



Children Act 1975

1975 CHAPTER 72

PART I

ADOPTION

Amendments of Adoption Act 1958

26 Obtaining of birth certificate by adopted person

- (1) In section 20 of the 1958 Act, in subsection (5), after the word " except " there are inserted the words " in accordance with section 20A of this Act or ".
- (2) The following section is inserted in the 1958 Act after section 20:—

“20A Disclosure of birth records of adopted persons.

- (1) Subject to subsections (4) and (6) of this section the Registrar General shall on an application made in the prescribed manner by an adopted person a record of whose birth is kept by the Registrar General and who has attained the age of 18 years supply to that person on payment of the prescribed fee (if any) such information as is necessary to enable that person to obtain a certified copy of the record of his birth.
- (2) On an application made in the prescribed manner by an adopted person under the age of 18 years a record of whose birth is kept by the Registrar General and who is intending to be married in England or Wales, and on payment of the prescribed fee (if any), the Registrar General shall inform the applicant whether or not it appears from information contained in the registers of live births or other records that the applicant and the person whom he intends to marry may be within the prohibited degrees of relationship for the purposes of the Marriage Act 1949.

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- (3) It shall be the duty of the Registrar General and each local authority and approved adoption society to provide counselling for adopted persons who apply for information under subsection (1) of this section.
- (4) Before supplying any information to an applicant under subsection (1) of this section, the Registrar General shall inform the applicant that counselling services are available to him—
- (a) at the General Register Office ; or
 - (b) from the local authority for the area where the applicant is at the time the application is made; or
 - (c) from the local authority for the area where the court sat which made the adoption order relating to the applicant; or
 - (d) if the applicant's adoption was arranged by an adoption society which is approved under section 4 of the Children Act 1975, from that society.
- (5) If the applicant chooses to receive counselling from a local authority or an adoption society under subsection (4) the Registrar General shall send to the authority or society of the applicant's choice the information to which the applicant is entitled under subsection (1).
- (6) The Registrar General shall not supply a person who was adopted before the date on which the Children Act 1975 was passed with any information under subsection (1) of this section unless that person has attended an interview with a counsellor either at the General Register Office or in pursuance of arrangements made by the local authority or adoption society from whom the applicant is entitled to receive counselling in accordance with subsection (4).
- (7) In this section " prescribed " means prescribed by regulations made by the Registrar General.”.

27 Counselling in Scotland for adopted person seeking information about his birth

In section 22 of the 1958 Act—

- (a) the following words are added at the end of subsection (4)—

“or a local authority or an approved adoption society which is providing counselling, under subsection (4A) of this section, for that adopted person.”;
- (b) the following subsections are inserted after subsection (4)—

“(4A) Where the Registrar General for Scotland furnishes an adopted person with information under subsection (4) of this section, he shall advise that person that counselling services are available—

 - (a) from the local authority for the area where the adopted person lives ; or
 - (b) if the adopted person's adoption was arranged by an adoption society which is approved under section 4 of the Children Act 1975, from that society,

and it shall be the duty of such local authority and approved adoption society to provide counselling for adopted persons who have been

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furnished with information under subsection (4) and who apply to them for counselling in respect of that information.

(4B) Where an adopted person has arranged to receive counselling under subsection (4A), the Registrar General for Scotland shall, on receipt of a request from the local authority or adoption society which is providing that counselling, and on payment of the appropriate fee, send to the authority or society an extract of the entry relating to the adopted person in the Register of Births.”.

28 Restriction on arranging adoption and placing of children

In section 29 of the 1958 Act.—

- (a) the following subsection is substituted for subsections (1) and (2)—
 - “(1) A person other than an adoption agency shall not make arrangements for the adoption of a child, or place a child for adoption, unless—
 - (a) the proposed adopter is a relative of the child, or
 - (b) he is acting in pursuance of an order of the High Court”;
- (b) the following subsections are inserted after subsection (1)—
 - “(2) An adoption society approved under the Children Act 1975 only as respects England and Wales shall not act as an adoption society in Scotland, except to the extent that it considers it necessary to do so in the interests of a person mentioned in section 1(1) of that Act.
 - (2A) An adoption society approved under the Children Act 1975 only as respects Scotland shall not act as an adoption society in England or Wales, except to the extent that it considers it necessary to do so in the interests of a person mentioned in section 1(1) of that Act.”;
- (c) in subsection (3)—
 - (i) the following is inserted after paragraph (b)—
 - “or
 - (c) receives a child placed with him in contravention of subsection (1) of this section”;
 - (ii) for the words " six months " there are substituted the words " three months " and for the words " one hundred pounds " there are substituted the words " £400 " ;
- (d) the following subsection is substituted for subsection (5)—
 - “(5) Section 17 of the Children Act 1975 shall apply where a person is convicted of a contravention of subsection (1) of this section as it applies where an application for an adoption order is refused.”.

29 Restrictions on removal of child pending adoption

The following sections are substituted for section 34 of the 1958 Act—

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“34 Restrictions on removal where adoption agreed or application made under section 14 of Children Act 1975.

- (1) While an application for an adoption order is pending in a case where a parent or guardian of the child has agreed to the making of the adoption order (whether or not he knows the identity of the applicant), the parent or guardian is not entitled, against the will of the person with whom the child has his home, to remove the child from the custody of that person except with the leave of the court.
- (2) While an application is pending for an order under section 14 of the Children Act 1975 and—
 - (a) the child is in the care of the adoption agency making the application, and
 - (b) the application was not made with the consent of each parent or guardian of the child,
 no parent or guardian of the child who did not consent to the application is entitled, against the will of the person with whom the child has his home, to remove the child from the custody of that person except with the leave of the court.
- (3) Any person who contravenes subsection (1) or (2) of this section commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £400 or both.

34A Restrictions on removal where applicant has provided home for five years.

- (1) While an application for an adoption order in respect of a child made by the person with whom the child has had his home for the five years preceding the application is pending, no person is entitled, against the will of the applicant, to remove the child from the applicant's custody except with the leave of the court or under authority conferred by any enactment or on the arrest of the child.
- (2) Where a person (" the prospective adopter") gives notice in writing to the local authority within whose area he has his home that he intends to apply for an adoption order in respect of a child who for the preceding five years has had his home with the prospective adopter, no person is entitled, against the will of the prospective adopter, to remove the child from the prospective adopter's custody, except with the leave of a court or under authority conferred by any enactment or on the arrest of the child, before—
 - (a) the prospective adopter applies for the adoption order, or
 - (b) the period of three months from the receipt of the notice by the local authority expires,
 whichever occurs first.
- (3) In any case where subsection (1) or (2) of this section applies, and—
 - (a) the child was in the care of a local authority before he began to have his home with the applicant or, as the case may be, the prospective adopter, and
 - (b) the child remains in the care of the authority,

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the authority shall not remove the child from the actual custody of the applicant or of the prospective adopter except in accordance with sections 35 and 36 of this Act or with the leave of the court.

- (4) A local authority which receives such notice as aforesaid in respect of a child whom the authority know to be in the care of another local authority or of a voluntary organisation shall, not more than seven days after the receipt of the notice, inform that other authority or the organisation in writing that they have received the notice.
- (5) Subsection (2) of this section does not apply to any further notice served by the prospective adopter on any local authority in respect of the same child during the period referred to in paragraph (b) of that subsection or within 28 days after its expiry.
- (6) Any person who contravenes subsection (1) or (2) of this section commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £400 or both.
- (7) The Secretary of State may by order made by statutory instrument a draft of which has been approved by each House of Parliament amend subsection (1) or (2) of this section to substitute a different period for the period of five years mentioned in that subsection (or the period which, by a previous order under this subsection, was substituted for that period).
- (8) In relation to Scotland, subsection (3) of this section does not apply where the removal of the child is authorised, in terms of Part III of the Social Work (Scotland) Act 1968, by a justice of the peace or a children's hearing.”

30 Return of child taken away in breach of section 34 or 34A of 1958 Act

- (1) An authorised court may on the application of a person from whose custody a child has been removed in breach of section 34 or 34A of the 1958 Act order the person who has so removed the child to return the child to the applicant.
- (2) An authorised 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 custody in breach of section 34 or 34A of the 1958 Act by order direct that other person not to remove the child from the applicant's custody in breach of the said section 34 or 34A.
- (3) If, in the case of an order made by the High Court under subsection (1), the High Court or, in the case of an order made by a county court under subsection (1), a county court is satisfied that the child has not been returned to the applicant, the court may make an order authorising an officer of the court to search such premises as may be specified in the order for the child and, if the officer finds the child, to return the child to the applicant.
- (4) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for believing that a child to whom an order under subsection (1) relates is in premises specified in the information, he may issue a search warrant authorising a constable to search the premises for the child; and if a constable acting in pursuance of a warrant under this section finds the child, he shall return the child to the person on whose application the order under subsection (1) was made.

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- (5) An order under subsection (3) may be enforced in like manner as a warrant for committal.
- (6) Subsections (3), (4) and (5) do not apply to Scotland.

31 Return of child on refusal of adoption order

In section 35 of the 1958 Act, the following subsection is inserted after subsection (5)

“(5A) Where an application for an adoption order is refused the court may, if it thinks fit, at any time before the expiry of the period of seven days mentioned in subsection (3) of this section order that period to be extended to a duration, not exceeding six weeks, specified in the order.”.

32 Payment of allowances to adopters

In section 50 (prohibition of certain payments in relation to adoption) of the 1958 Act, the following subsections are inserted at the end—

- “(4) If an adoption agency submits to the Secretary of State a scheme for the payment by the agency of allowances to persons who have adopted or intend to adopt a child where arrangements for the adoption were made, or are to be made, by that agency, and the Secretary of State approves the scheme, this section shall not apply to any payment made in accordance with the scheme.
- (5) The Secretary of State, in the case of a scheme approved by him under subsection (4) of this section, may at any time—
 - (a) make, or approve the making by the agency of, alterations to the scheme ;
 - (b) revoke the scheme.
- (6) The Secretary of State shall, within seven years of the date on which section 32 of the Children Act 1975 comes into force and, thereafter, every five years, publish a report on the operation of the schemes since that date or since the publication of the last report.
- (7) Subject to the following subsection, subsection (4) of this section shall expire on the seventh anniversary of the date on which it comes into force.
- (8) The Secretary of State may by order made by statutory instrument at any time before the said anniversary, repeal subsection (7) of this section.
- (9) An order under subsection (8) of this section shall not be made unless—
 - (a) a report has been published under subsection (6) of this section, and
 - (b) a draft of the order has been laid before Parliament and approved by resolution of each House.
- (10) Notwithstanding the expiry of subsection (4) of this section or the revocation of a scheme approved under this section, subsection (1) of this section shall not apply in relation to any payment made, whether before or after the expiry of subsection (4) or the revocation of the scheme, in accordance with a scheme which was approved under this section to a person to whom such payments were

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made, where the scheme was not revoked, before the expiry of subsection (4) or, if the scheme was revoked, before the date of its revocation.”.