



# Adoption Act 1976

## 1976 CHAPTER 36

### PART III

#### CARE AND PROTECTION OF CHILDREN AWAITING ADOPTION

##### *Protected children*

#### **32 Meaning of " protected child "**

- (1) Where a person gives notice in pursuance of section 22(1) to the local authority within whose area he lives of his intention to apply for an adoption order in respect of a child, the child is for the purposes of this Part a protected child while he has his home with that person.
- (2) A child shall be deemed to be a protected child for the purposes of this Part if he is a protected child within the meaning of section 37 of the Adoption Act 1958.
- (3) A child is not a protected child by reason of any such notice as is mentioned in subsection (1) while—
  - (a) he is in the care of any person in any such school, home or institution as is mentioned in subsection (3) or (5) of section 2 of the Children Act 1958 ; or
  - (b) he is resident in a residential home for mentally disordered persons as defined by section 19 of the Mental Health Act 1959 ; or
  - (c) he is liable to be detained or subject to guardianship under the said Act of 1959.
- (4) A protected child ceases to be a protected child—
  - (a) on the appointment of a guardian for him under the Guardianship of Minors Act 1971;
  - (b) on the notification to the local authority for the area where the child has his home that the application for an adoption order has been withdrawn ;
  - (c) on the making of any of the following orders in respect of the child—
    - (i) an adoption order;

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*Status: This is the original version (as it was originally enacted).*

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- (ii) an order under section 26 ;
  - (iii) a custodianship order ;
  - (iv) an order under section 42, 43 or 44 of the Matrimonial Causes Act 1973 ; or
- (d) on his attaining the age of 18 years,  
whichever first occurs.

### **33 Duty of local authorities to secure well-being of protected children**

- (1) It shall be the duty of every local authority to secure that protected children within their area are visited from time to time by officers of the authority, who shall satisfy themselves as to the well-being of the children and give such advice as to their care and maintenance as may appear to be needed.
- (2) Any officer of a local authority authorised to visit protected children may, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, inspect any premises in the area of the authority in which such children are to be or are being kept.

### **34 Removal of protected children from unsuitable surroundings**

- (1) If a juvenile court is satisfied, on the complaint of a local authority, that a protected child is being kept or is about to be received by any person who is unfit to have his care or in any premises or any environment detrimental or likely to be detrimental to him, the court may make an order for his removal to a place of safety until he can be restored to a parent, relative or guardian of his, or until other arrangements can be made with respect to him ; and on proof that there is imminent danger to the health or well-being of the child the power to make an order under this section may be exercised by a justice of the peace acting on the application of a person authorised to visit protected children.
- (2) An order under this section may be executed by any person authorised to visit protected children or by any constable.
- (3) A local authority may receive into their care under section 1 of the Children Act 1948 any child removed under this section, whether or not the circumstances of the child are such that they fall within paragraphs (a) to (c) of subsection (1) of that section and notwithstanding that he may appear to the local authority to be over the age of 17 years.
- (4) Where a child is removed under this section the local authority shall, if practicable, inform a parent or guardian of the child, or any person who acts as his guardian.

### **35 Notices and information to be given to local authorities**

- (1) Where a person who has a protected child in his actual custody changes his permanent address he shall, not less than 2 weeks before the change, or, if the change is made in an emergency, not later than one week after the change, give notice specifying the new address to the local authority in whose area his permanent address is before the change, and if the new address is in the area of another local authority, the authority to whom the notice is given shall inform that other local authority and give them such of the following particulars as are known to them, that is to say—
  - (a) the name, sex and date and place of birth of the child;

- (b) the name and address of every person who is a parent or guardian or acts as a guardian of the child or from whom the child was received.
- (2) If a protected child dies, the person in whose actual custody he was at his death shall within 48 hours give notice of the child's death to the local authority.

### **36 Offences relating to protected children**

- (1) A person shall be guilty of an offence if—
- (a) being required, under section 35 to give any notice or information, he fails to give the notice within the time specified in that provision or fails to give the information within a reasonable time, or knowingly makes or causes or procures another person to make any false or misleading statement in the notice of information;
  - (b) he refuses to allow the visiting of a protected child by a duly authorised officer of a local authority or the inspection, under the power conferred by section 33(2) of any premises;
  - (c) he refuses to comply with an order under section 34 for the removal of any child or obstructs any person in the execution of such an order.
- (2) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding £400 or both.

### **37 Miscellaneous provisions relating to protected children**

- (1) For the purposes of section 40 of the Children and Young Persons Act 1933, under which a warrant authorising the search for and removal of a child may be issued on suspicion of unnecessary suffering caused to, or certain offences committed against, the child, any refusal to allow the visiting of a protected child or the inspection of any premises by a person authorised to do so under section 33 shall be treated as giving reasonable cause for such a suspicion.
- (2) A person who maintains a protected child shall be deemed for the purposes of the Life Assurance Act 1774 to have no interest in the life of the child.
- (3) An appeal shall lie to the Crown Court against any order made under section 34 by a juvenile court or a justice of the peace.
- (4) Subsection (2) of section 47 of the Children and Young Persons Act 1933 (which restricts the time and place at which a sitting of a juvenile court may be held and the persons who may be present at such a sitting) shall not apply to any sitting of a juvenile court in any proceedings under section 34.