



# 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
  - [<sup>F1</sup>(a) section 32 of the Adoption (Scotland) Act 1978; or
  - (b) Article 33 of the Adoption (Northern Ireland) Order 1987.].
- (3) A child is not a protected child by reason of any such notice as is mentioned in subsection (1) while—
  - [<sup>F2</sup>(a) he is in the care of any person—
    - (i) in any [<sup>F3</sup>children’s home in respect of which a person is registered under Part II of the Care Standards Act 2000];
    - (ii) in any school in which he is receiving full-time education;
    - (iii) in any health service hospital]; or
    - [<sup>F4</sup>(b) he is—
      - (i) suffering from mental disorder within the meaning of the <sup>M1</sup>Mental Health Act 1983; and
      - (ii) resident in a residential care home, within the meaning of Part I of Schedule 4 to the <sup>M2</sup>Health and Social Services and Social Security Adjudications Act 1983;]

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- (c) he is liable to be detained or subject to guardianship under [<sup>F5</sup>the <sup>M3</sup>Mental Health Act 1983]
- [<sup>F6</sup>(d) he is in the care of any person in any home or institution not specified in this subsection but provided, equipped and maintained by the Secretary of State.]
- [<sup>F7</sup>(3A) In subsection (3) [<sup>F8</sup> “children’s home”, “school” and “health service hospital” have the same meaning as in the Children Act 1989.]
- [<sup>F9</sup>(4) A protected child ceases to be a protected child—
- (a) on the grant or refusal of the application for an adoption order;
  - (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to the local authority for the area where the child has his home that the application for an adoption order has been withdrawn;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) in a case where no application is made for an adoption order, on the expiry of the period of two years from the giving of the notice;
  - (d) on the making of a residence order, a care order or a supervision order under the Children Act 1989 in respect of the child;
  - (e) on the appointment of a guardian for him under that Act;
  - (f) on his attaining the age of 18 years; or
  - (g) on his marriage,
- whichever first occurs.
- (5) In subsection (4)(d) the references to a care order and a supervision order do not include references to an interim care order or interim supervision order.]

#### Textual Amendments

- F1** S. 32(2)(a)(b) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 18(1)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F2** S. 32(3)(a) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 18(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F3** Words in s. 32(3)(a)(i) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 5(8)(a); S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provisions in **art. 4** and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **art. 3(3)(d)** (with **art. 3(4)-(10)**) (subject to transitional provisions in Schs. 1-3)
- F4** S. 32(3)(b) substituted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 29, **Sch. 9 Pt. I para. 19**
- F5** Words in s. 32(3)(c) substituted by virtue of Mental Health Act 1983 (c. 20, SIF 85), s. 148, **Sch. 4 para. 45**
- F6** S. 32(3)(d) added (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 18(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F7** S. 32(3A) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 18(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F8** Words in s. 32(3A) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 5(8)(b); S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provisions in **art. 4** and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **art. 3(3)(d)** (with **art. 3(4)-(10)**) (subject to transitional provisions in Schs. 1-3)
- F9** S. 32(4)(5) substituted (14.10.1991) for s. 32(4) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 18(4)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

- M1** 1983 c. 20(85).
- M2** 1983 c. 41(113:3).
- M3** 1983 c. 20(85).

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### 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.

<sup>F10</sup>34 .....

#### Textual Amendments

**F10** S. 34 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch.15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

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

- (1) Where a person [<sup>F11</sup>with whom a protected child has his home] 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 [<sup>F12</sup>with whom he had his home] at his death shall within 48 hours give notice of the child's death to the local authority.

#### Textual Amendments

**F11** Words in s. 35(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, Sch. 10 para.19(1) (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2)

**F12** Words in s. 35(2) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, Sch. 10 para.19(2) (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2)

### 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;

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(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;

<sup>F13</sup>(c) .....

(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 [<sup>F14</sup>level 5 on the standard scale] or both.

**Textual Amendments**

**F13** S. 36(1)(c) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch.15**; (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

**F14** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**

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

<sup>F15</sup>(1) .....

(2) A person who maintains a protected child shall be deemed for the purposes of the <sup>M4</sup>Life Assurance Act 1774 to have no interest in the life of the child.

<sup>F15</sup>(3) .....

<sup>F15</sup>(4) .....

**Textual Amendments**

**F15** S. 37(1)(3)(4) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

**Marginal Citations**

**M4** 1774 c. 48(67).

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