

ADOPTION AND CHILDREN ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Adoption

Chapter 3 - Placement for Adoption and Adoption Orders

Section 47: Conditions for making adoption orders

139. *Section 47* sets out the conditions which must be satisfied before an adoption order can be made where a child has a parent or guardian. One of three conditions must be satisfied. The first condition is that the court is satisfied that each parent consents to the making of the adoption order or has given advance consent to the making of the adoption order under *section 20* (and has not withdrawn that consent) and does not oppose the making of an adoption order or that the parent's consent should be dispensed with. Where the parent has given advance consent to the adoption under *section 20* he may only oppose the making of the adoption order with the leave of the court (*subsection (3)*).
140. The second condition is that the child has been placed for adoption by an adoption agency with the prospective adopters who are applying for the order and either the child was placed for adoption with the consent of each parent under *section 19* and the consent of the mother was given when the child was at least 6 weeks old or under a placement order and no parent opposes the making of the adoption order. A parent may only oppose the making of the order with the leave of the court (*subsection (5)*).
141. *Subsection (7)* provides that the court cannot give leave under *subsection (3) or (5)* for a parent to oppose the making of the adoption order unless it is satisfied that there has been a change in circumstances since the consent was given or the placement order was made. For example, in a case where a placement order was made on the grounds of the child's welfare because of parental drug or alcohol abuse, such a change in circumstances might include proven and successful rehabilitation. Where a mother consented to placement before her baby was 6 weeks old, and did not subsequently confirm that consent, she does not need the leave of the court to oppose the adoption order.
142. The third condition is that the child is free for adoption by virtue of a freeing order made in Scotland or Northern Ireland. The provisions in the Adoption Act 1976 relating to freeing are repealed by the Act, but under the transitional provisions in paragraph 7 of Schedule 4 to the Act, where a child is freed for adoption under section 18 of the Adoption Act 1976 the third condition is deemed to be satisfied.
143. An adoption order may not be made in relation to a person who is, or has been, married or who has attained the age of 19 (*subsections (8) and (9)*).