



Adoption (Scotland) Act 1978

1978 CHAPTER 28

PART II

ADOPTION ORDERS

Supplemental

22 Notification to local authority of adoption application.

- (1) An adoption order shall not be made in respect of a child who was not placed with the applicant by an adoption agency unless the applicant has, at least 3 months before the date of the order, given notice to the local authority within whose area he has his home of his intention to apply for the adoption order.
- (2) On receipt of such a notice the local authority shall investigate the matter and submit to the court a report of their investigation.
- (3) Under subsection (2), the local authority shall in particular investigate,—
 - (a) so far as is practicable, the suitability of the applicant, and any other matters relevant to the operation of section 6 in relation to the application; and
 - (b) whether the child was placed with the applicant in contravention of section 11.
- (4) A local authority which [^{F1}receive] notice under subsection (1) in respect of a child whom the authority know to be in the care of another local authority shall, not more than 7 days after the receipt of the notice, inform that other local authority in writing that they have received the notice.

Textual Amendments

- F1** Word in s. 22(4) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.38](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

Status: Point in time view as at 01/11/1996. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Adoption (Scotland) Act 1978, Cross Heading: Supplemental is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C1 S. 22 excluded (transitionally) by S.I. 1984/1050, art. 4, Sch. 1 paras. 2, 3

VALID FROM 01/04/1997

[^{F2}22A Children subject to supervision requirements.

- (1) An approved adoption society shall refer the case of a child who is subject to a supervision requirement to the Principal Reporter where it is satisfied that the best interests of the child would be served by its placing the child for adoption and it intends so to place him.
- (2) On a case being referred to him under subsection (1), the Principal Reporter shall arrange for a children’s hearing to review the supervision requirement in question and shall make any arrangements incidental to that review.
- (3) Subsections (9), (13) and (14) of section 73 of the Children (Scotland) Act 1995 (which provide, respectively, for acting on the review of a supervision requirement, a report by a children’s hearing and consideration of that report) shall apply in relation to a children’s hearing arranged under this section as those subsections apply in relation to one arranged by virtue of subsection (4)(c)(iii) of that section.
- (4) In this section “Principal Reporter” has the same meaning as in Part II of the Children (Scotland) Act 1995.]

Textual Amendments

F2 S. 22A inserted (1.4.1997) by 1995 c. 36, s. 98(1), Sch. 2 para. 15 (with s. 103(1)); S.I. 1996/3201, art. 3(7) (as amended by S.I. 1997/744, arts. 2, 3)

Modifications etc. (not altering text)

C2 S. 22A modified (1.4.1997) by S.I. 1996/3266, regs. 12(5), 13(2)

23 Reports where child placed by agency.

Where an application for an adoption order relates to a child placed by an adoption agency, the agency shall submit to the court a report on the suitability of the applicants and any other matters relevant to the operation of section 6, and shall assist the court in any manner the court may direct.

Modifications etc. (not altering text)

C3 S. 23 excluded (transitionally) by S.I. 1984/1050, art. 4, Sch. 1 paras. 2, 3

24 Restrictions on making adoption orders.

- (1) The court shall not proceed to determine an application for an adoption order in relation to a child where a previous application for a British adoption order made in relation to the child by the same persons was refused by any court unless—

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- (a) in refusing the previous application the court directed that this subsection should not apply, or
 - (b) it appears to the court that because of a change in circumstances or for any other reason it is proper to proceed with the application.
- (2) The court shall not make an adoption order in relation to a child unless it is satisfied that the applicants have not, as respects the child, [^{F3}contravened] section 51.

Textual Amendments

- F3** Word substituted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), s. 9, [Sch. 2 para. 41](#)

25 Interim orders.

- (1) Where on an application for an adoption order the requirements of sections 16(1) and 22(1) are complied with, the court may postpone the determination of the application and make an order [^{F4}giving parental responsibilities and parental rights to] the applicants for a probationary period not exceeding 2 years upon such terms for the ailment of the child and otherwise as the court thinks fit.
- (2) Where the probationary period specified in an order under subsection (1) is less than 2 years, the court may by a further order extend the period to a duration not exceeding 2 years in all.

Textual Amendments

- F4** Words in s. 25(1) substituted (1.11.1996) by [1995 c. 36, s. 98\(1\)](#), [Sch. 2 para. 17\(b\)](#) (with s. 103(1)); [S.I. 1996/2203, art. 3\(3\)](#), [Sch.](#)

Modifications etc. (not altering text)

- C4** [S. 25](#) excluded (transitionally) by [S.I. 1984/1050, art. 4, Sch. 1 paras. 2, 3, 6](#)

VALID FROM 01/04/1997

[^{F5}25A Timetable for resolving question as to whether agreement to adoption order etc. should be dispensed with.

In proceedings in which the question arises as to whether the court is satisfied as is mentioned in section 16(1)(b)(ii) or 18(1)(b), the court shall, with a view to determining the question without delay—

- (a) draw up a timetable specifying periods within which certain steps must be taken in relation to those proceedings; and
- (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.]

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Textual Amendments

F5 S. 25A inserted (1.4.1997) by 1995 c. 36, s. 98(1), **Sch. 2 para. 18** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)

26 Care etc. of child on refusal of adoption order.

- (1) Where on an application for an adoption order in relation to a child under the age of 16 years the court refuses to make the adoption order then—
 - (a) if it appears to the court that there are exceptional circumstances making it desirable that the child should be under the supervision of an independent person, the court may order that the child shall be under the supervision of a specified local authority;
 - (b) if it appears to the court that there are exceptional circumstances making it impracticable or undesirable for the child to be entrusted to either of the parents or to any other individual, the court may by order commit the child to the care of a specified local authority.
- (2) Where the court makes an order under subsection (1)(b), the order may require the payment by either parent to the local authority, while it has the care of the child, of such weekly or other periodical sum towards the aliment of the child as the court thinks reasonable.
- (3) Subsections (2), (4) and (5) of section 11 of the ^{M1}Guardianship Act 1973 (jurisdiction and orders relating to care and custody of children) apply in relation to an order under this section as they apply in relation to an order under that section.

Marginal Citations

M1 1973 c. 29.

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