



Adoption and Children (Scotland) Act 2007

2007 asp 4

PART 1

ADOPTION

CHAPTER 2

THE ADOPTION PROCESS

Return of children

24 Return of child removed in breach of certain provisions

- (1) The relevant court may, on the application of a person from whose care a child has been removed in breach of any of the relevant provisions, order the person who has so removed the child to return the child to the applicant.
- (2) The relevant court may, on the application of a person who has reasonable grounds for believing that another person is intending to remove a child from the applicant's care in breach of any of the relevant provisions, by order direct that other person not to remove the child from the applicant's care in breach of the provision concerned.
- (3) The "relevant court" is—
 - (a) if there is pending in respect of the child an application for an adoption order or a permanence order, the court in which the application is pending,
 - (b) in any other case—
 - (i) the Court of Session, or
 - (ii) the sheriff court of the sheriffdom within which the applicant resides.
- (4) The relevant provisions are—
 - (a) sections 20, 21, 22 and 23,
 - (b) sections 30, 34, 35 and 36 of the 2002 Act,
 - (c) Articles 28 and 29 of the Northern Ireland Order.

25 Return of child placed for adoption by adoption agency

- (1) This section applies where—
 - (a) in pursuance of arrangements made by an adoption agency or a registered adoption society for the adoption of a child by persons (the “prospective adopters”), the child has been placed with the prospective adopters, and
 - (b) no adoption order has been made in relation to the child on the application of the prospective adopters.
- (2) The prospective adopters may give notice to the agency or society of their intention not to retain the care of the child.
- (3) The agency or society may give notice to the prospective adopters of its intention not to allow the child to remain in the care of the prospective adopters.
- (4) If an application for an adoption order in relation to the child has been made by the prospective adopters, notice under subsection (3) may be given only with leave of the court which is hearing the application.
- (5) Subsection (6) applies where—
 - (a) notice is given by virtue of subsection (2) or (3), or
 - (b) an application for an adoption order made by the prospective adopters is refused or withdrawn.
- (6) The prospective adopters must, before the expiry of the relevant period, return the child to—
 - (a) the agency or, as the case may be, society, or
 - (b) a person nominated by the agency or, as the case may be, society for the purposes of this section.
- (7) In subsection (6), “relevant period” means—
 - (a) in the case mentioned in paragraph (a) of subsection (5), the period of 7 days beginning with the day on which notice was given,
 - (b) in the case mentioned in paragraph (b) of that subsection—
 - (i) the period of 7 days beginning with the day on which the application was refused or withdrawn, or
 - (ii) if, before the expiry of the period mentioned in sub-paragraph (i), the court makes an order extending that period for a period (not exceeding 6 weeks) specified in the order, the period so specified.
- (8) A person who fails to return a child in contravention of this section commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 5 on the standard scale or both.
- (9) The court by which a person is convicted by virtue of subsection (8) may order that the child in respect of whom the offence is committed be returned to the child’s parent or guardian or, as the case may be, the adoption agency or registered adoption society.