



Adoption and Children Act 2002

2002 CHAPTER 38

PART 1

ADOPTION

CHAPTER 3

PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

Preliminaries to adoption

42 Child to live with adopters before application

- (1) An application for an adoption order may not be made unless—
 - (a) if subsection (2) applies, the condition in that subsection is met,
 - (b) if that subsection does not apply, the condition in whichever is applicable of subsections (3) to (5) applies.
- (2) If—
 - (a) the child was placed for adoption with the applicant or applicants by an adoption agency or in pursuance of an order of the High Court, or
 - (b) the applicant is a parent of the child,the condition is that the child must have had his home with the applicant or, in the case of an application by a couple, with one or both of them at all times during the period of ten weeks preceding the application.
- (3) If the applicant or one of the applicants is the partner of a parent of the child, the condition is that the child must have had his home with the applicant or, as the case may be, applicants at all times during the period of six months preceding the application.
- (4) If the applicants are local authority foster parents, the condition is that the child must have had his home with the applicants at all times during the period of one year preceding the application.

Changes to legislation: Adoption and Children Act 2002, Section 42 is up to date with all changes known to be in force on or before 21 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

- (5) In any other case, the condition is that the child must have had his home with the applicant or, in the case of an application by a couple, with one or both of them for not less than three years (whether continuous or not) during the period of five years preceding the application.
- (6) But subsections (4) and (5) do not prevent an application being made if the court gives leave to make it.
- (7) An adoption order may not be made unless the court is satisfied that sufficient opportunities to see the child with the applicant or, in the case of an application by a couple, both of them together in the home environment have been given—
- (a) where the child was placed for adoption with the applicant or applicants by an adoption agency, to that agency,
 - (b) in any other case, to the local authority within whose area the home is.
- (8) In this section and sections 43 and 44(1)—
- (a) references to an adoption agency include a Scottish or Northern Irish adoption agency,
 - (b) references to a child placed for adoption by an adoption agency are to be read accordingly.

Modifications etc. (not altering text)

- C1** S. 42 applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), 6, 9(1)
- C2** S. 42 applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), 6, 9(2)
- C3** S. 42 applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), 52, 56
- C4** S. 42(7) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), 11(1)(i), 52, 55
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Commencement Information

- I1** S. 42 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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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))