

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 2

The Adoption Process

Section 28 - Adoption orders

111. By virtue of subsection (1), an adoption order vests all parental responsibilities and parental rights in relation to the child in the adopter(s).
112. Before making an adoption order, in addition to the considerations which the court must take into account in terms of section 14 of the Act, subsection (2) requires that the court must be satisfied that it would be better for the child that the adoption order should be made than that it should not be made.
113. Subsection (3) provides that the court may attach such terms or conditions it sees fit when it makes an adoption order, although this power must be exercised in accordance with the requirements of section 14.
114. Adoption orders are generally to be made in respect of a “child”, which is defined in the Act to mean a person who has not attained the age of 18. However, subsection (4) allows an adoption order to be made in respect of a person who is 18 years or older if the adoption application was made when the person was under 18.
115. An adoption order may be made in respect of a child even if the child has already been adopted or is the subject of a permanence order (subsections (5) and (6)). This will allow a child to be “readopted” should the previous adoption break down.
116. Subsection (7) prohibits an adoption order being made in respect of a person who is or has been married or a civil partner.