



# Children Act 1975

## 1975 CHAPTER 72

### PART I

#### ADOPTION

##### *Amendments of Adoption Act 1958*

#### **29 Restrictions on removal of child pending adoption**

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

**“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.

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- (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,
- 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

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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.”