning the adoption of the child—
- (a) the agency shall secure that the declaration is recorded by the court which made the order under section 18, and
 - (b) the agency is released from the duty of complying further with subsection (3) as respects that former parent.]

Textual Amendments

- F8** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, art. 2(b) (ss. 19-21 continued (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 4 para. 7\(1\)\(a\)](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2897, art. 2(a) (with arts. 3-16))
- F9** Words in s. 19(2) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.7](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

[^{F8}20] **Revocation of s. 18 order.** **E+W**

- (1) The former parent, at any time more than 12 months after the making of the order under section 18 when—
- (a) no adoption order has been made in respect of the child, and
 - (b) the child does not have his home with a person with whom he has been placed for adoption,
- may apply to the court which made the order for a further order revoking it on the ground that he wishes to resume [^{F10}parental responsibility].
- (2) While the application is pending the adoption agency having [^{F10}parental responsibility] shall not place the child for adoption without the leave of the court.
- [^{F11}3) The revocation of an order under section 18 (“a section 18 order”) operates—
- (a) to extinguish the parental responsibility given to the adoption agency under the section 18 order;
 - (b) to give parental responsibility for the child to—
 - (i) the child’s mother; and
 - (ii) where the child’s father and mother were married to each other at the time of his birth, the father; and
 - (c) to revive—
 - (i) any parental responsibility agreement,
 - (ii) any order under section 4(1) of the Children Act 1989,
[any care order, within the meaning of that Act], and
^{F12}(*ia*)
 - (iii) any appointment of a guardian in respect of the child (whether made by a court or otherwise),
- extinguished by the making of the section 18 order.
- (3A) Subject to subsection (3)(c), the revocation does not—
- (a) operate to revive—
 - (i) any order under the Children Act 1989, or

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- (ii) any duty referred to in section 12(3)(b),
extinguished by the making of the section 18 order; or
 - (b) affect any person’s parental responsibility so far as it relates to the period between the making of the section 18 order and the date of revocation of that order.]
- (4) Subject to subsection (5), if the application is dismissed on the ground that to allow it would contravene the principle embodied in section 6—
- (a) the former parent who made the application shall not be entitled to make any further application under subsection (1) in respect of the child, and
 - (b) the adoption agency is released from the duty of complying further with section 19(3) as respects that parent.
- (5) Subsection (4)(a) shall not apply where the court which dismissed the application gives leave to the former parent to make a further application under subsection (1), but such leave shall not be given unless it appears to the court that because of a change in circumstances or for any other reason it is proper to allow the application to be made.]

Textual Amendments

- F8** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, art. 2(b) (ss. 19-21 continued (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 4 para. 7\(1\)\(a\)](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2897, art. 2(a) (with [arts. 3-16](#)))
- F10** Words in s. 20(1)(2) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.8\(1\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F11** S. 20(3)(3A) substituted (14.10.1991) for s. 20(3) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.8\(2\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F12** S. 20(3)(c)(iia) inserted (30.12.2005) by virtue of [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 4 para. 7\(2\)](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2897, art. 2(a) (with [arts. 3-16](#))

[^{F8}]^{F13}21 Variation of section 18 order so as to substitute one adoption agency for another. **E+W**

- (1) On an application to which this section applies, an authorised court may vary an order under section 18 so as to give parental responsibility for the child to another adoption agency (the substitute agency”) in place of the agency for the time being having parental responsibility for the child under the order (“the existing agency”).
- (2) This section applies to any application made jointly by—
- (a) the existing agency; and
 - (b) the would-be substitute agency.
- (3) Where an order under section 18 is varied under this section, section 19 shall apply as if the substitute agency had been given responsibility for the child on the making of the order.]]

Textual Amendments

- F8** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, art. 2(b) (ss. 19-21 continued (30.12.2005) by [Adoption and](#)

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Children Act 2002 (c. 38), s. 148(1), **Sch. 4 para. 7(1)(a)** (with Sch. 4 paras. 6-8); S.I. 2005/2897, art. 2(a) (with arts. 3-16))

F13 S. 21 substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 88, **Sch. 10 para.9** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Supplemental

F122 Notification to local authority of adoption application. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F123 Reports where child placed by agency. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F124 Restrictions on making adoption orders. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F125 Interim orders. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F14F126 **E+W**

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**
- F14** S. 26 repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, **Sch.15** (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, **art. 3(2)**

PART III E+W

CARE AND PROTECTION OF CHILDREN AWAITING ADOPTION

Restrictions on removal of children

F1 27 Restrictions on removal where adoption agreed or application made under s. 18. E+W

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**

F1 28 Restrictions on removal where applicant has provided home for 5 years. E+W +S

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**

F1 29 Return of child taken away in breach of s. 27 or 28. E+W

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 5** (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, **art. 2(b)**

F1 30 Return of children placed for adoption by adoption agencies. E+W

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F1 31 Application of s. 30 where child not placed for adoption. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

Protected children

F1 32 Meaning of “protected child”. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F1 33 Duty of local authorities to secure well-being of protected children. E+W

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Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**

F15F1 34 E+W

Textual Amendments

F1 Ss. 1-37 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, **art. 2(b)**
F15 S. 34 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F1 35 Notices and information to be given to local authorities. E+W

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F1 36 Offences relating to protected children. **E+W**

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

F1 37 Miscellaneous provisions relating to protected children. **E+W**

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Textual Amendments

- F1** Ss. 1-37 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, [art. 2\(b\)](#)

PART IV **E+W**

STATUS OF ADOPTED CHILDREN

Modifications etc. (not altering text)

- C2** Part IV (ss. 38-49): definition applied (5.4.1993) by [Child Support Act 1991 \(c. 48, SIF 20\)](#), s. 26(3), (with s. 9(2)); S.I. 1992/2644, [art.2](#).
- C3** Pt. IV extended (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), [ss. 66\(3\)](#), 148(1) (with [Sch. 4 paras. 1, 6-8](#)); S.I. 2005/2213, [art. 2\(d\)](#)

38 Meaning of “adoption” in Part IV. **E+W**

(1) In this Part “adoption” means adoption—

- (a) by an adoption order;
- (b) by an order made under the ^{M1}Children Act 1975, the ^{M2}Adoption Act 1958, the ^{M3}Adoption Act 1950 or any enactment repealed by the Adoption Act 1950;
- (c) by an order made in Scotland, Northern Ireland, the Isle of Man or in any of the Channel Islands;
- [^{F16}(cc) which is a Convention adoption;]
- (d) which is an overseas adoption; or
- (e) which is an adoption recognised by the law of England and Wales and effected under the law of any other country,

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and cognate expressions shall be construed accordingly.

- (2) The definition of adoption includes, where the context admits, an adoption effected before the passing of the ^{M4}Children Act 1975 [^{F17}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], and the date of an adoption effected by an order is the date of the making of the order.

Textual Amendments

- F16** S. 38(1)(cc) inserted (1.6.2003) by Adoption (Intercountry Aspects) Act 1999 (c. 18), ss. 4(1), 18(3) (with s. 17); S.I. 2003/189, art. 2(2)(c)
- F17** Words in s. 38(2) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), Sch. 3 para. 19 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)

Marginal Citations

- M1** 1975 c. 72(49:3).
- M2** 1958 c. 5 (7 & 8 Eliz. 2).(49:11).
- M3** 1950 c. 26.
- M4** 1975 c. 72(49:3).

39 Status conferred by adoption. **E+W**

- (1) An adopted child shall be treated in law—
- where the adopters are a married couple, as if he had been born as a child of the marriage (whether or not he was in fact born after the marriage was solemnized);
 - in any other case, as if he had been born to the adopter in wedlock (but not as a child of any actual marriage of the adopter).
- (2) An adopted child shall, subject to [^{F18}subsections (3) and (3A)], be treated in law as if he were not the child of any person other than the adopters or adopter.
- (3) In the case of a child adopted by one of its natural parents as sole adoptive parent, subsection (2) has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship.

[^{F19}(3A) Where, in the case of a Convention adoption, the High Court is satisfied, on an application under this subsection—

- that under the law of the country in which the adoption was effected the adoption is not a full adoption;
- 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
- that it would be more favourable to the adopted child for a direction to be given under this subsection,

the Court may direct that subsection (2) shall not apply, or shall not apply to such extent as may be specified in the direction.

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In this subsection “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.

- (3B) The following provisions of the ^{M5}Family Law Act 1986—
- (a) section 59 (provisions relating to the Attorney General); and
 - (b) section 60 (supplementary provision as to declarations),
- shall apply in relation to, and to an application for, a direction under subsection (3A) as they apply in relation to, and to an application for, a declaration under Part III of that Act.]
- (4) It is hereby declared that this section prevents an adopted child from being illegitimate.
- (5) This section has effect—
- (a) in the case of an adoption before 1st January 1976, from that date, and
 - (b) in the case of any other adoption, from the date of the adoption.
- (6) Subject to the provisions of this Part, this section—
- (a) applies for the construction of enactments or instruments passed or made before the adoption or later, and so applies subject to any contrary indication; and
 - (b) has effect as respects things done, or events occurring, after the adoption, or after 31st December 1975, whichever is the later.

Textual Amendments

- F18** Words in s. 39(2) substituted (1.6.2003) by [Adoption \(Intercountry Aspects\) Act 1999 \(c. 18\)](#), **ss. 4(2), 18(3)** (with s. 17); [S.I. 2003/189](#), art. 2(2)(c)
- F19** S. 39(3A)(3B) inserted (1.6.2003) by [Adoption \(Intercountry Aspects\) Act 1999 \(c. 18\)](#), **ss. 4(3), 18(3)** (with s. 17); [S.I. 2003/189](#), art. 2(2)(c)

Marginal Citations

- M5** [1986 c. 55](#)

40 ^{F20} **E+W**

Textual Amendments

- F20** [S. 40](#) repealed by [British Nationality Act 1981 \(c. 61, SIF 87\)](#), s. 52(8), **Sch. 9**

41 **Adoptive relatives.** **E+W**

A relationship existing by virtue of section 39 may be referred to as an adoptive relationship, and—

- (a) a male adopter may be referred to as the adoptive father;
- (b) a female adopter may be referred to as the adoptive mother;
- (c) any other relative of any degree under an adoptive relationship may be referred to as an adoptive relative of that degree.

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but this section does not prevent the term “parent”, or any other term not qualified by the word “adoptive” being treated as including an adoptive relative.

42 Rules of construction for instruments concerning property. E+W

- (1) Subject to any contrary indication, the rules of construction contained in this section apply to any instrument, other than an existing instrument, so far as it contains a disposition of property.
- (2) In applying section 39(1) to a disposition which depends on the date of birth of a child or children of the adoptive parent or parents, the disposition shall be construed as if—
 - (a) the adopted child had been born on the date of adoption,
 - (b) two or more children adopted on the same date had been born on that date in the order of their actual births.

but this does not affect any reference to the age of a child.

- (3) Examples of phrases in wills on which subsection (2) can operate are—
 1. Children of A “living at my death or born afterwards”.
 2. Children of A “living at my death or born afterwards before any one of such children for the time being in existence attains a vested interest and who attain the age of 21 years”.
 3. As in example 1 or 2, but referring to grandchildren of A instead of children of A.
 4. A for life “until he has a child”, and then to his child or children.

Note. Subsection (2) will not affect the reference to the age of 21 years in example 2.

- (4) Section 39(2) does not prejudice any interest vested in possession in the adopted child before the adoption, or any interest expectant (whether immediately or not) upon an interest so vested.
- (5) Where it is necessary to determine for the purposes of a disposition of property effected by an instrument whether a woman can have a child, it shall be presumed that once a woman has attained the age of 55 years she will not adopt a child after execution of the instrument, and, notwithstanding section 39, if she does so that child shall not be treated as her child or as the child of her spouse (if any) for the purposes of the instrument.
- (6) In this section, “instrument” includes a private Act settling property, but not any other enactment.

43 Dispositions depending on date of birth. E+W

- (1) Where a disposition depends on the date of birth of a child who was born illegitimate and who is adopted by one of the natural parents as sole adoptive parent, section 42(2) does not affect entitlement under Part II of the ^{M6}Family Law Reform Act 1969 (illegitimate children).
- (2) Subsection (1) applies for example where—
 - (a) a testator dies in 1976 bequeathing a legacy to his eldest grandchild living at a specified time,
 - (b) his daughter has an illegitimate child in 1977 who is the first grandchild,
 - (c) his married son has a child in 1978,

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(d) subsequently the illegitimate child is adopted by the mother as sole adoptive parent,
and in all those cases the daughter's child remains the eldest grandchild of the testator throughout.

Marginal Citations

M6 1969 c. 46(49:7).

44 Property devolving with peerages etc. E+W

- (1) An adoption does not affect the descent of any peerage or dignity or title of honour.
- (2) An adoption shall not affect the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any peerage or dignity or title of honour.
- (3) Subsection (2) applies only if and so far as a contrary intention is not expressed in the instrument, and shall have effect subject to the terms of the instrument.

45 Protection of trustees and personal representatives. E+W

- (1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any property, whether any adoption has been effected or revoked if that fact could affect entitlement to the property.
- (2) A trustee or personal representative shall not be liable to any person by reason of a conveyance or distribution of the property made without regard to any such fact if he has not received notice of the fact before the conveyance or distribution.
- (3) This section does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person, other than a purchaser, who has received it.

46 Meaning of “disposition”. E+W

- (1) In this Part, unless the context otherwise requires,—
 - “disposition” includes the conferring of a power of appointment and any other disposition of an interest in or right over property;
 - “power of appointment” includes any discretionary power to transfer a beneficial interest in property without the furnishing of valuable consideration.
- (2) This Part applies to an oral disposition as if contained in an instrument made when the disposition was made.
- (3) For the purposes of this Part, the death of the testator is the date at which a will or codicil is to be regarded as made.
- (4) For the purposes of this Part, provisions of the law of intestate succession applicable to the estate of a deceased person shall be treated as if contained in an instrument executed by him (while of full capacity) immediately before his death.

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F21(5)

Textual Amendments

F21 S. 46(5) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

47 Miscellaneous enactments. E+W

(1) Section 39 does not apply for the purposes of [F22section 1 of and Schedule 1 to the Marriage Act 1949 or Schedule 1 to the Civil Partnership Act 2004 (prohibited degrees of kindred and affinity),][F23or sections 64 and 65 of the Sexual Offences Act 2003 (sex with an adult relative)].

(2) F24 section 39 does not apply for the purposes of any provision of—

- (a) [F25the British Nationality Act 1981]
- (b) the M7Immigration Act 1971,
- (c) any instrument having effect under an enactment within paragraph (a) or (b), or
- (d) any other provision of the law for the time being in force which determines [F25British citizenship, British Dependent Territories citizenship][F26, the status of a British National (Overseas)] or British Overseas citizenship.]

(3) F27

(4) F28

Textual Amendments

F22 Words in s. 47(1) substituted (5.12.2005) by Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), art. 1, **Sch. 4 para. 3**

F23 Words in s. 47(1) substituted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(2) (e), **Sch. 15 para. 7**

F24 Words repealed by British Nationality Act 1981 (c. 61, SIF 87), s. 52(8), **Sch. 9**

F25 Words substituted by British Nationality Act 1981 (c. 61, SIF 87), s. 52(6), **Sch. 7**

F26 Words inserted by S.I. 1986/948, art. 8, **Sch.**

F27 S. 47(3) repealed by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, **Sch. 11**

F28 S. 47(4)(5) repealed by Social Security Act 1988 (c. 7, SIF 113:1), ss. 16, 19(3), **Sch. 5**

Modifications etc. (not altering text)

C4 S. 47 restricted by Sexual Offences Act 2003 (c. 42), s. 64(6)(a) (as inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(2)(e), **Sch. 15 para. 5(5)**)

C5 S. 47 restricted by Sexual Offences Act 2003 (c. 42), s. 65(6)(a) (as inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(2)(e), **Sch. 15 para. 6(5)**)

Marginal Citations

M7 1971 c. 77(62).

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48 Pensions. E+W

Section 39(2) does not affect entitlement to a pension which is payable to or for the benefit of a child and is in payment at the time of his adoption.

49 Insurance. E+W

Where a child is adopted whose natural parent has effected an insurance with a friendly society or a collecting society or an industrial company for the payment on the death of the child of money for funeral expenses, the rights and liabilities under the policy shall by virtue of the adoption be transferred to the adoptive parents who shall for the purposes of the enactments relating to such societies and companies be treated as the person who took out the policy.

PART V E+W+S

REGISTRATION AND REVOCATION OF ADOPTION ORDERS AND CONVENTION ADOPTIONS

F29 50 Adopted Children Register. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); [S.I. 2005/2897](#), art. 2(b)

F29 51 Disclosure of birth records of adopted children. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); [S.I. 2005/2897](#), art. 2(b)

F29 51A Adoption Contact Register. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); [S.I. 2005/2897](#), art. 2(b)

F29 52 Revocation of adoptions on legitimation. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, art. 2(b)

F29 53 Annulment etc. of overseas adoptions. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, art. 2(b)

F29 54 Provisions supplementary to ss. 52(3) and 53. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, art. 2(b)

PART VI E+W

MISCELLANEOUS AND SUPPLEMENTAL

F29 55 Adoption of children abroad. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, art. 2(b)

F29 56 Restriction on removal of children for adoption outside Great Britain. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2, 6-8](#)); S.I. 2005/2897, art. 2(b)

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F29 56A Restriction on bringing children into the United Kingdom **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 57 Prohibition on certain payments. **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 57A Permitted allowances. **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 58 Restriction on advertisements. **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 58A Information concerning adoption. **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

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F29 59 Effect of determination and orders made in Scotland and overseas in adoption proceedings. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 60 Evidence of adoption in Scotland and Northern Ireland. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 61 Evidence of agreement and consent. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 62 Courts. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 63 Appeals etc. E+W

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

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F29 64 Proceedings to be in private. E+W

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Textual Amendments
F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 65 Duties of officers of the Service E+W

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Textual Amendments
F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F30F29 65A..... E+W

Textual Amendments
F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)
F30 S. 65A repealed (1.4.2001) by 2000 c. 43, s. 74, 75, Sch. 7 Pt. II para. 53, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)** Table

F29 66 Rules of procedure. E+W

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Textual Amendments
F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 67 Orders, rules and regulations. E+W

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Textual Amendments
F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 68 Offences by bodies corporate. E+W

.....

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 **69 Services of notices etc.** **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F31F29 **70 Nationality.** **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)
F31 S. 70 repealed (1.6.2003) by Adoption (Intercountry Aspects) Act 1999 (c. 18), s. 18(3), Sch. 2 para. 3(7), **3** (with s. 17); S.I. 2003/189, art. 2(2)(h)(i)

F29 **71 Internal law of a country.** **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 **72 Interpretation.** **E+W**

.....

Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29 **73 Transitional provisions, amendments and repeals.** **E+W**

.....

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

F29⁷⁴ **Short title, commencement and extent.** **E+W**

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Textual Amendments

F29 Ss. 50-74 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2005/2897, art. 2(b)

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Changes and effects yet to be applied to :

- s. 11(3)(a) words substituted by [2000 c. 14 Sch. 4 para. 5\(7\)\(b\)](#)
- s. 52(2) words substituted by [2002 c. 38 Sch. 4 para. 15\(b\)](#)
- s. 66(1) words substituted by [2005 c. 4 Sch. 1 para. 10](#) (Amendment not applied to [legislation.gov.uk](#). The affected section was repealed before the amendment came into force.)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket Amendment words substituted by [2005 c. 4 Sch. 11 para. 1\(2\)](#) (Amendment not applied to [legislation.gov.uk](#). The relevant references were repealed before the amendment came into force.)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(6A)(6B) inserted by [1999 c. 18 s. 10](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 repealed (30.4.2003 for W., 1.6.2003 for E.) without ever being in force by [2000 c. 14](#), ss. 117(2), 122, Sch. 6; S.I. 2003/501, art. 2(3)(b); S.I. 2003/365, art. 3(6)(a))
- s. 13(4) inserted by [1999 c. 18 s. 11](#) (This amendment not applied to [legislation.gov.uk](#). S. 11 ceases to have effect (E.W.) (30.12.2005) by virtue of [2002 c. 38](#), ss. 139, 148(1), Sch. 3 para. 95 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o))
- s. 52(1)(c) power to extend conferred by [2002 c. 38 Sch. 4 para. 16\(1\)\(a\)](#)
- s. 52(1A) inserted by [2002 c. 38 Sch. 4 para. 15\(a\)](#)
- s. 56(4)-(6) inserted by [2002 c. 38 Sch. 4 para. 11\(b\)](#)