



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

40 Other non-agency cases

- (1) In any case where sections 37 to 39 do not apply but—
- (a) the people concerned have given notice of intention to adopt, or
 - (b) the people concerned have applied for leave under section 42(6) and the application has not been disposed of,
- the following persons may remove the child.
- (2) They are—
- (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 [^{F1}or section 76(5) of the 2014 Act].

Textual Amendments

- F1** Words in s. 40(2)(b) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **196**

Changes to legislation: Adoption and Children Act 2002, Section 40 is up to date with all changes known to be in force on or before 13 March 2024. 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

Modifications etc. (not altering text)

- C1** Ss. 36-40 excluded (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **54(1)**

Commencement Information

- I1** S. 40 in force at 30.12.2005 by [S.I. 2005/2213](#), **art. 2(c)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

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[View outstanding changes](#)

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

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

- s. 4A inserted by [2014 c. 6 s. 5](#)
- 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 Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; [S.I. 2013/2200 art. 2\(a\)](#))