



# Adoption and Children Act 2002

## 2002 CHAPTER 38

### PART 1

#### ADOPTION

### CHAPTER 3

#### PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

##### *Removal of children in non-agency cases*

PROSPECTIVE

#### **39 Partners of parents**

- (1) This section applies if a child's home is with a partner of a parent and the partner has given notice of intention to adopt.
- (2) If the child's home has been with the partner for not less than three years (whether continuous or not) during the period of five years ending with the removal, the following persons may remove the child—
  - (a) a person who has the court's leave,
  - (b) a local authority or other person in the exercise of a power conferred by any enactment, other than section 20(8) of the 1989 Act.
- (3) If subsection (2) does not apply, the following persons may remove the child—
  - (a) a parent or guardian,
  - (b) a person who has the court's leave,
  - (c) a local authority or other person in the exercise of a power conferred by any enactment, other than section 20(8) of the 1989 Act.

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Adoption and Children Act 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations.

**Changes and effects yet to be applied to :**

- s. 36-40 excluded by S.I. 2005/392 reg. 54(1)
- s. 39 applied (with modifications) by S.I. 2005/392 reg. 52 54(2)(b)
- s. 39 coming into force by S.I. 2005/2213 art. 2(c)
- s. 39(2)(b) words inserted by S.I. 2016/413 reg. 195(a)
- s. 39(3)(a) excluded by S.I. 2005/392 reg. 6(b)
- s. 39(3)(c) words inserted by S.I. 2016/413 reg. 195(b)
- specified provision(s) amendment to earlier commencing S.I. 2005/2213, art. 2(o) by S.I. 2005/2897 art. 14(3)

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

- Act applied by S.I. 2005/392 reg. 52
- Act excluded by S.I. 2005/2897 art. 10-12
- Act power to modify conferred by 2008 c. 22 s. 55

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

- s. 1(9) inserted by 2014 c. 6 s. 3(3)(c)
- s. 3A inserted by 2014 anaw 4 s. 170
- s. 3A inserted by 2014 c. 6 s. 4(1)
- s. 3A omitted by 2016 c. 6 s. 15(3)
- s. 3ZA inserted by 2016 c. 6 s. 15(2)
- s. 4(9)(za) inserted by 2012 c. 7 Sch. 5 para. 105(a)
- s. 4A inserted by 2014 c. 6 s. 5
- s. 4B inserted by 2014 c. 6 s. 6
- s. 8(2)(ca) inserted by 2012 c. 7 Sch. 5 para. 106(a)
- s. 8(4) inserted by S.I. 2010/1158 Sch. 2 para. 50(3)(b)
- s. 12(3A)(3B) inserted by 2008 c. 23 s. 34(4)
- s. 12(6A) inserted by 2008 c. 23 s. 34(6)
- s. 13(2)(aa) substituted for s. 13(2)(a)(b) by 2013 c. 22 Sch. 11 para. 152(a)
- s. 26(1)(a)-(c) substituted for words by 2014 c. 6 Sch. 2 para. 60(2)
- s. 26(5A) (6) substituted for s. 26(6) by 2014 c. 6 Sch. 2 para. 60(7)
- s. 28(5) inserted by 2014 c. 6 Sch. 2 para. 61(3)
- s. 29(4A) inserted by 2014 c. 6 Sch. 2 para. 62(4)
- s. 32(6) inserted by 2014 c. 6 Sch. 2 para. 63(3)
- s. 35(5A) inserted by 2014 c. 6 Sch. 2 para. 64(3)
- s. 46(2)(ca) inserted by S.I. 2013/1465 Sch. 1 para. 9
- s. 47(8A) inserted by 2004 c. 33 s. 79(3)
- s. 47(10) inserted by S.I. 2011/1740 Sch. 1 para. 6(2)(b)
- s. 51(3A) inserted by 2004 c. 33 s. 79(5)
- s. 51(5) inserted by 2008 c. 22 Sch. 6 para. 39(3)
- s. 51A 51B and cross-heading inserted by 2014 c. 6 s. 9(1)
- s. 69(4)(c) inserted by 2014 c. 16 s. 4(1)(b)
- s. 91A inserted by 2006 c. 20 s. 13
- s. 98(1A) inserted by 2014 c. 6 s. 1(1)
- s. 102(6)-(8) applied (with modifications) by S.I. 2010/985 reg. 2 Sch. 1

- s. 102(8) inserted by 2004 c. 31 Sch. 3 para. 16(1) (4)
- s. 105(3)(3A) substituted for s. 105(3) by S.I. 2011/1740 Sch. 1 para. 6(5)(b)
- s. 105(5) inserted by S.I. 2011/1740 Sch. 1 para. 6(5)(d)
- s. 125(1A) inserted by 2014 c. 6 Sch. 1 para. 2(3)
- s. 128A inserted by 2014 c. 6 s. 7(4)
- s. 129(2A) inserted by 2014 c. 6 Sch. 1 para. 6(3)
- s. 129(7)(aa) inserted by 2014 c. 6 Sch. 1 para. 6(7)(c)
- s. 131(1)(ca) inserted by 2014 c. 6 Sch. 1 para. 8(2)(c)
- s. 131(1)(za) inserted by 2014 c. 6 Sch. 1 para. 8(2)(a)
- s. 131(2A) inserted by 2014 c. 6 Sch. 1 para. 8(4)
- s. 140(3)(za) inserted by 2014 c. 6 s. 4(2)
- s. 140(3)(za) substituted by 2016 c. 6 s. 15(4)
- s. 141(3)-(6) applied (with modifications) by S.I. 2010/985 reg. 2 7 Sch. 1
- s. 141(6) inserted by 2004 c. 31 s. 62(6)
- s. 141(7) inserted by 2010 c. 26 Sch. 3 para. 13 (This amendment not applied to legislation.gov.uk. Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by 2013 c. 22, s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 144(4)(aa) inserted by 2004 c. 33 s. 79(12)

### **Commencement Orders yet to be applied to the Adoption and Children Act 2002**

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/3095 art. 2 commences (2003 c. 24)
- S.I. 2004/759 art. 2-13 commences (2003 c. 43)
- S.I. 2004/874 art. 2 commences (2003 c. 42)
- S.I. 2005/275 art. 2 Sch. commences (2004 c. 35)
- S.I. 2005/394 art. 2 commences (2004 c. 31)
- S.I. 2005/700 art. 2 commences (2004 c. 31)
- S.I. 2005/847 art. 2 commences (2000 c. 31)
- S.I. 2005/910 art. 3 commences (2003 c. 39)
- S.I. 2005/1432 art. 2 commences (2005 c. 12)
- S.I. 2005/2897 art. 2 commences (2002 c. 38)
- S.I. 2005/3175 art. 2 3 Sch. 1 2 commences (2004 c. 33)
- S.I. 2005/3363 art. 2 commences (2004 c. 31)
- S.I. 2006/378 art. 2-7 Sch. commences (2005 c. 15)
- S.I. 2006/885 art. 2 commences (2004 c. 31)
- S.I. 2006/1014 art. 2 Sch. 1 2 commences (2005 c. 4)
- S.I. 2007/62 art. 2 commences (2005 c. 14)
- S.I. 2007/733 art. 2 commences (2006 c. 20)
- S.I. 2007/935 art. 2-7 commences (2006 c. 40)
- S.I. 2007/1897 art. 2 commences (2005 c. 9)
- S.I. 2007/2287 art. 2 commences (2006 c. 20)
- S.I. 2008/1586 art. 2(1) Sch. 1 commences (2008 c. 4)
- S.I. 2008/2870 art. 2 commences (2006 c. 20)
- S.I. 2009/268 art. 2 3 commences (2008 c. 23)
- S.I. 2009/479 art. 2-6 commences (2008 c. 22)
- S.I. 2009/2232 art. 2 commences (2008 c. 22)
- S.I. 2010/749 art. 2 commences (2008 c. 23)
- S.I. 2010/987 art. 2 commences (2008 c. 22)
- S.I. 2010/2612 art. 2 commences (2006 c. 20)
- S.I. 2010/2981 art. 2-4 commences (2008 c. 23)
- S.I. 2012/1553 art. 2(e) commences (2008 c. 23)
- S.S.I. 2005/643 art. 2 commences (2002 c. 38)
- S.S.I. 2009/267 art. 2 commences (2007 asp 4)