



# Adoption Act 1976

## 1976 CHAPTER 36

### PART II

#### ADOPTION ORDERS

##### *Freeing for adoption*

#### **[<sup>F1</sup>18 Freeing child for adoption.**

- (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.

[<sup>F2</sup>(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.

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- (5) On the making of an order under this section, [<sup>F3</sup>parental responsibility for the child is given to] the adoption agency, and subsections (2) [<sup>F4</sup>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 [<sup>F5</sup>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.
- [<sup>F6</sup>(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\(b\)](#)
- F2** 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\(2\)](#)
- F3** 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\(2\)](#)
- 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 substituted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), s. 9, [Sch. 2 para. 31](#)
- F6** 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\(2\)](#)

#### [<sup>F7</sup>19 Progress reports to former parent.

- (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 [<sup>F8</sup>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)

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- (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.
- (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

- F7** 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))
- F8** 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)

#### [<sup>F7</sup>20] Revocation of s. 18 order.

- (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 [<sup>F9</sup>parental responsibility].
- (2) While the application is pending the adoption agency having [<sup>F9</sup>parental responsibility] shall not place the child for adoption without the leave of the court.
- [<sup>F10</sup>(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

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<sup>F11</sup>(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

(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

**F7** 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. 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)

**F10** 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)

**F11** S. 20(3)(c)(ia) 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)

[<sup>F7</sup>]<sup>F12</sup>**21Variation of section 18 order so as to substitute one adoption agency for another.**

(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.

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- (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

- F7** 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](#)))
- F12** 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\(2\)](#)

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**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\(b\)](#)