***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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# Adoption and Children Act 2002

**2002 CHAPTER 38**

## PART 1

ADOPTION

## CHAPTER 1

INTRODUCTORY

### 1 Considerations applying to the exercise of powers

(1) This section applies whenever a court or adoption agency is coming to a decision relating to the adoption of a child.

(2) The paramount consideration of the court or adoption agency must be the child's welfare, throughout his life.

(3) The court or adoption agency must at all times bear in mind that, in general, any delay in coming to the decision is likely to prejudice the child's welfare.

(4) The court or adoption agency must have regard to the following matters (among others)—

(a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding),

(b) the child's particular needs,

(c) the likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person,

(d) the child's age, sex, background and any of the child's characteristics which the court or agency considers relevant,

(e) any harm (within the meaning of the Children Act 1989 (c. 41)) which the child has suffered or is at risk of suffering,

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(f) the relationship which the child has with relatives, and with any other person in relation to whom the court or agency considers the relationship to be relevant, including—

(i) the likelihood of any such relationship continuing and the value to the child of its doing so,

(ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs,

(iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child.

(5) In placing the child for adoption, the adoption agency must give due consideration to the child's religious persuasion, racial origin and cultural and linguistic background.

(6) The court or adoption agency must always consider the whole range of powers available to it in the child's case (whether under this Act or the Children Act 1989); and the court must not make any order under this Act unless it considers that making the order would be better for the child than not doing so.

(7) In this section, "coming to a decision relating to the adoption of a child", in relation to a court, includes—

(a) coming to a decision in any proceedings where the orders that might be made by the court include an adoption order (or the revocation of such an order), a placement order (or the revocation of such an order) or an order under section 26 **[**[F1]or 51A**]** (or the revocation or variation of such an order),

(b) coming to a decision about granting leave in respect of any action (other than the initiation of proceedings in any court) which may be taken by an adoption agency or individual under this Act,

but does not include coming to a decision about granting leave in any other circumstances.

(8) For the purposes of this section—

(a) references to relationships are not confined to legal relationships,

(b) references to a relative, in relation to a child, include the child's mother and father.

**Textual Amendments**

**F1** Words in s. 1(7)(a) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 9(2)**, 139(6); S.I. 2014/889, art. 4(a) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**Modifications etc. (not altering text)**

**C1** S. 1 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C2** S. 1(7)(a) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(a)**, 52, 55

**Commencement Information**

**I1** S. 1 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(a)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

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## CHAPTER 2

## THE ADOPTION SERVICE

### *The Adoption Service*

### 2 Basic definitions

(1) The services maintained by local authorities under section 3(1) may be collectively referred to as "the Adoption Service", and a local authority or registered adoption society may be referred to as an adoption agency.

(2) In this Act, "registered adoption society" means a voluntary organisation which is an adoption society registered under Part 2 of the Care Standards Act 2000 (c. 14); but in relation to the provision of any facility of the Adoption Service, references to a registered adoption society or to an adoption agency do not include an adoption society which is not registered in respect of that facility.

(3) A registered adoption society is to be treated as registered in respect of any facility of the Adoption Service unless it is a condition of its registration that it does not provide that facility.

(4) No application for registration under Part 2 of the Care Standards Act 2000 may be made in respect of an adoption society which is an unincorporated body.

(5) In this Act—

"the 1989 Act" means the Children Act 1989 (c. 41),

"adoption society" means a body whose functions consist of or include making arrangements for the adoption of children,

"voluntary organisation" means a body other than a public or local authority the activities of which are not carried on for profit.

(6) In this Act, "adoption support services" means—

(a) counselling, advice and information, and

(b) any other services prescribed by regulations,

in relation to adoption.

(7) The power to make regulations under subsection (6)(b) is to be exercised so as to secure that local authorities provide financial support.

(8) In this Chapter, references to adoption are to the adoption of persons, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the British Islands.

**Modifications etc. (not altering text)**

**C3** S. 2(5) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I2** S. 2(1)-(5) in force at 7.12.2004 by S.I. 2004/3203, **art. 2(1)(a)**

**I3** S. 2(6)(7)(8) in force at 10.3.2003 for specified purposes for E. by S.I. 2003/366, **art. 2(2)(b)**

**I4** S. 2(6)(7)(8) in force at 6.10.2003 for E. in so far as not already in force by S.I. 2003/366, **art. 2(6)(b)**

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**I5** S. 2(6) in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(a)**
**I6** S. 2(7)(8) in force at 28.11.2003 for specified purposes for W. by S.I. 2003/3079, **art. 2(1)(a)**
**I7** S. 2(7)(8) in force at 7.12.2004 in so far as not already in force by S.I. 2004/3203, **art. 2(1)(a)**

## 3 Maintenance of Adoption Service

(1) Each local authority must continue to maintain within their area a service designed to meet the needs, in relation to adoption, of—
- (a) children who may be adopted, their parents and guardians,
- (b) persons wishing to adopt a child, and
- (c) adopted persons, their parents, natural parents and former guardians;

and for that purpose must provide the requisite facilities.

(2) Those facilities must include making, and participating in, arrangements—
- (a) for the adoption of children, and
- (b) for the provision of adoption support services.

(3) As part of the service, the arrangements made for the purposes of subsection (2)(b)—
- (a) must extend to the provision of adoption support services to persons who are within a description prescribed by regulations,
- (b) may extend to the provision of those services to other persons.

(4) A local authority may provide any of the requisite facilities by securing their provision by—
- (a) registered adoption societies, or
- (b) other persons who are within a description prescribed by regulations of persons who may provide the facilities in question.

(5) The facilities of the service must be provided in conjunction with the local authority's other social services and with registered adoption societies in their area, so that help may be given in a co-ordinated manner without duplication, omission or avoidable delay.

(6) The social services referred to in subsection (5) are the functions of a local authority which are social services functions within the meaning of the Local Authority Social Services Act 1970 (c. 42) (which include, in particular, those functions in so far as they relate to children).

**Commencement Information**

**I8** S. 3(1)(2)(5)(6) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(b)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)
**I9** S. 3(3)(4) in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(i)**
**I10** S. 3(3)(4) in force at 6.6.2005 for W. by S.I. 2005/1206, **art. 2**
**I11** S. 3(3)(4) in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(a)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 4 Assessments etc. for adoption support services

(1) A local authority must at the request of—
- (a) any of the persons mentioned in paragraphs (a) to (c) of section 3(1), or

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(b) any other person who falls within a description prescribed by regulations (subject to subsection (7)(a)),

carry out an assessment of that person's needs for adoption support services.

(2) A local authority may, at the request of any person, carry out an assessment of that person's needs for adoption support services.

(3) A local authority may request the help of the persons mentioned in paragraph (a) or (b) of section 3(4) in carrying out an assessment.

(4) Where, as a result of an assessment, a local authority decide that a person has needs for adoption support services, they must then decide whether to provide any such services to that person.

(5) If—

(a) a local authority decide to provide any adoption support services to a person, and

(b) the circumstances fall within a description prescribed by regulations,

the local authority must prepare a plan in accordance with which adoption support services are to be provided to the person and keep the plan under review.

(6) Regulations may make provision about assessments, preparing and reviewing plans, the provision of adoption support services in accordance with plans and reviewing the provision of adoption support services.

(7) The regulations may in particular make provision—

(a) as to the circumstances in which a person mentioned in paragraph (b) of subsection (1) is to have a right to request an assessment of his needs in accordance with that subsection,

(b) about the type of assessment which, or the way in which an assessment, is to be carried out,

(c) about the way in which a plan is to be prepared,

(d) about the way in which, and time at which, a plan or the provision of adoption support services is to be reviewed,

(e) about the considerations to which a local authority are to have regard in carrying out an assessment or review or preparing a plan,

(f) as to the circumstances in which a local authority may provide adoption support services subject to conditions,

(g) as to the consequences of conditions imposed by virtue of paragraph (f) not being met (including the recovery of any financial support provided by a local authority),

(h) as to the circumstances in which this section may apply to a local authority in respect of persons who are outside that local authority's area,

(i) as to the circumstances in which a local authority may recover from another local authority the expenses of providing adoption support services to any person.

(8) A local authority may carry out an assessment of the needs of any person under this section at the same time as an assessment of his needs is made under any other enactment.

(9) If at any time during the assessment of the needs of any person under this section, it appears to a local authority that—

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**[**[F2](za) there may be a need for the provision to that person of services that may be provided pursuant to arrangements made by a clinical commissioning group under the National Health Service Act 2006 (including by virtue of section 7A of that Act),**]**

(a) there may be a need for the provision of services to that person by [F3]... (in Wales, a Health Authority or Local Health Board), or

(b) there may be a need for the provision to him of any services which fall within the **[**[F4]education functions (as defined in section 579(1) of the Education Act 1996) of another local authority (as defined in section 579(1) of that Act)**]**,

the local authority must notify that **[**[F5]clinical commissioning group,**]**[F6]... Health Authority, Local Health Board **[**[F7]or other local authority**]**.

(10) Where it appears to a local authority that another local authority could, by taking any specified action, help in the exercise of any of their functions under this section, they may request the help of that other local authority, specifying the action in question.

(11) A local authority whose help is so requested must comply with the request if it is consistent with the exercise of their functions.

**Textual Amendments**

**F2** S. 4(9)(za) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 105(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F3** Words in s. 4(9)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 105(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F4** Words in s. 4(9) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 50(2)(a)**

**F5** Words in s. 4(9) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 105(c)(i)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F6** Words in s. 4(9) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 105(c)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F7** Words in s. 4(9) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 50(2)(b)**

**Modifications etc. (not altering text)**

**C4** S. 4 applied (temp.) (W.) (30.12.2005) by The Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (S.I. 2005/1512), art. 1(1), **reg. 15**

**Commencement Information**

**I12** S. 4(1)(a)(2)-(4)(8)-(11) in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(a)**

**I13** S. 4(1)(a)(2)-(4)(8)-(11) in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(b)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I14** S. 4(1)(b)(5) in force at 7.2.2004 for specified purposes for W. by S.I. 2004/252, **art. 2(c)**

**I15** S. 4(1)(b)(5) in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(i)**

**I16** S. 4(1)(b)(5) in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(b)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I17** S. 4(1)(b)(5) in force at 30.12.2005 for W. in so far as not already in force by S.I. 2005/3112, **art. 2(a)**

**I18** S. 4(6)(7)(b)-(i) in force at 10.3.2003 for specified purposes for E. by S.I. 2003/366, **art. 2(2)(b)**

**I19** S. 4(6)(7)(b)-(i) in force at 6.10.2003 for E. in so far as not already in force by S.I. 2003/366, **art. 2(6)(b)**

**I20** S. 4(6)(7) in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I21** S. 4(7)(a) in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(b)**

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PROSPECTIVE

## F8 5 Local authority plans for adoption services

. . . . . .

**Textual Amendments**

**F8** S. 5 repealed (1.3.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 1**; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 2(h)

## 6 Arrangements on cancellation of registration

Where, by virtue of the cancellation of its registration under Part 2 of the Care Standards Act 2000 (c. 14), a body has ceased to be a registered adoption society, the appropriate Minister may direct the body to make such arrangements as to the transfer of its functions relating to children and other transitional matters as seem to him expedient.

**Commencement Information**

**I22** S. 6 in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(b)**

**I23** S. 6 in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 7 Inactive or defunct adoption societies etc.

(1) This section applies where it appears to the appropriate Minister that—

(a) a body which is or has been a registered adoption society is inactive or defunct, or

(b) a body which has ceased to be a registered adoption society by virtue of the cancellation of its registration under Part 2 of the Care Standards Act 2000 has not made such arrangements for the transfer of its functions relating to children as are specified in a direction given by him.

(2) The appropriate Minister may, in relation to such functions of the society as relate to children, direct what appears to him to be the appropriate local authority to take any such action as might have been taken by the society or by the society jointly with the authority.

(3) A local authority are entitled to take any action which—

(a) apart from this subsection the authority would not be entitled to take, or would not be entitled to take without joining the society in the action, but

(b) they are directed to take under subsection (2).

(4) The appropriate Minister may charge the society for expenses necessarily incurred by him or on his behalf in securing the transfer of its functions relating to children.

(5) Before giving a direction under subsection (2) the appropriate Minister must, if practicable, consult both the society and the authority.

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**Commencement Information**

**I24** S. 7 in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I25** S. 7 in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(b)**

## 8 Adoption support agencies

(1) In this Act, "adoption support agency" means an undertaking the purpose of which, or one of the purposes of which, is the provision of adoption support services; but an undertaking is not an adoption support agency—

(a) merely because it provides information in connection with adoption other than for the purpose mentioned in section 98(1), or

(b) if it is excepted by virtue of subsection (2).

"Undertaking" has the same meaning as in the Care Standards Act 2000 (c. 14).

(2) The following are excepted—

(a) a registered adoption society, whether or not the society is registered in respect of the provision of adoption support services,

(b) a local authority,

[F9](c) . . . . . .

[[F10](ca) the National Health Service Commissioning Board,]

(d) a Special Health Authority [F11]... [[F12], clinical commissioning group] (in Wales, a Health Authority or Local Health Board) [[F13], NHS trust or NHS foundation trust],

(e) the Registrar General,

(f) any person, or description of persons, excepted by regulations.

(3) In section 4 of the Care Standards Act 2000 (basic definitions)—

(a) after subsection (7) there is inserted—

"(7A) "Adoption support agency" has the meaning given by section 8 of the Adoption and Children Act 2002.",

(b) in subsection (9)(a) (construction of references to descriptions of agencies), for "or a voluntary adoption agency" there is substituted " a voluntary adoption agency or an adoption support agency ".

[[F14](4) In this section "local authority" includes any body that is a local authority as defined in section 579(1) of the Education Act 1996 (in addition to the bodies mentioned in the definition in section 144(1)).]

**Textual Amendments**

**F9** S. 8(2)(c) repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 50(3)(a), **Sch. 3 Pt. 2**

**F10** S. 8(2)(ca) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 106(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F11** Words in s. 8(2)(d) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 106(b)(i)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

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**F12** Words in s. 8(2)(d) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 106(b)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F13** Words in s. 8(2)(d) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 4 para. 126**; S.I. 2004/759, art. 2

**F14** S. 8(4) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 50(3)(b)**

**Commencement Information**

**I26** S. 8 in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(ii)**

**I27** S. 8 in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I28** S. 8 in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(b)**

*Regulations*

## 9 General power to regulate adoption etc. agencies

(1) Regulations may make provision for any purpose relating to—

(a) the exercise by local authorities or voluntary adoption agencies of their functions in relation to adoption, or

(b) the exercise by adoption support agencies of their functions in relation to adoption.

(2) The extent of the power to make regulations under this section is not limited by sections 10 to 12, 45, 54, 56 to 65 and 98 or by any other powers exercisable in respect of local authorities, voluntary adoption agencies or adoption support agencies.

(3) Regulations may provide that a person who contravenes or fails to comply with any provision of regulations under this section is to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) In this section and section 10, "voluntary adoption agency" means a voluntary organisation which is an adoption society.

**Commencement Information**

**I29** S. 9 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I30** S. 9 in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(c)**

## 10 Management etc. of agencies

(1) In relation to local authorities, voluntary adoption agencies and adoption support agencies, regulations under section 9 may make provision as to—

(a) the persons who are fit to work for them for the purposes of the functions mentioned in section 9(1),

(b) the fitness of premises,

(c) the management and control of their operations,

(d) the number of persons, or persons of any particular type, working for the purposes of those functions,

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(e) the management and training of persons working for the purposes of those functions,

(f) the keeping of information.

(2) Regulations made by virtue of subsection (1)(a) may, in particular, make provision for prohibiting persons from working in prescribed positions unless they are registered in, or in a particular part of, one of the registers maintained under section 56(1) of the Care Standards Act 2000 (c. 14) (registration of social care workers).

(3) In relation to voluntary adoption agencies and adoption support agencies, regulations under section 9 may—

(a) make provision as to the persons who are fit to manage an agency, including provision prohibiting persons from doing so unless they are registered in, or in a particular part of, one of the registers referred to in subsection (2),

(b) impose requirements as to the financial position of an agency,

(c) make provision requiring the appointment of a manager,

(d) in the case of a voluntary adoption agency, make provision for securing the welfare of children placed by the agency, including provision as to the promotion and protection of their health,

(e) in the case of an adoption support agency, make provision as to the persons who are fit to carry on the agency.

(4) Regulations under section 9 may make provision as to the conduct of voluntary adoption agencies and adoption support agencies, and may in particular make provision—

(a) as to the facilities and services to be provided by an agency,

(b) as to the keeping of accounts,

(c) as to the notification to the registration authority of events occurring in premises used for the purposes of an agency,

(d) as to the giving of notice to the registration authority of periods during which the manager of an agency proposes to be absent, and specifying the information to be given in such a notice,

(e) as to the making of adequate arrangements for the running of an agency during a period when its manager is absent,

(f) as to the giving of notice to the registration authority of any intended change in the identity of the manager,

(g) as to the giving of notice to the registration authority of changes in the ownership of an agency or the identity of its officers,

(h) requiring the payment of a prescribed fee to the registration authority in respect of any notification required to be made by virtue of paragraph (g),

(i) requiring arrangements to be made for dealing with complaints made by or on behalf of those seeking, or receiving, any of the services provided by an agency and requiring the agency or manager to take steps for publicising the arrangements.

**Commencement Information**

**I31** S. 10 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I32** S. 10 in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(d)**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

## 11 Fees

(1) Regulations under section 9 may prescribe—

(a) the fees which may be charged by adoption agencies in respect of the provision of services to persons providing facilities as part of the Adoption Service (including the Adoption Services in Scotland and Northern Ireland),

(b) the fees which may be paid by adoption agencies to persons providing or assisting in providing such facilities.

(2) Regulations under section 9 may prescribe the fees which may be charged by local authorities in respect of the provision of prescribed facilities of the Adoption Service where the following conditions are met.

(3) The conditions are that the facilities are provided in connection with—

(a) the adoption of a child brought into the United Kingdom for the purpose of adoption, or

(b) a Convention adoption, an overseas adoption or an adoption effected under the law of a country or territory outside the British Islands.

(4) Regulations under section 9 may prescribe the fees which may be charged by adoption agencies in respect of the provision of counselling, where the counselling is provided in connection with the disclosure of information in relation to a person's adoption.

**Commencement Information**

**I33** S. 11 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I34** S. 11 in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(e)**

## 12 Independent review of determinations

(1) Regulations under section 9 may establish a procedure under which any person in respect of whom a qualifying determination has been made by an adoption agency may apply to [F15]... the appropriate Minister for a review of that determination **[**[F16]by a panel constituted by that Minister**]**.

(2) The regulations must make provision as to the description of determinations which are qualifying determinations for the purposes of subsection (1).

(3) The regulations may include provision as to—

(a) the duties and powers of a panel [F17]...,

(b) the administration and procedures of a panel,

(c) the appointment of members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment),

(d) the payment of **[**[F18]fees to**]** members of a panel,

(e) the duties of adoption agencies in connection with reviews conducted under the regulations,

(f) the monitoring of any such reviews.

**[**[F19](3A) Regulations made by virtue of subsection (3)(e) may impose a duty to pay to the appropriate Minister such sum as that Minister may determine.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(3B) The appropriate Minister must secure that, taking one financial year with another, the aggregate of the sums which become payable to him under regulations made by virtue of subsection (3A) does not exceed the cost to him of performing his independent review functions.**]**

(4) The appropriate Minister may make an arrangement with an organisation under which **[**[F20]independent review functions**]** are performed by the organisation on his behalf.

(5) If the appropriate Minister makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any general or special directions given by the appropriate Minister.

(6) The arrangement may include provision for payments to be made to the organisation by the appropriate Minister.

**[**[F21](6A) Payments made by the appropriate Minister in accordance with such provision shall be taken into account in determining (for the purpose of subsection (3B)) the cost to that Minister of performing his independent review functions.**]**

(7) Where the appropriate Minister is the Assembly, subsections (4) and (6) also apply as if references to an organisation included references to the Secretary of State.

(8) In this section **[**[F22]—

"financial year" means a period of twelve months ending with 31st March,

"independent review function" means a function conferred or imposed on an appropriate Minister by regulations made by virtue of this section**]**,

"organisation" includes a public body and a private or voluntary organisation.

**Textual Amendments**

**F15** Words in s. 12(1) repealed (12.2.2009 for E., 31.3.2010 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 34(2)(a), 44(4), **Sch. 4**; S.I. 2009/268, art. 3(1)(f)(ii) (with art. 4); S.I. 2010/749, art. 2(b)

**F16** Words in s. 12(1) inserted (12.2.2009 for E., 31.3.2010 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 34(2)(b)**, 44(4); S.I. 2009/268, art. 3(1)(f)(ii) (with art. 4); S.I. 2010/749, art. 2(b)

**F17** Words in s. 12(3)(a) repealed (12.2.2009 for E., 31.3.2010 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 34(3), 44(4), **Sch. 4**; S.I. 2009/268, art. 3(1)(f)(ii) (with art. 4); S.I. 2010/749, art. 2(b)

**F18** Words in s. 12(3)(d) substituted (1.3.2005 for E., 30.12.2005 for W.) by Children Act 2004 (c. 31), **ss. 57**, 67(7)(e); S.I. 2005/394, art. 2(1)(i); S.I. 2005/3363, art. 2

**F19** S. 12(3A)(3B) inserted (12.2.2009 for E. for specified purposes, 1.4.2009 for E. in so far as not already in force, 31.3.2010 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 34(4)**, 44(4); S.I. 2009/268, art. 3(1)(f)(iii)(2)(a) (with art. 4); S.I. 2010/749, art. 2(b)

**F20** Words in s. 12(4) substituted (1.4.2009 for E., 31.3.2010 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 34(5)**, 44(4); S.I. 2009/268, art. 3(2)(a); S.I. 2010/749, art. 2(b)

**F21** S. 12(6A) inserted (1.4.2009 for E., 31.3.2010 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 34(6)**, 44(4); S.I. 2009/268, art. 3(2)(a); S.I. 2010/749, art. 2(b)

**F22** Words in s. 12(8) inserted (1.4.2009 for E., 31.3.2010 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 34(7)**, 44(4); S.I. 2009/268, art. 3(2)(a); S.I. 2010/749, art. 2(b)

**Commencement Information**

**I35** S. 12(1)-(3) in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I36** S. 12(1)-(3) in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(iii)**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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**I37** S. 12(1)-(3) in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I38** S. 12(4)-(8) in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I39** S. 12(4)-(8) in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(c)**

*Supplemental*

## 13 Information concerning adoption

(1) Each adoption agency must give to the appropriate Minister any statistical or other general information he requires about—

(a) its performance of all or any of its functions relating to adoption,

(b) the children and other persons in relation to whom it has exercised those functions.

(2) The following persons—

**[**[F23](aa) the relevant officer of the family court, and**]**

(c) the relevant officer of the High Court,

must give to the appropriate Minister any statistical or other general information he requires about the proceedings under this Act of the court in question.

(3) In subsection (2), "relevant officer", in relation to **[**[F24]the family**]** court or the High Court, means the officer of that court who is designated to act for the purposes of that subsection by a direction given by the Lord Chancellor.

(4) The information required to be given to the appropriate Minister under this section must be given at the times, and in the form, directed by him.

(5) The appropriate Minister may publish from time to time abstracts of the information given to him under this section.

**Textual Amendments**

**F23** S. 13(2)(aa) substituted for s. 13(2)(a)(b) (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 152(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F24** Words in s. 13(3) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 152(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**Commencement Information**

**I40** S. 13 in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(d)**

**I41** S. 13 in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(g)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 14 Default power of appropriate Minister

(1) If the appropriate Minister is satisfied that any local authority have failed, without reasonable excuse, to comply with any of the duties imposed on them by virtue of this

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Act or of section 1 or 2(4) of the Adoption (Intercountry Aspects) Act 1999 (c. 18), he may make an order declaring that authority to be in default in respect of that duty.

(2) An order under subsection (1) must give the appropriate Minister's reasons for making it.

(3) An order under subsection (1) may contain such directions as appear to the appropriate Minister to be necessary for the purpose of ensuring that, within the period specified in the order, the duty is complied with.

(4) Any such directions are enforceable, on the appropriate Minister's application, by a mandatory order.

**Commencement Information**

**I42** S. 14 in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(h)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I43** S. 14 in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(d)**

## 15 Inspection of premises etc.

(1) The appropriate Minister may arrange for any premises in which—

(a) a child is living with a person with whom the child has been placed by an adoption agency, or

(b) a child in respect of whom a notice of intention to adopt has been given under section 44 is, or will be, living,

to be inspected from time to time.

(2) The appropriate Minister may require an adoption agency—

(a) to give him any information, or

(b) to allow him to inspect any records (in whatever form they are held),

relating to the discharge of any of its functions in relation to adoption which the appropriate Minister specifies.

(3) An inspection under this section must be conducted by a person authorised by the appropriate Minister.

(4) An officer of a local authority may only be so authorised with the consent of the authority.

(5) A person inspecting any premises under subsection (1) may—

(a) visit the child there,

(b) make any examination into the state of the premises and the treatment of the child there which he thinks fit.

(6) A person authorised to inspect any records under this section may at any reasonable time have access to, and inspect and check the operation of, any computer (and associated apparatus) which is being or has been used in connection with the records in question.

(7) A person authorised to inspect any premises or records under this section may—

(a) enter the premises for that purpose at any reasonable time,

(b) require any person to give him any reasonable assistance he may require.

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(8) A person exercising a power under this section must, if required to do so, produce a duly authenticated document showing his authority.

(9) Any person who intentionally obstructs another in the exercise of a power under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Commencement Information**

**I44** S. 15 in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(d)**

**I45** S. 15 in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(i)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 16 Distribution of functions in relation to registered adoption societies

After section 36 of the Care Standards Act 2000 (c. 14) there is inserted—

### "36A Voluntary adoption agencies: distribution of functions

(1) This section applies to functions relating to voluntary adoption agencies conferred on the registration authority by or under this Part or under Chapter 2 of Part 1 of the Adoption and Children Act 2002.

(2) Subject to the following provisions, functions to which this section applies are exercisable—

(a) where the principal office of an agency is in England, by the Commission,

(b) where the principal office of an agency is in Wales, by the Assembly.

(3) So far as those functions relate to the imposition, variation or removal of conditions of registration, they may only be exercised after consultation with the Assembly or (as the case may be) the Commission.

(4) But—

(a) where such a function as is mentioned in subsection (3) is exercisable by the Commission in relation to an agency which has a branch in Wales, it is exercisable only with the agreement of the Assembly,

(b) where such a function as is mentioned in subsection (3) is exercisable by the Assembly in relation to an agency which has a branch in England, it is exercisable only with the agreement of the Commission.

(5) The functions conferred on the registration authority by sections 31 and 32 of this Act in respect of any premises of a voluntary adoption agency are exercisable—

(a) where the premises are in England, by the Commission

(b) where the premises are in Wales, by the Assembly.

(6) In spite of subsections (2) to (5), regulations may provide for any function to which this section applies to be exercisable by the Commission instead of the Assembly, or by the Assembly instead of the Commission, or by one concurrently with the other, or by both jointly or by either with the agreement of or after consultation with the other.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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(7) In this section, "regulations" means regulations relating to England and Wales."

**Commencement Information**

**I46** S. 16 in force at 1.2.2003 for W. by S.I. 2003/181, **art. 2**

**I47** S. 16 in force at 25.2.2003 for specified purposes for E. by S.I. 2003/366, **art. 2(1)(a)**

**I48** S. 16 in force at 30.4.2003 for specified purposes for E. by S.I. 2003/366, **art. 2(4)(a)**

**I49** S. 16 in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(j)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

PROSPECTIVE

### [F25]17 Inquiries

. . . . . .

**Textual Amendments**

**F25** S. 17 repealed (7.6.2005) by Inquiries Act 2005 (c. 12), s. 51(1), Sch. 2 para. 23, **Sch. 3** (with ss. 44, 50); S.I. 2005/1432, art. 2

## CHAPTER 3

PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

*Placement of children by adoption agency for adoption*

### 18 Placement for adoption by agencies

(1) An adoption agency may—

(a) place a child for adoption with prospective adopters, or

(b) where it has placed a child with any persons (whether under this Part or not), leave the child with them as prospective adopters,

but, except in the case of a child who is less than six weeks old, may only do so under section 19 or a placement order.

(2) An adoption agency may only place a child for adoption with prospective adopters if the agency is satisfied that the child ought to be placed for adoption.

(3) A child who is placed or authorised to be placed for adoption with prospective adopters by a local authority is looked after by the authority.

(4) If an application for an adoption order has been made by any persons in respect of a child and has not been disposed of—

(a) an adoption agency which placed the child with those persons may leave the child with them until the application is disposed of, but

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(b) apart from that, the child may not be placed for adoption with any prospective adopters.

"Adoption order" includes a Scottish or Northern Irish adoption order.

(5) References in this Act (apart from this section) to an adoption agency placing a child for adoption—

(a) are to its placing a child for adoption with prospective adopters, and

(b) include, where it has placed a child with any persons (whether under this Act or not), leaving the child with them as prospective adopters;

and references in this Act (apart from this section) to a child who is placed for adoption by an adoption agency are to be interpreted accordingly.

(6) References in this Chapter to an adoption agency being, or not being, authorised to place a child for adoption are to the agency being or (as the case may be) not being authorised to do so under section 19 or a placement order.

(7) This section is subject to sections 30 to 35 (removal of children placed by adoption agencies).

**Modifications etc. (not altering text)**

**C5** S. 18(4) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(b)**, 52, 55

**Commencement Information**

**I50** S. 18 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 19 Placing children with parental consent

(1) Where an adoption agency is satisfied that each parent or guardian of a child has consented to the child—

(a) being placed for adoption with prospective adopters identified in the consent, or

(b) being placed for adoption with any prospective adopters who may be chosen by the agency,

and has not withdrawn the consent, the agency is authorised to place the child for adoption accordingly.

(2) Consent to a child being placed for adoption with prospective adopters identified in the consent may be combined with consent to the child subsequently being placed for adoption with any prospective adopters who may be chosen by the agency in circumstances where the child is removed from or returned by the identified prospective adopters.

(3) Subsection (1) does not apply where–

(a) an application has been made on which a care order might be made and the application has not been disposed of, or

(b) a care order or placement order has been made after the consent was given.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(4) References in this Act to a child placed for adoption under this section include a child who was placed under this section with prospective adopters and continues to be placed with them, whether or not consent to the placement has been withdrawn.

(5) This section is subject to section 52 (parental etc. consent).

**Modifications etc. (not altering text)**

**C6** S. 19 restricted by 1978 c. 28, s. 16(3D) (as inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 23** (with Sch. 4 paras. 6-8); S.S.I. 2005/643, art. 2(c))

**Commencement Information**

**I51** S. 19 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 20 Advance consent to adoption

(1) A parent or guardian of a child who consents to the child being placed for adoption by an adoption agency under section 19 may, at the same or any subsequent time, consent to the making of a future adoption order.

(2) Consent under this section—

(a) where the parent or guardian has consented to the child being placed for adoption with prospective adopters identified in the consent, may be consent to adoption by them, or

(b) may be consent to adoption by any prospective adopters who may be chosen by the agency.

(3) A person may withdraw any consent given under this section.

(4) A person who gives consent under this section may, at the same or any subsequent time, by notice given to the adoption agency—

(a) state that he does not wish to be informed of any application for an adoption order, or

(b) withdraw such a statement.

(5) A notice under subsection (4) has effect from the time when it is received by the adoption agency but has no effect if the person concerned has withdrawn his consent.

(6) This section is subject to section 52 (parental etc. consent).

**Modifications etc. (not altering text)**

**C7** S. 20 restricted by 1978 c. 28, s. 16(3D) (as inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 23** (with Sch. 4 paras. 6-8); S.S.I. 2005/643, art. 2(c))

**Commencement Information**

**I52** S. 20 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

## 21 Placement orders

(1) A placement order is an order made by the court authorising a local authority to place a child for adoption with any prospective adopters who may be chosen by the authority.

(2) The court may not make a placement order in respect of a child unless—
- (a) the child is subject to a care order,
- (b) the court is satisfied that the conditions in section 31(2) of the 1989 Act (conditions for making a care order) are met, or
- (c) the child has no parent or guardian.

(3) The court may only make a placement order if, in the case of each parent or guardian of the child, the court is satisfied—
- (a) that the parent or guardian has consented to the child being placed for adoption with any prospective adopters who may be chosen by the local authority and has not withdrawn the consent, or
- (b) that the parent's or guardian's consent should be dispensed with.

This subsection is subject to section 52 (parental etc. consent).

(4) A placement order continues in force until—
- (a) it is revoked under section 24,
- (b) an adoption order is made in respect of the child, or
- (c) the child marries **[**[F26], forms a civil partnership**]** or attains the age of 18 years.

"Adoption order" includes a Scottish or Northern Irish adoption order.

**Textual Amendments**

**F26** Words in s. 21(4)(c) inserted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(2)**, 263(2); S.I. 2005/3175, art. 2(9)

**Modifications etc. (not altering text)**

**C8** S. 21 restricted by 1978 c. 28, s. 16(3D) (as inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 23** (with Sch. 4 paras. 6-8); S.S.I. 2005/643, art. 2(c))

**C9** S. 21(4)(b) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(c)**, 52, 55

**Commencement Information**

**I53** S. 21 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 22 Applications for placement orders

(1) A local authority must apply to the court for a placement order in respect of a child if—
- (a) the child is placed for adoption by them or is being provided with accommodation by them,
- (b) no adoption agency is authorised to place the child for adoption,
- (c) the child has no parent or guardian or the authority consider that the conditions in section 31(2) of the 1989 Act are met, and
- (d) the authority are satisfied that the child ought to be placed for adoption.

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(2) If—

(a) an application has been made (and has not been disposed of) on which a care order might be made in respect of a child, or

(b) a child is subject to a care order and the appropriate local authority are not authorised to place the child for adoption,

the appropriate local authority must apply to the court for a placement order if they are satisfied that the child ought to be placed for adoption.

(3) If—

(a) a child is subject to a care order, and

(b) the appropriate local authority are authorised to place the child for adoption under section 19,

the authority may apply to the court for a placement order.

(4) If a local authority—

(a) are under a duty to apply to the court for a placement order in respect of a child, or

(b) have applied for a placement order in respect of a child and the application has not been disposed of,

the child is looked after by the authority.

(5) Subsections (1) to (3) do not apply in respect of a child—

(a) if any persons have given notice of intention to adopt, unless the period of four months beginning with the giving of the notice has expired without them applying for an adoption order or their application for such an order has been withdrawn or refused, or

(b) if an application for an adoption order has been made and has not been disposed of.

"Adoption order" includes a Scottish or Northern Irish adoption order.

(6) Where—

(a) an application for a placement order in respect of a child has been made and has not been disposed of, and

(b) no interim care order is in force,

the court may give any directions it considers appropriate for the medical or psychiatric examination or other assessment of the child; but a child who is of sufficient understanding to make an informed decision may refuse to submit to the examination or other assessment.

(7) The appropriate local authority—

(a) in relation to a care order, is the local authority in whose care the child is placed by the order, and

(b) in relation to an application on which a care order might be made, is the local authority which makes the application.

**Modifications etc. (not altering text)**

**C10** S. 22(5)(a)(b) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(d)**, 52, 55

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I54** S. 22 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 23 Varying placement orders

(1) The court may vary a placement order so as to substitute another local authority for the local authority authorised by the order to place the child for adoption.

(2) The variation may only be made on the joint application of both authorities.

**Commencement Information**

**I55** S. 23 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 24 Revoking placement orders

(1) The court may revoke a placement order on the application of any person.

(2) But an application may not be made by a person other than the child or the local authority authorised by the order to place the child for adoption unless—

(a) the court has given leave to apply, and

(b) the child is not placed for adoption by the authority.

(3) The court cannot give leave under subsection (2)(a) unless satisfied that there has been a change in circumstances since the order was made.

(4) If the court determines, on an application for an adoption order, not to make the order, it may revoke any placement order in respect of the child.

(5) Where—

(a) an application for the revocation of a placement order has been made and has not been disposed of, and

(b) the child is not placed for adoption by the authority,

the child may not without the court's leave be placed for adoption under the order.

**Modifications etc. (not altering text)**

**C11** S. 24(4) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(e)**, 52, 55

**Commencement Information**

**I56** S. 24 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 25 Parental responsibility

(1) This section applies while—

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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(a) a child is placed for adoption under section 19 or an adoption agency is authorised to place a child for adoption under that section, or

(b) a placement order is in force in respect of a child.

(2) Parental responsibility for the child is given to the agency concerned.

(3) While the child is placed with prospective adopters, parental responsibility is given to them.

(4) The agency may determine that the parental responsibility of any parent or guardian, or of prospective adopters, is to be restricted to the extent specified in the determination.

**Modifications etc. (not altering text)**

**C12** S. 25 extended (S.) (with modifications) by 1978 c. 28, s. 53B (as inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 30** (with Sch. 4 paras. 6-8); S.S.I. 2005/643, art. 2(c))

**C13** S. 25 extended (S.) (with modifications) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), **ss. 78**, 121(2); S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

**Commencement Information**

**I57** S. 25 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 26 Contact

(1) On an adoption agency being authorised to place a child for adoption, or placing a child for adoption who is less than six weeks old**[**[F27]—

(a) any contact provision in a child arrangements order under section 8 of the 1989 Act ceases to have effect,

(b) any order under section 34 of that Act (parental etc contact with children in care) ceases to have effect, and

(c) any activity direction made in proceedings for the making, variation or discharge of a child arrangements order with respect to the child, or made in other proceedings that relate to such an order, is discharged.**]**

(2) While an adoption agency is so authorised or a child is placed for adoption—

(a) no application may be made for**[**[F28]—

(i) a child arrangements order under section 8 of the 1989 Act containing contact provision, or

(ii) an order under section 34 of that Act, but**]**

(b) the court may make an order under this section requiring the person with whom the child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for the person named in the order and the child otherwise to have contact with each other.

(3) An application for an order under this section may be made by—

(a) the child or the agency,

(b) any parent, guardian or relative,

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(c) any person in whose favour there was provision [F29]... which ceased to have effect by virtue of subsection **[**[F30](1)(a) or an order which ceased to have effect by virtue of subsection (1)(b)**]**,

(d) if a **[**[F31]child arrangements**]** order was in force immediately before the adoption agency was authorised to place the child for adoption or (as the case may be) placed the child for adoption at a time when he was less than six weeks old, **[**[F32]any person named in the order as a person with whom the child was to live**]**,

(e) if a person had care of the child immediately before that time by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, that person,

(f) any person who has obtained the court's leave to make the application.

(4) When making a placement order, the court may on its own initiative make an order under this section.

[F33](5) . . . . . .

**[**[F34](5A) In this section "contact provision" means provision which regulates arrangements relating to—

(a) with whom a child is to spend time or otherwise have contact, or

(b) when a child is to spend time or otherwise have contact with any person;

but in paragraphs (a) and (b) a reference to spending time or otherwise having contact with a person is to doing that otherwise than as a result of living with the person.

(6) In this section "activity direction" has the meaning given by section 11A of the 1989 Act.**]**

**Textual Amendments**

**F27** S. 26(1)(a)-(c) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 60(2)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F28** Words in s. 26(2)(a) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 60(3)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F29** Words in s. 26(3)(c) omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 60(4)(a)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F30** Words in s. 26(3)(c) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 60(4)(b)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F31** Words in s. 26(3)(d) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 60(5)(a)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F32** Words in s. 26(3)(d) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 60(5)(b)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F33** S. 26(5) omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), **ss. 9(3)**, 139(6); S.I. 2014/889, art. 4(a) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F34** S. 26(5A)(6) substituted for s. 26(6) (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 60(7)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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**Modifications etc. (not altering text)**

**C14** S. 26 restricted by 1986 c. 55, s. 2(2B) (as inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 48** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o))

**Commencement Information**

**I58** S. 26 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 27 Contact: supplementary

(1) An order under section 26—

(a) has effect while the adoption agency is authorised to place the child for adoption or the child is placed for adoption, but

(b) may be varied or revoked by the court on an application by the child, the agency or a person named in the order.

(2) The agency may refuse to allow the contact that would otherwise be required by virtue of an order under that section if—

(a) it is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare, and

(b) the refusal is decided upon as a matter of urgency and does not last for more than seven days.

(3) Regulations may make provision as to—

(a) the steps to be taken by an agency which has exercised its power under subsection (2),

(b) the circumstances in which, and conditions subject to which, the terms of any order under section 26 may be departed from by agreement between the agency and any person for whose contact with the child the order provides,

(c) notification by an agency of any variation or suspension of arrangements made (otherwise than under an order under that section) with a view to allowing any person contact with the child.

(4) Before making a placement order the court must—

(a) consider the arrangements which the adoption agency has made, or proposes to make, for allowing any person contact with the child, and

(b) invite the parties to the proceedings to comment on those arrangements.

(5) An order under section 26 may provide for contact on any conditions the court considers appropriate.

**Commencement Information**

**I59** S. 27(1)(2)(4)(5) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I60** S. 27(3) in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I61** S. 27(3) in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(f)**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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## 28 Further consequences of placement

(1) Where a child is placed for adoption under section 19 or an adoption agency is authorised to place a child for adoption under that section—

(a) a parent or guardian of the child may not apply for a **[**[F35]child arrangements order regulating the child's living arrangements**]** unless an application for an adoption order has been made and the parent or guardian has obtained the court's leave under subsection (3) or (5) of section 47,

(b) if an application has been made for an adoption order, a guardian of the child may not apply for a special guardianship order unless he has obtained the court's leave under subsection (3) or (5) of that section.

(2) Where—

(a) a child is placed for adoption under section 19 or an adoption agency is authorised to place a child for adoption under that section, or

(b) a placement order is in force in respect of a child,

then (whether or not the child is in England and Wales) a person may not do either of the following things, unless the court gives leave or each parent or guardian of the child gives written consent.

(3) Those things are—

(a) causing the child to be known by a new surname, or

(b) removing the child from the United Kingdom.

(4) Subsection (3) does not prevent the removal of a child from the United Kingdom for a period of less than one month by a person who provides the child's home.

**[**[F36](5) For the purposes of subsection (1)(a), a child arrangements order regulates a child's living arrangements if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

(a) with whom the child is to live, and

(b) when the child is to live with any person.**]**

### Textual Amendments

**F35** Words in s. 28(1)(a) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 61(2)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F36** S. 28(5) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 61(3)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

### Modifications etc. (not altering text)

**C15** S. 28(1) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(f)**, 52, 55

**C16** S. 28(2) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **52**, 53

**C17** S. 28(2)-(4) extended (S.) (with modifications) by 1978 c. 28, s. 53B (as inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 30** (with Sch. 4 paras. 6-8); S.S.I. 2005/643, art. 2(c))

**C18** S. 28(2) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **6**, 7

**C19** S. 28(2)-(4) extended (S.) (with modifications) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), **ss. 78**, 121(2); S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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**Commencement Information**

**I62** S. 28 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 29 Further consequences of placement orders

(1) Where a placement order is made in respect of a child and either—

(a) the child is subject to a care order, or

(b) the court at the same time makes a care order in respect of the child,

the care order does not have effect at any time when the placement order is in force.

(2) On the making of a placement order in respect of a child, any order mentioned in section 8(1) of the 1989 Act, and any supervision order in respect of the child, ceases to have effect.

(3) Where a placement order is in force—

(a) no prohibited steps order[F37]... or specific issue order, and

(b) no supervision order or child assessment order,

may be made in respect of the child.

(4) **[**[F38]Where a placement order is in force, a child arrangements order may be made with respect to the child's living arrangements only if—**]**

(a) an application for an adoption order has been made in respect of the child, and

(b) the **[**[F39]child arrangements**]** order is applied for by a parent or guardian who has obtained the court's leave under subsection (3) or (5) of section 47 or by any other person who has obtained the court's leave under this subsection.

**[**[F40](4A) For the purposes of subsection (4), a child arrangements order is one made with respect to a child's living arrangements if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

(a) with whom the child is to live, and

(b) when the child is to live with any person.**]**

(5) Where a placement order is in force, no special guardianship order may be made in respect of the child unless—

(a) an application has been made for an adoption order, and

(b) the person applying for the special guardianship order has obtained the court's leave under this subsection or, if he is a guardian of the child, has obtained the court's leave under section 47(5).

(6) Section 14A(7) of the 1989 Act applies in respect of an application for a special guardianship order for which leave has been given as mentioned in subsection (5)(b) with the omission of the words "the beginning of the period of three months ending with".

(7) Where a placement order is in force—

(a) section 14C(1)(b) of the 1989 Act (special guardianship: parental responsibility) has effect subject to any determination under section 25(4) of this Act,

(b) section 14C(3) and (4) of the 1989 Act (special guardianship: removal of child from UK etc.) does not apply.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Textual Amendments**

**F37** Words in s. 29(3)(a) omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 62(2)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F38** Words in s. 29(4) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 62(3)(a)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F39** Words in s. 29(4)(b) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 62(3)(b)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F40** S. 29(4A) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 62(4)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**Modifications etc. (not altering text)**

**C20** S. 29(4)(a) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(g)**, 52, 55

**C21** S. 29(5)(a) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(g)**, 52, 55

**Commencement Information**

**I63** S. 29 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*Removal of children who are or may be placed by adoption agencies*

## 30 General prohibitions on removal

(1) Where—

(a) a child is placed for adoption by an adoption agency under section 19, or

(b) a child is placed for adoption by an adoption agency and either the child is less than six weeks old or the agency has at no time been authorised to place the child for adoption,

a person (other than the agency) must not remove the child from the prospective adopters.

(2) Where—

(a) a child who is not for the time being placed for adoption is being provided with accommodation by a local authority, and

(b) the authority have applied to the court for a placement order and the application has not been disposed of,

only a person who has the court's leave (or the authority) may remove the child from the accommodation.

(3) Where subsection (2) does not apply, but—

(a) a child who is not for the time being placed for adoption is being provided with accommodation by an adoption agency, and

(b) the agency is authorised to place the child for adoption under section 19 or would be so authorised if any consent to placement under that section had not been withdrawn,

a person (other than the agency) must not remove the child from the accommodation.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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(4) This section is subject to sections 31 to 33 but those sections do not apply if the child is subject to a care order.

(5) This group of sections (that is, this section and those sections) apply whether or not the child in question is in England and Wales.

(6) This group of sections does not affect the exercise by any local authority or other person of any power conferred by any enactment, other than section 20(8) of the 1989 Act (removal of children from local authority accommodation).

(7) This group of sections does not prevent the removal of a child who is arrested.

(8) A person who removes a child in contravention of this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

**Commencement Information**

**I64** S. 30 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 31 Recovery by parent etc. where child not placed or is a baby

(1) Subsection (2) applies where—

(a) a child who is not for the time being placed for adoption is being provided with accommodation by an adoption agency, and

(b) the agency would be authorised to place the child for adoption under section 19 if consent to placement under that section had not been withdrawn.

(2) If any parent or guardian of the child informs the agency that he wishes the child to be returned to him, the agency must return the child to him within the period of seven days beginning with the request unless an application is, or has been, made for a placement order and the application has not been disposed of.

(3) Subsection (4) applies where—

(a) a child is placed for adoption by an adoption agency and either the child is less than six weeks old or the agency has at no time been authorised to place the child for adoption, and

(b) any parent or guardian of the child informs the agency that he wishes the child to be returned to him,

unless an application is, or has been, made for a placement order and the application has not been disposed of.

(4) The agency must give notice of the parent's or guardian's wish to the prospective adopters who must return the child to the agency within the period of seven days beginning with the day on which the notice is given.

(5) A prospective adopter who fails to comply with subsection (4) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(6) As soon as a child is returned to an adoption agency under subsection (4), the agency must return the child to the parent or guardian in question.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I65** S. 31 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 32 Recovery by parent etc. where child placed and consent withdrawn

(1) This section applies where—

(a) a child is placed for adoption by an adoption agency under section 19, and

(b) consent to placement under that section has been withdrawn,

unless an application is, or has been, made for a placement order and the application has not been disposed of.

(2) If a parent or guardian of the child informs the agency that he wishes the child to be returned to him—

(a) the agency must give notice of the parent's or guardian's wish to the prospective adopters, and

(b) the prospective adopters must return the child to the agency within the period of 14 days beginning with the day on which the notice is given.

(3) A prospective adopter who fails to comply with subsection (2)(b) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(4) As soon as a child is returned to an adoption agency under this section, the agency must return the child to the parent or guardian in question.

(5) Where a notice under subsection (2) is given, but—

**[**[F41](a) before the notice was given, an application—

(i) for an adoption order (including a Scottish or Northern Irish adoption order),

(ii) for a special guardianship order,

(iii) for a child arrangements order to which subsection (6) applies, or

(iv) for permission to apply for an order within sub-paragraph (ii) or (iii),

was made in respect of the child, and

(b) the application (and, in a case where permission is given on an application to apply for an order within paragraph (a)(ii) or (iii), the application for the order) has not been disposed of,**]**

the prospective adopters are not required by virtue of the notice to return the child to the agency unless the court so orders.

**[**[F42](6) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—

(a) with whom a child is to live, and

(b) when the child is to live with any person.**]**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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**Textual Amendments**

**F41** S. 32(5)(a)(b) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 63(2)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F42** S. 32(6) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 63(3)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**Modifications etc. (not altering text)**

**C22** S. 32(5) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(h)**, 52, 55

**Commencement Information**

**I66** S. 32 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 33 Recovery by parent etc. where child placed and placement order refused

(1) This section applies where—

(a) a child is placed for adoption by a local authority under section 19,

(b) the authority have applied for a placement order and the application has been refused, and

(c) any parent or guardian of the child informs the authority that he wishes the child to be returned to him.

(2) The prospective adopters must return the child to the authority on a date determined by the court.

(3) A prospective adopter who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(4) As soon as a child is returned to the authority, they must return the child to the parent or guardian in question.

**Commencement Information**

**I67** S. 33 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 34 Placement orders: prohibition on removal

(1) Where a placement order in respect of a child—

(a) is in force, or

(b) has been revoked, but the child has not been returned by the prospective adopters or remains in any accommodation provided by the local authority,

a person (other than the local authority) may not remove the child from the prospective adopters or from accommodation provided by the authority.

(2) A person who removes a child in contravention of subsection (1) is guilty of an offence.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(3) Where a court revoking a placement order in respect of a child determines that the child is not to remain with any former prospective adopters with whom the child is placed, they must return the child to the local authority within the period determined by the court for the purpose; and a person who fails to do so is guilty of an offence.

(4) Where a court revoking a placement order in respect of a child determines that the child is to be returned to a parent or guardian, the local authority must return the child to the parent or guardian as soon as the child is returned to the authority or, where the child is in accommodation provided by the authority, at once.

(5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(6) This section does not affect the exercise by any local authority or other person of a power conferred by any enactment, other than section 20(8) of the 1989 Act.

(7) This section does not prevent the removal of a child who is arrested.

(8) This section applies whether or not the child in question is in England and Wales.

**Commencement Information**

**I68** S. 34 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 35 Return of child in other cases

(1) Where a child is placed for adoption by an adoption agency and the prospective adopters give notice to the agency of their wish to return the child, the agency must—

(a) receive the child from the prospective adopters before the end of the period of seven days beginning with the giving of the notice, and

(b) give notice to any parent or guardian of the child of the prospective adopters' wish to return the child.

(2) Where a child is placed for adoption by an adoption agency, and the agency—

(a) is of the opinion that the child should not remain with the prospective adopters, and

(b) gives notice to them of its opinion,

the prospective adopters must, not later than the end of the period of seven days beginning with the giving of the notice, return the child to the agency.

(3) If the agency gives notice under subsection (2)(b), it must give notice to any parent or guardian of the child of the obligation to return the child to the agency.

(4) A prospective adopter who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(5) Where—

(a) an adoption agency gives notice under subsection (2) in respect of a child,

[F43(b) before the notice was given, an application—

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(i) for an adoption order (including a Scottish or Northern Irish adoption order),

(ii) for a special guardianship order,

(iii) for a child arrangements order to which subsection (5A) applies, or

(iv) for permission to apply for an order within sub-paragraph (ii) or (iii),

was made in respect of the child, and

(c) the application (and, in a case where permission is given on an application to apply for an order within paragraph (b)(ii) or (iii), the application for the order) has not been disposed of,**]**

prospective adopters are not required by virtue of the notice to return the child to the agency unless the court so orders.

**[**[F44](5A) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—

(a) with whom a child is to live, and

(b) when a child is to live with any person.**]**

(6) This section applies whether or not the child in question is in England and Wales.

**Textual Amendments**

**F43** S. 35(5)(b)(c) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 64(2)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**F44** S. 35(5A) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 64(3)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**Modifications etc. (not altering text)**

**C23** S. 35 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **6**, 8

**C24** S. 35(5) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(2)**, 52, 55

**Commencement Information**

**I69** S. 35 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*Removal of children in non-agency cases*

## 36 Restrictions on removal

(1) At any time when a child's home is with any persons ("the people concerned") with whom the child is not placed by an adoption agency, but the people concerned—

(a) have applied for an adoption order in respect of the child and the application has not been disposed of,

(b) have given notice of intention to adopt, or

(c) have applied for leave to apply for an adoption order under section 42(6) and the application has not been disposed of,

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

a person may remove the child only in accordance with the provisions of this group of sections (that is, this section and sections 37 to 40).

The reference to a child placed by an adoption agency includes a child placed by a Scottish or Northern Irish adoption agency.

(2) For the purposes of this group of sections, a notice of intention to adopt is to be disregarded if—
  (a) the period of four months beginning with the giving of the notice has expired without the people concerned applying for an adoption order, or
  (b) the notice is a second or subsequent notice of intention to adopt and was given during the period of five months beginning with the giving of the preceding notice.

(3) For the purposes of this group of sections, if the people concerned apply for leave to apply for an adoption order under section 42(6) and the leave is granted, the application for leave is not to be treated as disposed of until the period of three days beginning with the granting of the leave has expired.

(4) This section does not prevent the removal of a child who is arrested.

(5) Where a parent or guardian may remove a child from the people concerned in accordance with the provisions of this group of sections, the people concerned must at the request of the parent or guardian return the child to the parent or guardian at once.

(6) A person who—
  (a) fails to comply with subsection (5), or
  (b) removes a child in contravention of this section,

is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(7) This group of sections applies whether or not the child in question is in England and Wales.

**Modifications etc. (not altering text)**

**C25** S. 36 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **52**, 54(2)(a)

**C26** Ss. 36-40 excluded (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **54(1)**

**C27** S. 36(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C28** S. 36(2) excluded (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **6(b)**

**C29** S. 36(4) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C30** S. 36(5) excluded (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **6(b)**

**C31** S. 36(6)(7) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I70** S. 36 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 37 Applicants for adoption

If section 36(1)(a) applies, the following persons may remove the child—

(a) a person who has the court's leave,

(b) a local authority or other person in the exercise of a power conferred by any enactment, other than section 20(8) of the 1989 Act.

**Modifications etc. (not altering text)**

**C26** Ss. 36-40 excluded (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **54(1)**

**C32** S. 37 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I71** S. 37 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 38 Local authority foster parents

(1) This section applies if the child's home is with local authority foster parents.

(2) If—

(a) the child has had his home with the foster parents at all times during the period of five years ending with the removal and the foster parents have given notice of intention to adopt, or

(b) an application has been made for leave under section 42(6) and has not been disposed of,

the following persons may remove the child.

(3) They are—

(a) a person who has the court's leave,

(b) a local authority or other person in the exercise of a power conferred by any enactment, other than section 20(8) of the 1989 Act.

(4) If subsection (2) does not apply but—

(a) the child has had his home with the foster parents at all times during the period of one year ending with the removal, and

(b) the foster parents have given notice of intention to adopt,

the following persons may remove the child.

(5) They are—

(a) a person with parental responsibility for the child who is exercising the power in section 20(8) of the 1989 Act,

(b) a person who has the court's leave,

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(c) a local authority or other person in the exercise of a power conferred by any enactment, other than section 20(8) of the 1989 Act.

**Modifications etc. (not altering text)**

**C26** Ss. 36-40 excluded (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **54(1)**

**Commencement Information**

**I72** S. 38 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 39 Partners of parents

(1) This section applies if a child's home is with a partner of a parent and the partner has given notice of intention to adopt.

(2) If the child's home has been with the partner for not less than three years (whether continuous or not) during the period of five years ending with the removal, the following persons may remove the child—

(a) a person who has the court's leave,

(b) a local authority or other person in the exercise of a power conferred by any enactment, other than section 20(8) of the 1989 Act.

(3) If subsection (2) does not apply, the following persons may remove the child—

(a) a parent or guardian,

(b) a person who has the court's leave,

(c) a local authority or other person in the exercise of a power conferred by any enactment, other than section 20(8) of the 1989 Act.

**Modifications etc. (not altering text)**

**C26** Ss. 36-40 excluded (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **54(1)**

**C33** S. 39 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **52**, 54(2)(b)

**C34** S. 39(3)(a) excluded (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **6(b)**

**Commencement Information**

**I73** S. 39 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 40 Other non-agency cases

(1) In any case where sections 37 to 39 do not apply but—

(a) the people concerned have given notice of intention to adopt, or

(b) the people concerned have applied for leave under section 42(6) and the application has not been disposed of,

the following persons may remove the child.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(2) They are—

(a) a person who has the court's leave,

(b) a local authority or other person in the exercise of a power conferred by any enactment, other than section 20(8) of the 1989 Act.

**Modifications etc. (not altering text)**

**C26** Ss. 36-40 excluded (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **54(1)**

**Commencement Information**

**I74** S. 40 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*Breach of restrictions on removal*

## 41 Recovery orders

(1) This section applies where it appears to the court—

(a) that a child has been removed in contravention of any of the preceding provisions of this Chapter or that there are reasonable grounds for believing that a person intends to remove a child in contravention of those provisions, or

(b) that a person has failed to comply with section 31(4), 32(2), 33(2), 34(3) or 35(2).

(2) The court may, on the application of any person, by an order—

(a) direct any person who is in a position to do so to produce the child on request to any person mentioned in subsection (4),

(b) authorise the removal of the child by any person mentioned in that subsection,

(c) require any person who has information as to the child's whereabouts to disclose that information on request to any constable or officer of the court,

(d) authorise a constable to enter any premises specified in the order and search for the child, using reasonable force if necessary.

(3) Premises may only be specified under subsection (2)(d) if it appears to the court that there are reasonable grounds for believing the child to be on them.

(4) The persons referred to in subsection (2) are—

(a) any person named by the court,

(b) any constable,

(c) any person who, after the order is made under that subsection, is authorised to exercise any power under the order by an adoption agency which is authorised to place the child for adoption.

(5) A person who intentionally obstructs a person exercising a power of removal conferred by the order is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(6) A person must comply with a request to disclose information as required by the order even if the information sought might constitute evidence that he had committed an offence.

(7) But in criminal proceedings in which the person is charged with an offence (other than one mentioned in subsection (8))—

(a) no evidence relating to the information provided may be adduced, and

(b) no question relating to the information may be asked,

by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of the person.

(8) The offences excluded from subsection (7) are—

(a) an offence under section 2 or 5 of the Perjury Act 1911 (c. 6) (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath),

(b) an offence under section 44(1) or (2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (false statements made on oath or otherwise than on oath).

(9) An order under this section has effect in relation to Scotland as if it were an order made by the Court of Session which that court had jurisdiction to make.

**Modifications etc. (not altering text)**

**C35** S. 41 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I75** S. 41(1)-(4) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I76** S. 41(5)-(9) in force at 30.12.2005 for E.W. by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I77** S. 41(5)-(9) in force at 30.12.2005 in so far as not already in force by S.S.I. 2005/643, **art. 2(a)**

*Preliminaries to adoption*

## 42 Child to live with adopters before application

(1) An application for an adoption order may not be made unless—

(a) if subsection (2) applies, the condition in that subsection is met,

(b) if that subsection does not apply, the condition in whichever is applicable of subsections (3) to (5) applies.

(2) If —

(a) the child was placed for adoption with the applicant or applicants by an adoption agency or in pursuance of an order of the High Court, or

(b) the applicant is a parent of the child,

the condition is that the child must have had his home with the applicant or, in the case of an application by a couple, with one or both of them at all times during the period of ten weeks preceding the application.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(3) If the applicant or one of the applicants is the partner of a parent of the child, the condition is that the child must have had his home with the applicant or, as the case may be, applicants at all times during the period of six months preceding the application.

(4) If the applicants are local authority foster parents, the condition is that the child must have had his home with the applicants at all times during the period of one year preceding the application.

(5) In any other case, the condition is that the child must have had his home with the applicant or, in the case of an application by a couple, with one or both of them for not less than three years (whether continuous or not) during the period of five years preceding the application.

(6) But subsections (4) and (5) do not prevent an application being made if the court gives leave to make it.

(7) An adoption order may not be made unless the court is satisfied that sufficient opportunities to see the child with the applicant or, in the case of an application by a couple, both of them together in the home environment have been given—

(a) where the child was placed for adoption with the applicant or applicants by an adoption agency, to that agency,

(b) in any other case, to the local authority within whose area the home is.

(8) In this section and sections 43 and 44(1)—

(a) references to an adoption agency include a Scottish or Northern Irish adoption agency,

(b) references to a child placed for adoption by an adoption agency are to be read accordingly.

**Modifications etc. (not altering text)**

**C36** S. 42 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **6**, 9(1)

**C37** S. 42 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **6**, 9(2)

**C38** S. 42 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **52**, 56

**C39** S. 42(7) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(i)**, 52, 55

**Commencement Information**

**I78** S. 42 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 43 Reports where child placed by agency

Where an application for an adoption order relates to a child placed for adoption by an adoption agency, the agency must—

(a) submit to the court a report on the suitability of the applicants and on any other matters relevant to the operation of section 1, and

(b) assist the court in any manner the court directs.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)**

**C40** S. 43 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(j)**, 52, 55

**Commencement Information**

**I79** S. 43 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 44 Notice of intention to adopt

(1) This section applies where persons (referred to in this section as "proposed adopters") wish to adopt a child who is not placed for adoption with them by an adoption agency.

(2) An adoption order may not be made in respect of the child unless the proposed adopters have given notice to the appropriate local authority of their intention to apply for the adoption order (referred to in this Act as a "notice of intention to adopt").

(3) The notice must be given not more than two years, or less than three months, before the date on which the application for the adoption order is made.

(4) Where—

(a) if a person were seeking to apply for an adoption order, subsection (4) or (5) of section 42 would apply, but

(b) the condition in the subsection in question is not met,

the person may not give notice of intention to adopt unless he has the court's leave to apply for an adoption order.

(5) On receipt of a notice of intention to adopt, the local authority must arrange for the investigation of the matter and submit to the court a report of the investigation.

(6) In particular, the investigation must, so far as practicable, include the suitability of the proposed adopters and any other matters relevant to the operation of section 1 in relation to the application.

(7) If a local authority receive a notice of intention to adopt in respect of a child whom they know was (immediately before the notice was given) looked after by another local authority, they must, not more than seven days after the receipt of the notice, inform the other local authority in writing that they have received the notice.

(8) Where—

(a) a local authority have placed a child with any persons otherwise than as prospective adopters, and

(b) the persons give notice of intention to adopt,

the authority are not to be treated as leaving the child with them as prospective adopters for the purposes of section 18(1)(b).

(9) In this section, references to the appropriate local authority, in relation to any proposed adopters, are—

(a) in prescribed cases, references to the prescribed local authority,

(b) in any other case, references to the local authority for the area in which, at the time of giving the notice of intention to adopt, they have their home,

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

and "prescribed" means prescribed by regulations.

**Modifications etc. (not altering text)**

**C41** S. 44 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **52**, 57

**C42** S. 44(2) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(k)**, 52, 55

**Commencement Information**

**I80** S. 44 in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(iv)**

**I81** S. 44 in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 45 Suitability of adopters

(1) Regulations under section 9 may make provision as to the matters to be taken into account by an adoption agency in determining, or making any report in respect of, the suitability of any persons to adopt a child.

(2) In particular, the regulations may make provision for the purpose of securing that, in determining the suitability of a couple to adopt a child, proper regard is had to the need for stability and permanence in their relationship.

**Commencement Information**

**I82** S. 45 in force at 7.12.2004 by S.I. 2004/3203, **art. 2(1)(g)**

*The making of adoption orders*

## 46 Adoption orders

(1) An adoption order is an order made by the court on an application under section 50 or 51 giving parental responsibility for a child to the adopters or adopter.

(2) The making of an adoption order operates to extinguish—

(a) the parental responsibility which any person other than the adopters or adopter has for the adopted child immediately before the making of the order,

(b) any order under the 1989 Act or the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)),

(c) any order under the Children (Scotland) Act 1995 (c. 36) other than an excepted order, and

**[**[F45](ca) any child assessment order or child protection order within the meaning given in section 202(1) of the Children's Hearing (Scotland) Act 2011,**]**

(d) any duty arising by virtue of an agreement or an order of a court to make payments, so far as the payments are in respect of the adopted child's maintenance or upbringing for any period after the making of the adoption order.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

"Excepted order" means an order under section 9, 11(1)(d) or 13 of the Children (Scotland) Act 1995 or an exclusion order within the meaning of section 76(1) of that Act.

(3) An adoption order—

(a) does not affect parental responsibility so far as it relates to any period before the making of the order, and

(b) in the case of an order made on an application under section 51(2) by the partner of a parent of the adopted child, does not affect the parental responsibility of that parent or any duties of that parent within subsection (2)(d).

(4) Subsection (2)(d) does not apply to a duty arising by virtue of an agreement—

(a) which constitutes a trust, or

(b) which expressly provides that the duty is not to be extinguished by the making of an adoption order.

(5) An adoption order may be made even if the child to be adopted is already an adopted child.

(6) Before making an adoption order, the court must consider whether there should be arrangements for allowing any person contact with the child; and for that purpose the court must consider any existing or proposed arrangements and obtain any views of the parties to the proceedings.

**Textual Amendments**

**F45** S. 46(2)(ca) inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 1 para. 9**

**Modifications etc. (not altering text)**

**C43** S. 46(1)-(4) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I83** S. 46 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 47 Conditions for making adoption orders

(1) An adoption order may not be made if the child has a parent or guardian unless one of the following three conditions is met; but this section is subject to section 52 (parental etc. consent).

(2) The first condition is that, in the case of each parent or guardian of the child, the court is satisfied—

(a) that the parent or guardian consents to the making of the adoption order,

(b) that the parent or guardian has consented under section 20 (and has not withdrawn the consent) and does not oppose the making of the adoption order, or

(c) that the parent's or guardian's consent should be dispensed with.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(3) A parent or guardian may not oppose the making of an adoption order under subsection (2)(b) without the court's leave.

(4) The second condition is that—

(a) the child has been placed for adoption by an adoption agency with the prospective adopters in whose favour the order is proposed to be made,

(b) either—

(i) the child was placed for adoption with the consent of each parent or guardian and the consent of the mother was given when the child was at least six weeks old, or

(ii) the child was placed for adoption under a placement order, and

(c) no parent or guardian opposes the making of the adoption order.

(5) A parent or guardian may not oppose the making of an adoption order under the second condition without the court's leave.

(6) The third condition is that the child**[**[F46]—

(a) is the subject of a Scottish permanence order which includes provision granting authority for the child to be adopted, or

(b) is free for adoption by virtue of an order made,**]** under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)).

(7) The court cannot give leave under subsection (3) or (5) unless satisfied that there has been a change in circumstances since the consent of the parent or guardian was given or, as the case may be, the placement order was made.

(8) An adoption order may not be made in relation to a person who is or has been married.

**[**[F47](8A) An adoption order may not be made in relation to a person who is or has been a civil partner.**]**

(9) An adoption order may not be made in relation to a person who has attained the age of 19 years.

**[**[F48](10) In this section, "Scottish permanence order" means a permanence order under section 80 of the Adoption and Children (Scotland) Act 2007 (asp 4) (including a deemed permanence order having effect by virtue of article 13(1), 14(2), 17(1) or 19(2) of the Adoption and Children (Scotland) Act 2007 (Commencement No. 4, Transitional and Savings Provisions) Order 2009 (S.S.I. 2009/267)).**]**

**Textual Amendments**

**F46** Words in s. 47(6) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(2)(a)**

**F47** S. 47(8A) inserted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(3)**, 263(2); S.I. 2005/3175, art. 2(9)

**F48** S. 47(10) inserted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(2)(b)**

**Modifications etc. (not altering text)**

**C44** S. 47(1)-(5) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(l)**, 52, 55

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**C45** S. 47(6) modified (2.11.2010) by The Adoption and Children (Scotland) Act 2007 (Consequential Provisions) Order 2010 (S.I. 2010/2469), arts. 1(1), **3**

**C46** S. 47(8)(9) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(l)**, 52, 55

**Commencement Information**

**I84** S. 47 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 48 Restrictions on making adoption orders

(1) The court may not hear an application for an adoption order in relation to a child, where a previous application to which subsection (2) applies made in relation to the child by the same persons was refused by any court, unless it appears to the court that, because of a change in circumstances or for any other reason, it is proper to hear the application.

(2) This subsection applies to any application—

(a) for an adoption order or a Scottish or Northern Irish adoption order, or

(b) for an order for adoption made in the Isle of Man or any of the Channel Islands.

**Modifications etc. (not altering text)**

**C47** S. 48 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C48** S. 48(1) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(m)**, 52, 55

**Commencement Information**

**I85** S. 48 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 49 Applications for adoption

(1) An application for an adoption order may be made by—

(a) a couple, or

(b) one person,

but only if it is made under section 50 or 51 and one of the following conditions is met.

(2) The first condition is that at least one of the couple (in the case of an application under section 50) or the applicant (in the case of an application under section 51) is domiciled in a part of the British Islands.

(3) The second condition is that both of the couple (in the case of an application under section 50) or the applicant (in the case of an application under section 51) have been habitually resident in a part of the British Islands for a period of not less than one year ending with the date of the application.

(4) An application for an adoption order may only be made if the person to be adopted has not attained the age of 18 years on the date of the application.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(5) References in this Act to a child, in connection with any proceedings (whether or not concluded) for adoption, (such as "child to be adopted" or "adopted child") include a person who has attained the age of 18 years before the proceedings are concluded.

**Modifications etc. (not altering text)**

**C49** S. 49 applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **52**, 58

**Commencement Information**

**I86** S. 49 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 50 Adoption by couple

(1) An adoption order may be made on the application of a couple where both of them have attained the age of 21 years.

(2) An adoption order may be made on the application of a couple where—

(a) one of the couple is the mother or the father of the person to be adopted and has attained the age of 18 years, and

(b) the other has attained the age of 21 years.

**Modifications etc. (not altering text)**

**C50** S. 50(1)(2) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(n)**, 52, 55

**Commencement Information**

**I87** S. 50 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 51 Adoption by one person

(1) An adoption order may be made on the application of one person who has attained the age of 21 years and is not married **[**[F49]or a civil partner**]**.

(2) An adoption order may be made on the application of one person who has attained the age of 21 years if the court is satisfied that the person is the partner of a parent of the person to be adopted.

(3) An adoption order may be made on the application of one person who has attained the age of 21 years and is married if the court is satisfied that—

(a) the person's spouse cannot be found,

(b) the spouses have separated and are living apart, and the separation is likely to be permanent, or

(c) the person's spouse is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**[**[F50](3A) An adoption order may be made on the application of one person who has attained the age of 21 years and is a civil partner if the court is satisfied that—

(a) the person's civil partner cannot be found,

(b) the civil partners have separated and are living apart, and the separation is likely to be permanent, or

(c) the person's civil partner is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.**]**

(4) An adoption order may not be made on an application under this section by the mother or the father of the person to be adopted unless the court is satisfied that—

(a) the other natural parent is dead or cannot be found,

**[**[F51](b) by virtue of the provisions specified in subsection (5), there is no other parent, or**]**

(c) there is some other reason justifying the child's being adopted by the applicant alone,

and, where the court makes an adoption order on such an application, the court must record that it is satisfied as to the fact mentioned in paragraph (a) or (b) or, in the case of paragraph (c), record the reason.

**[**[F52](5) The provisions referred to in subsection (4)(b) are—

(a) section 28 of the Human Fertilisation and Embryology Act 1990 (disregarding subsections (5A) to (5I) of that section), or

(b) sections 34 to 47 of the Human Fertilisation and Embryology Act 2008 (disregarding sections 39, 40 and 46 of that Act).**]**

**Textual Amendments**

**F49** Words in s. 51(1) inserted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(4)**, 263(2); S.I. 2005/3175, art. 2(9)

**F50** S. 51(3A) inserted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(5)**, 263(2); S.I. 2005/3175, art. 2(9)

**F51** S. 51(4)(b) substituted (6.4.2009 for specified purposes, 1.9.2009 in so far as not already in force) by Human Fertilisation and Embryology Act 2008 (c. 22), s. 68(2), **Sch. 6 para. 39(2)**; S.I. 2009/479, art. 6(1)(e)(2) (with art. 7, Sch.)

**F52** S. 51(5) inserted (6.4.2009 for specified purposes, 1.9.2009 in so far as not already in force) by Human Fertilisation and Embryology Act 2008 (c. 22), s. 68(2), **Sch. 6 para. 39(3)**; S.I. 2009/479, art. 6(1)(e)(2) (with art. 7, Sch.)

**Modifications etc. (not altering text)**

**C51** S. 51(1)-(4) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(o)**, 52, 55

**Commencement Information**

**I88** S. 51 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

## *[F53 Post-adoption contact*

**Textual Amendments**

**F53** Ss. 51A, 51B and cross-heading inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 9(1)**, 139(6); S.I. 2014/889, art. 4(a) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

### 51A Post-adoption contact

(1) This section applies where—

(a) an adoption agency has placed or was authorised to place a child for adoption, and

(b) the court is making or has made an adoption order in respect of the child.

(2) When making the adoption order or at any time afterwards, the court may make an order under this section—

(a) requiring the person in whose favour the adoption order is or has been made to allow the child to visit or stay with the person named in the order under this section, or for the person named in that order and the child otherwise to have contact with each other, or

(b) prohibiting the person named in the order under this section from having contact with the child.

(3) The following people may be named in an order under this section—

(a) any person who (but for the child's adoption) would be related to the child by blood (including half-blood), marriage or civil partnership;

(b) any former guardian of the child;

(c) any person who had parental responsibility for the child immediately before the making of the adoption order;

(d) any person who was entitled to make an application for an order under section 26 in respect of the child (contact with children placed or to be placed for adoption) by virtue of subsection (3)(c), (d) or (e) of that section;

(e) any person with whom the child has lived for a period of at least one year.

(4) An application for an order under this section may be made by—

(a) a person who has applied for the adoption order or in whose favour the adoption order is or has been made,

(b) the child, or

(c) any person who has obtained the court's leave to make the application.

(5) In deciding whether to grant leave under subsection (4)(c), the court must consider—

(a) any risk there might be of the proposed application disrupting the child's life to such an extent that he or she would be harmed by it (within the meaning of the 1989 Act),

(b) the applicant's connection with the child, and

(c) any representations made to the court by—

(i) the child, or

(ii) a person who has applied for the adoption order or in whose favour the adoption order is or has been made.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(6) When making an adoption order, the court may on its own initiative make an order of the type mentioned in subsection (2)(b).

(7) The period of one year mentioned in subsection (3)(e) need not be continuous but must not have begun more than five years before the making of the application.

(8) Where this section applies, an order under section 8 of the 1989 Act may not make provision about contact between the child and any person who may be named in an order under this section.

### 51B Orders under section 51A: supplementary

(1) An order under section 51A—
- (a) may contain directions about how it is to be carried into effect,
- (b) may be made subject to any conditions the court thinks appropriate,
- (c) may be varied or revoked by the court on an application by the child, a person in whose favour the adoption order was made or a person named in the order, and
- (d) has effect until the child's 18th birthday, unless revoked.

(2) Subsection (3) applies to proceedings—
- (a) on an application for an adoption order in which—
  - (i) an application is made for an order under section 51A, or
  - (ii) the court indicates that it is considering making such an order on its own initiative;
- (b) on an application for an order under section 51A;
- (c) on an application for such an order to be varied or revoked.

(3) The court must (in the light of any rules made by virtue of subsection (4))—
- (a) draw up a timetable with a view to determining without delay whether to make, (or as the case may be) vary or revoke an order under section 51A, and
- (b) give directions for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.

(4) Rules of court may—
- (a) specify periods within which specified steps must be taken in relation to proceedings to which subsection (3) applies, and
- (b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that the court makes determinations about orders under section 51A without delay.**]**

*Placement and adoption: general*

### 52 Parental etc. consent

(1) The court cannot dispense with the consent of any parent or guardian of a child to the child being placed for adoption or to the making of an adoption order in respect of the child unless the court is satisfied that—
- (a) the parent or guardian cannot be found or **[**[F54]lacks capacity (within the meaning of the Mental Capacity Act 2005) to give consent**]**, or

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(b) the welfare of the child requires the consent to be dispensed with.

(2) The following provisions apply to references in this Chapter to any parent or guardian of a child giving or withdrawing—

(a) consent to the placement of a child for adoption, or

(b) consent to the making of an adoption order (including a future adoption order).

(3) Any consent given by the mother to the making of an adoption order is ineffective if it is given less than six weeks after the child's birth.

(4) The withdrawal of any consent to the placement of a child for adoption, or of any consent given under section 20, is ineffective if it is given after an application for an adoption order is made.

(5) "Consent" means consent given unconditionally and with full understanding of what is involved; but a person may consent to adoption without knowing the identity of the persons in whose favour the order will be made.

(6) "Parent" (except in subsections (9) and (10) below) means a parent having parental responsibility.

(7) Consent under section 19 or 20 must be given in the form prescribed by rules, and the rules may prescribe forms in which a person giving consent under any other provision of this Part may do so (if he wishes).

(8) Consent given under section 19 or 20 must be withdrawn—

(a) in the form prescribed by rules, or

(b) by notice given to the agency.

(9) Subsection (10) applies if—

(a) an agency has placed a child for adoption under section 19 in pursuance of consent given by a parent of the child, and

(b) at a later time, the other parent of the child acquires parental responsibility for the child.

(10) The other parent is to be treated as having at that time given consent in accordance with this section in the same terms as those in which the first parent gave consent.

**Textual Amendments**

**F54** Words in s. 52(1)(a) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), s. 68(1), **Sch. 6 para. 45** (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(d)

**Modifications etc. (not altering text)**

**C52** S. 52(1)-(4) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(p)**, 52, 55

**Commencement Information**

**I89** S. 52 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 53 Modification of 1989 Act in relation to adoption

(1) Where—

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(a) a local authority are authorised to place a child for adoption, or
(b) a child who has been placed for adoption by a local authority is less than six weeks old,

regulations may provide for the following provisions of the 1989 Act to apply with modifications, or not to apply, in relation to the child.

(2) The provisions are—
(a) section 22(4)(b), (c) and (d) and (5)(b) (duty to ascertain wishes and feelings of certain persons),
(b) paragraphs 15 and 21 of Schedule 2 (promoting contact with parents and parents' obligation to contribute towards maintenance).

(3) Where a registered adoption society is authorised to place a child for adoption or a child who has been placed for adoption by a registered adoption society is less than six weeks old, regulations may provide—
(a) for section 61 of that Act to have effect in relation to the child whether or not he is accommodated by or on behalf of the society,
(b) for subsections (2)(b) to (d) and (3)(b) of that section (duty to ascertain wishes and feelings of certain persons) to apply with modifications, or not to apply, in relation to the child.

(4) Where a child's home is with persons who have given notice of intention to adopt, no contribution is payable (whether under a contribution order or otherwise) under Part 3 of Schedule 2 to that Act (contributions towards maintenance of children looked after by local authorities) in respect of the period referred to in subsection (5).

(5) That period begins when the notice of intention to adopt is given and ends if—
(a) the period of four months beginning with the giving of the notice expires without the prospective adopters applying for an adoption order, or
(b) an application for such an order is withdrawn or refused.

(6) In this section, "notice of intention to adopt" includes notice of intention to apply for a Scottish or Northern Irish adoption order.

**Modifications etc. (not altering text)**

**C53** S. 53(5) applied (with modifications) (30.12.2005) by The Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392), regs. 1(1), **11(1)(q)**, 52, 55

**Commencement Information**

**I90** S. 53(1)-(3) in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I91** S. 53(1)-(3) in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(h)**

**I92** S. 53(4)-(6) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 54 Disclosing information during adoption process

Regulations under section 9 may require adoption agencies in prescribed circumstances to disclose in accordance with the regulations prescribed information to prospective adopters.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I93** S. 54 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I94** S. 54 in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(i)**

## 55 Revocation of adoptions on legitimation

(1) Where any child adopted by one natural parent as sole adoptive parent subsequently becomes a legitimated person on the marriage of the natural parents, the court by which the adoption order was made may, on the application of any of the parties concerned, revoke the order.

F55(2) . . . . . .

**Textual Amendments**

**F55** S. 55(2) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 153**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**Commencement Information**

**I95** S. 55 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(c)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*Disclosure of information in relation to a person's adoption*

## 56 Information to be kept about a person's adoption

(1) In relation to an adopted person, regulations may prescribe—

(a) the information which an adoption agency must keep in relation to his adoption,

(b) the form and manner in which it must keep that information.

(2) Below in this group of sections (that is, this section and sections 57 to 65), any information kept by an adoption agency by virtue of subsection (1)(a) is referred to as section 56 information.

(3) Regulations may provide for the transfer in prescribed circumstances of information held, or previously held, by an adoption agency to another adoption agency.

**Commencement Information**

**I96** S. 56 in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(v)**

**I97** S. 56 in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I98** S. 56(1)(3) in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I99** S. 56(2) in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(e)**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

## 57 Restrictions on disclosure of protected etc. information

(1) Any section 56 information kept by an adoption agency which—

(a) is about an adopted person or any other person, and

(b) is or includes identifying information about the person in question,

may only be disclosed by the agency to a person (other than the person the information is about) in pursuance of this group of sections.

(2) Any information kept by an adoption agency—

(a) which the agency has obtained from the Registrar General on an application under section 79(5) and any other information which would enable the adopted person to obtain a certified copy of the record of his birth, or

(b) which is information about an entry relating to the adopted person in the Adoption Contact Register,

may only be disclosed to a person by the agency in pursuance of this group of sections.

(3) In this group of sections, information the disclosure of which to a person is restricted by virtue of subsection (1) or (2) is referred to (in relation to him) as protected information.

(4) Identifying information about a person means information which, whether taken on its own or together with other information disclosed by an adoption agency, identifies the person or enables the person to be identified.

(5) This section does not prevent the disclosure of protected information in pursuance of a prescribed agreement to which the adoption agency is a party.

(6) Regulations may authorise or require an adoption agency to disclose protected information to a person who is not an adopted person.

**Commencement Information**

**I100** S. 57 in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(v)**

**I101** S. 57 in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I102** S. 57(1)-(4) (6) in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(e)**

**I103** S. 57(5) in force at 7.2.2004 for specified purposes for W. by S.I. 2004/252, **art. 2(c)**

**I104** S. 57(5) in force at 30.12.2005 for W. in so far as not already in force by S.I. 2005/3112, **art. 2(e)**

**I105** S. 57(6) in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

## 58 Disclosure of other information

(1) This section applies to any section 56 information other than protected information.

(2) An adoption agency may for the purposes of its functions disclose to any person in accordance with prescribed arrangements any information to which this section applies.

(3) An adoption agency must, in prescribed circumstances, disclose prescribed information to a prescribed person.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I106** S. 58 in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(v)**

**I107** S. 58 in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I108** S. 58(1) in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(e)**

**I109** S. 58(2)(3) in force at 7.2.2004 for specified purposes for W. by S.I. 2004/252, **art. 2(c)**

**I110** S. 58(2)(3) in force at 30.12.2005 for W. in so far as not already in force by S.I. 2005/3112, **art. 2(e)**

## 59 Offence

Regulations may provide that a registered adoption society which discloses any information in contravention of section 57 is to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Commencement Information**

**I111** S. 59 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I112** S. 59 in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(v)**

**I113** S. 59 in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 60 Disclosing information to adopted adult

(1) This section applies to an adopted person who has attained the age of 18 years.

(2) The adopted person has the right, at his request, to receive from the appropriate adoption agency—

(a) any information which would enable him to obtain a certified copy of the record of his birth, unless the High Court **[**[F56]or family court**]** orders otherwise,

(b) any prescribed information disclosed to the adopters by the agency by virtue of section 54.

(3) The High Court **[**[F57]or family court**]** may make an order under subsection (2)(a), on an application by the appropriate adoption agency, if satisfied that the circumstances are exceptional.

(4) The adopted person also has the right, at his request, to receive from the court which made the adoption order a copy of any prescribed document or prescribed order relating to the adoption.

(5) Subsection (4) does not apply to a document or order so far as it contains information which is protected information.

**Textual Amendments**

**F56** Words in s. 60(2)(a) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 154(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**F57** Words in s. 60(3) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 154(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**Modifications etc. (not altering text)**

**C54** S. 60(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C55** S. 60(4) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I114** S. 60(1)(3)(5) in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(f)**

**I115** S. 60(1)(3)(5) in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I116** S. 60(2)(4) in force at 7.2.2004 for specified purposes for W. by S.I. 2004/252, **art. 2(c)**

**I117** S. 60(2)(4) in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(v)**

**I118** S. 60(2)(4) in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I119** S. 60(2)(4) in force at 30.12.2005 for W. in so far as not already in force by S.I. 2005/3112, **art. 2(f)**

## 61 Disclosing protected information about adults

(1) This section applies where—

(a) a person applies to the appropriate adoption agency for protected information to be disclosed to him, and

(b) none of the information is about a person who is a child at the time of the application.

(2) The agency is not required to proceed with the application unless it considers it appropriate to do so.

(3) If the agency does proceed with the application it must take all reasonable steps to obtain the views of any person the information is about as to the disclosure of the information about him.

(4) The agency may then disclose the information if it considers it appropriate to do so.

(5) In deciding whether it is appropriate to proceed with the application or disclose the information, the agency must consider—

(a) the welfare of the adopted person,

(b) any views obtained under subsection (3),

(c) any prescribed matters,

and all the other circumstances of the case.

(6) This section does not apply to a request for information under section 60(2) or to a request for information which the agency is authorised or required to disclose in pursuance of regulations made by virtue of section 57(6).

**Commencement Information**

**I120** S. 61(1)-(4) (6) in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**I121** S. 61(1)-(4) (5)(a)(b)(6) in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(f)**
**I122** S. 61(5) in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(v)**
**I123** S. 61(5) in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)
**I124** S. 61(5)(c) in force at 7.2.2004 for specified purposes for W. by S.I. 2004/252, **art. 2(c)**
**I125** S. 61(5)(c) in force at 30.12.2005 for W. in so far as not already in force by S.I. 2005/3112, **art. 2(f)**

## 62 Disclosing protected information about children

(1) This section applies where—
  (a) a person applies to the appropriate adoption agency for protected information to be disclosed to him, and
  (b) any of the information is about a person who is a child at the time of the application.

(2) The agency is not required to proceed with the application unless it considers it appropriate to do so.

(3) If the agency does proceed with the application, then, so far as the information is about a person who is at the time a child, the agency must take all reasonable steps to obtain—
  (a) the views of any parent or guardian of the child, and
  (b) the views of the child, if the agency considers it appropriate to do so having regard to his age and understanding and to all the other circumstances of the case,

as to the disclosure of the information.

(4) And, so far as the information is about a person who has at the time attained the age of 18 years, the agency must take all reasonable steps to obtain his views as to the disclosure of the information.

(5) The agency may then disclose the information if it considers it appropriate to do so.

(6) In deciding whether it is appropriate to proceed with the application, or disclose the information, where any of the information is about a person who is at the time a child—
  (a) if the child is an adopted child, the child's welfare must be the paramount consideration,
  (b) in the case of any other child, the agency must have particular regard to the child's welfare.

(7) And, in deciding whether it is appropriate to proceed with the application or disclose the information, the agency must consider—
  (a) the welfare of the adopted person (where subsection (6)(a) does not apply),
  (b) any views obtained under subsection (3) or (4),
  (c) any prescribed matters,

and all the other circumstances of the case.

(8) This section does not apply to a request for information under section 60(2) or to a request for information which the agency is authorised or required to disclose in pursuance of regulations made by virtue of section 57(6).

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I126** S. 62(1)-(6) (7)(a)(b)(8) in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(f)**

**I127** S. 62(1)-(6) (8) in force at 30.12.2005 for E. by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I128** S. 62(7) in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(v)**

**I129** S. 62(7) in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(k)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I130** S. 62(7)(c) in force at 7.2.2004 for specified purposes for W. by S.I. 2004/252, **art. 2(c)**

**I131** S. 62(7)(c) in force at 30.12.2005 for W. in so far as not already in force by S.I. 2005/3112, **art. 2(f)**

## 63 Counselling

(1) Regulations may require adoption agencies to give information about the availability of counselling to persons—

(a) seeking information from them in pursuance of this group of sections,

(b) considering objecting or consenting to the disclosure of information by the agency in pursuance of this group of sections, or

(c) considering entering with the agency into an agreement prescribed for the purposes of section 57(5).

(2) Regulations may require adoption agencies to make arrangements to secure the provision of counselling for persons seeking information from them in prescribed circumstances in pursuance of this group of sections.

(3) The regulations may authorise adoption agencies—

(a) to disclose information which is required for the purposes of such counselling to the persons providing the counselling,

(b) where the person providing the counselling is outside the United Kingdom, to require a prescribed fee to be paid.

(4) The regulations may require any of the following persons to provide counselling for the purposes of arrangements under subsection (2)—

(a) a local authority, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) or a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)),

(b) a registered adoption society, an organisation within section 144(3)(b) or an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)),

(c) an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000 (c. 14).

(5) For the purposes of subsection (4), where the functions of a Health and Social Services Board are exercisable by a Health and Social Services Trust, the reference in sub-paragraph (a) to a Board is to be read as a reference to the Health and Social Services Trust.

**Commencement Information**

**I132** S. 63 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**I133** S. 63 in force at 7.12.2004 in so far as not already in force by S.I. 2004/3203, **art. 2(1)(j)**

## 64 Other provision to be made by regulations

(1) Regulations may make provision for the purposes of this group of sections, including provision as to—

(a) the performance by adoption agencies of their functions,

(b) the manner in which information may be received, and

(c) the matters mentioned below in this section.

(2) Regulations may prescribe—

(a) the manner in which agreements made by virtue of section 57(5) are to be recorded,

(b) the information to be provided by any person on an application for the disclosure of information under this group of sections.

(3) Regulations may require adoption agencies—

(a) to give to prescribed persons prescribed information about the rights or opportunities to obtain information, or to give their views as to its disclosure, given by this group of sections,

(b) to seek prescribed information from, or give prescribed information to, the Registrar General in prescribed circumstances.

(4) Regulations may require the Registrar General—

(a) to disclose to any person (including an adopted person) at his request any information which the person requires to assist him to make contact with the adoption agency which is the appropriate adoption agency in the case of an adopted person specified in the request (or, as the case may be, in the applicant's case),

(b) to disclose to the appropriate adoption agency any information which the agency requires about any entry relating to the adopted person on the Adoption Contact Register.

(5) Regulations may provide for the payment of a prescribed fee in respect of the disclosure in prescribed circumstances of any information in pursuance of section 60, 61 or 62; but an adopted person may not be required to pay any fee in respect of any information disclosed to him in relation to any person who (but for his adoption) would be related to him by blood (including half-blood) **[**[F58], marriage or civil partnership**]**.

(6) Regulations may provide for the payment of a prescribed fee by an adoption agency obtaining information under subsection (4)(b).

**Textual Amendments**

**F58** Words in s. 64(5) substituted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(6)**, 263(2); S.I. 2005/3175, art. 2(9)

**Modifications etc. (not altering text)**

**C56** S. 64(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I134** S. 64 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I135** S. 64 in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(j)**

## 65 Sections 56 to 65: interpretation

(1) In this group of sections—

"appropriate adoption agency", in relation to an adopted person or to information relating to his adoption, means—

(a) if the person was placed for adoption by an adoption agency, that agency or (if different) the agency which keeps the information in relation to his adoption,

(b) in any other case, the local authority to which notice of intention to adopt was given,

"prescribed" means prescribed by subordinate legislation,

"regulations" means regulations under section 9,

"subordinate legislation" means regulations or, in relation to information to be given by a court, rules.

(2) But—

(a) regulations under section 63(2) imposing any requirement on a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), or an organisation within section 144(3)(b), are to be made by the Scottish Ministers,

(b) regulations under section 63(2) imposing any requirement on a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/ 1265 (N.I. 14)), or an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)), are to be made by the Department of Health, Social Services and Public Safety.

(3) The power of the Scottish Ministers or of the Department of Health, Social Services and Public Safety to make regulations under section 63(2) includes power to make—

(a) any supplementary, incidental or consequential provision,

(b) any transitory, transitional or saving provision,

which the person making the regulations considers necessary or expedient.

(4) Regulations prescribing any fee by virtue of section 64(6) require the approval of the Chancellor of the Exchequer.

(5) Regulations making any provision as to the manner in which any application is to be made for the disclosure of information by the Registrar General require his approval.

**Modifications etc. (not altering text)**

**C57** S. 65(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I136** S. 65 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**I137** S. 65 in force at 7.12.2004 in so far as not already in force by S.I. 2004/3203, **art. 2(1)(j)**

## CHAPTER 4

### STATUS OF ADOPTED CHILDREN

### 66 Meaning of adoption in Chapter 4

(1) In this Chapter "adoption" means—

(a) adoption by an adoption order or a Scottish or Northern Irish adoption order,

(b) adoption by an order made in the Isle of Man or any of the Channel Islands,

(c) an adoption effected under the law of a Convention country outside the British Islands, and certified in pursuance of Article 23(1) of the Convention (referred to in this Act as a "Convention adoption"),

(d) an overseas adoption, or

(e) an adoption recognised by the law of England and Wales and effected under the law of any other country;

and related expressions are to be interpreted accordingly.

(2) But references in this Chapter to adoption do not include an adoption effected before the day on which this Chapter comes into force (referred to in this Chapter as "the appointed day").

(3) Any reference in an enactment to an adopted person within the meaning of this Chapter includes a reference to an adopted child within the meaning of Part 4 of the Adoption Act 1976 (c. 36).

**Commencement Information**

**I138** S. 66 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

### 67 Status conferred by adoption

(1) An adopted person is to be treated in law as if born as the child of the adopters or adopter.

(2) An adopted person is the legitimate child of the adopters or adopter and, if adopted by—

(a) a couple, or

(b) one of a couple under section 51(2),

is to be treated as the child of the relationship of the couple in question.

(3) An adopted person—

(a) if adopted by one of a couple under section 51(2), is to be treated in law as not being the child of any person other than the adopter and the other one of the couple, and

(b) in any other case, is to be treated in law, subject to subsection (4), as not being the child of any person other than the adopters or adopter;

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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but this subsection does not affect any reference in this Act to a person's natural parent or to any other natural relationship.

(4) In the case of a person adopted by one of the person's natural parents as sole adoptive parent, subsection (3)(b) has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship.

(5) This section has effect from the date of the adoption.

(6) Subject to the provisions of this Chapter and Schedule 4, this section—
- (a) applies for the interpretation of enactments or instruments passed or made before as well as after the adoption, and so applies subject to any contrary indication, and
- (b) has effect as respects things done, or events occurring, on or after the adoption.

**Modifications etc. (not altering text)**

**C58** S. 67(1)-(3) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C59** S. 67(5)(6) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I139** S. 67 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 68 Adoptive relatives

(1) A relationship existing by virtue of section 67 may be referred to as an adoptive relationship, and—
- (a) an adopter may be referred to as an adoptive parent or (as the case may be) as an adoptive father or adoptive mother,
- (b) any other relative of any degree under an adoptive relationship may be referred to as an adoptive relative of that degree.

(2) Subsection (1) does not affect the interpretation of any reference, not qualified by the word "adoptive", to a relationship.

(3) A reference (however expressed) to the adoptive mother and father of a child adopted by—
- (a) a couple of the same sex, or
- (b) a partner of the child's parent, where the couple are of the same sex,

is to be read as a reference to the child's adoptive parents.

**Modifications etc. (not altering text)**

**C60** S. 68(3) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I140** S. 68 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 69 Rules of interpretation for instruments concerning property

(1) The rules of interpretation contained in this section apply (subject to any contrary indication and to Schedule 4) to any instrument so far as it contains a disposition of property.

(2) In applying section 67(1) and (2) to a disposition which depends on the date of birth of a child or children of the adoptive parent or parents, the disposition is to be interpreted as if—

(a) the adopted person had been born on the date of adoption,

(b) two or more people adopted on the same date had been born on that date in the order of their actual births;

but this does not affect any reference to a person's age.

(3) Examples of phrases in wills on which subsection (2) can operate are—

1. Children of A "living at my death or born afterwards".

2. Children of A "living at my death or born afterwards before any one of such children for the time being in existence attains a vested interest and who attain the age of 21 years".

3. As in example 1 or 2, but referring to grandchildren of A instead of children of A.

4. A for life "until he has a child", and then to his child or children.

*Note*. Subsection (2) will not affect the reference to the age of 21 years in example 2.

(4) Section 67(3) does not prejudice—

(a) any qualifying interest, or

(b) any interest expectant (whether immediately or not) upon a qualifying interest.

"Qualifying interest" means an interest vested in possession in the adopted person before the adoption.

(5) Where it is necessary to determine for the purposes of a disposition of property effected by an instrument whether a woman can have a child—

(a) it must be presumed that once a woman has attained the age of 55 years she will not adopt a person after execution of the instrument, and

(b) if she does so, then (in spite of section 67) that person is not to be treated as her child or (if she does so as one of a couple) as the child of the other one of the couple for the purposes of the instrument.

(6) In this section, "instrument" includes a private Act settling property, but not any other enactment.

**Modifications etc. (not altering text)**

**C61** S. 69 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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**Commencement Information**

**I141** S. 69 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 70 Dispositions depending on date of birth

(1) Where a disposition depends on the date of birth of a person who was born illegitimate and who is adopted by one of the natural parents as sole adoptive parent, section 69(2) does not affect entitlement by virtue of Part 3 of the Family Law Reform Act 1987 (c. 42) (dispositions of property).

(2) Subsection (1) applies for example where—

(a) a testator dies in 2001 bequeathing a legacy to his eldest grandchild living at a specified time,

(b) his unmarried daughter has a child in 2002 who is the first grandchild,

(c) his married son has a child in 2003,

(d) subsequently his unmarried daughter adopts her child as sole adoptive parent.

In that example the status of the daughter's child as the eldest grandchild of the testator is not affected by the events described in paragraphs (c) and (d).

**Commencement Information**

**I142** S. 70 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 71 Property devolving with peerages etc.

(1) An adoption does not affect the descent of any peerage or dignity or title of honour.

(2) An adoption does not affect the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any peerage or dignity or title of honour.

(3) Subsection (2) applies only if and so far as a contrary intention is not expressed in the instrument, and has effect subject to the terms of the instrument.

**Modifications etc. (not altering text)**

**C62** S. 71 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I143** S. 71 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 72 Protection of trustees and personal representatives

(1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any

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property, whether any adoption has been effected or revoked if that fact could affect entitlement to the property.

(2) A trustee or personal representative is not liable to any person by reason of a conveyance or distribution of the property made without regard to any such fact if he has not received notice of the fact before the conveyance or distribution.

(3) This section does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person, other than a purchaser, who has received it.

**Modifications etc. (not altering text)**

**C63** S. 72(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I144** S. 72 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 73 Meaning of disposition

(1) This section applies for the purposes of this Chapter.

(2) A disposition includes the conferring of a power of appointment and any other disposition of an interest in or right over property; and in this subsection a power of appointment includes any discretionary power to transfer a beneficial interest in property without the furnishing of valuable consideration.

(3) This Chapter applies to an oral disposition as if contained in an instrument made when the disposition was made.

(4) The date of death of a testator is the date at which a will or codicil is to be regarded as made.

(5) The provisions of the law of intestate succession applicable to the estate of a deceased person are to be treated as if contained in an instrument executed by him (while of full capacity) immediately before his death.

**Modifications etc. (not altering text)**

**C64** S. 73 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I145** S. 73 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 74 Miscellaneous enactments

(1) Section 67 does not apply for the purposes of—

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**[**[F59](a) section 1 of and Schedule 1 to the Marriage Act 1949 or Schedule 1 to the Civil Partnership Act 2004 (prohibited degrees of kindred and affinity),**][**[F60]or

(b) sections 64 and 65 of the Sexual Offences Act 2003 (sex with an adult relative).**]**

(2) Section 67 does not apply for the purposes of any provision of—

(a) the British Nationality Act 1981 (c. 61),

(b) the Immigration Act 1971 (c. 77),

(c) any instrument having effect under an enactment within paragraph (a) or (b), or

(d) any other provision of the law for the time being in force which determines British citizenship, British overseas territories citizenship, the status of a British National (Overseas) or British Overseas citizenship.

**Textual Amendments**

**F59** S. 74(1)(a) substituted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(7)**, 263(2); S.I. 2005/3175, art. 2(9)

**F60** S. 74(1)(b) and word substituted for s. 74(1)(b)(c) (1.5.2004) by Sexual Offences Act 2003 (c. 42), s. 141, **Sch. 6 para. 47**; S.I. 2004/874, art. 2

**Modifications etc. (not altering text)**

**C65** S. 74 restricted by 2003 c. 42, s. 64(6)(b) (as inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(2)(e), **Sch. 15 para. 5(5)**)

**C66** S. 74 restricted by 2003 c. 42, s. 65(6)(b) (as inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(2)(e), **Sch. 15 para. 6(5)**)

**C67** S. 74 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I146** S. 74 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 75 Pensions

Section 67(3) does not affect entitlement to a pension which is payable to or for the benefit of a person and is in payment at the time of the person's adoption.

**Modifications etc. (not altering text)**

**C68** S. 75 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I147** S. 75 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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### 76 Insurance

(1) Where a child is adopted whose natural parent has effected an insurance with a friendly society or a collecting society or an industrial insurance company for the payment on the death of the child of money for funeral expenses, then—

(a) the rights and liabilities under the policy are by virtue of the adoption transferred to the adoptive parents, and

(b) for the purposes of the enactments relating to such societies and companies, the adoptive parents are to be treated as the person who took out the policy.

(2) Where the adoption is effected by an order made by virtue of section 51(2), the references in subsection (1) to the adoptive parents are to be read as references to the adopter and the other one of the couple.

**Modifications etc. (not altering text)**

**C69** S. 76(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I148** S. 76 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(d)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## CHAPTER 5

## THE REGISTERS

*Adopted Children Register etc.*

### 77 Adopted Children Register

(1) The Registrar General must continue to maintain in the General Register Office a register, to be called the Adopted Children Register.

(2) The Adopted Children Register is not to be open to public inspection or search.

(3) No entries may be made in the Adopted Children Register other than entries—

(a) directed to be made in it by adoption orders, or

(b) required to be made under Schedule 1.

(4) A certified copy of an entry in the Adopted Children Register, if purporting to be sealed or stamped with the seal of the General Register Office, is to be received as evidence of the adoption to which it relates without further or other proof.

(5) Where an entry in the Adopted Children Register contains a record—

(a) of the date of birth of the adopted person, or

(b) of the country, or the district and sub-district, of the birth of the adopted person,

a certified copy of the entry is also to be received, without further or other proof, as evidence of that date, or country or district and sub-district, (as the case may be) in all respects as if the copy were a certified copy of an entry in the registers of live-births.

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(6) Schedule 1 (registration of adoptions and the amendment of adoption orders) is to have effect.

**Modifications etc. (not altering text)**

**C70** S. 77 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I149** S. 77(1)(2) (4)-(6) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I150** S. 77(3) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vi)**

**I151** S. 77(3) in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 78 Searches and copies

(1) The Registrar General must continue to maintain at the General Register Office an index of the Adopted Children Register.

(2) Any person may—

(a) search the index,

(b) have a certified copy of any entry in the Adopted Children Register.

(3) But a person is not entitled to have a certified copy of an entry in the Adopted Children Register relating to an adopted person who has not attained the age of 18 years unless the applicant has provided the Registrar General with the prescribed particulars.

"Prescribed" means prescribed by regulations made by the Registrar General with the approval of **[**[F61]the Secretary of State**]**.

(4) The terms, conditions and regulations as to payment of fees, and otherwise, applicable under the Births and Deaths Registration Act 1953 (c. 20), and the Registration Service Act 1953 (c. 37), in respect of—

(a) searches in the index kept in the General Register Office of certified copies of entries in the registers of live-births,

(b) the supply from that office of certified copies of entries in those certified copies,

also apply in respect of searches, and supplies of certified copies, under subsection (2).

**Textual Amendments**

**F61** Words in s. 78(3) substituted (3.4.2008) by The Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), **Sch. 2 para. 12(a)** (with art. 4)

**Modifications etc. (not altering text)**

**C71** S. 78 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C72** S. 78(3): transfer of functions (3.4.2008) by The Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), **Sch. 1 para. 12(a)** (with art. 4)

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**Commencement Information**

**I152** S. 78(1)(2)(4) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I153** S. 78(3) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vi)**

**I154** S. 78(3) in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 79 Connections between the register and birth records

(1) The Registrar General must make traceable the connection between any entry in the registers of live-births or other records which has been marked "Adopted" and any corresponding entry in the Adopted Children Register.

(2) Information kept by the Registrar General for the purposes of subsection (1) is not to be open to public inspection or search.

(3) Any such information, and any other information which would enable an adopted person to obtain a certified copy of the record of his birth, may only be disclosed by the Registrar General in accordance with this section.

(4) In relation to a person adopted before the appointed day the court may, in exceptional circumstances, order the Registrar General to give any information mentioned in subsection (3) to a person.

(5) On an application made in the prescribed manner by the appropriate adoption agency in respect of an adopted person a record of whose birth is kept by the Registrar General, the Registrar General must give the agency any information relating to the adopted person which is mentioned in subsection (3).

"Appropriate adoption agency" has the same meaning as in section 65.

(6) In relation to a person adopted before the appointed day, Schedule 2 applies instead of subsection (5).

(7) 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—

(a) is under the age of 18 years, and

(b) intends to be married **[**[F62]or form a civil partnership**]**,

the Registrar General must inform the applicant whether or not it appears from information contained in the registers of live-births or other records that the applicant and **[**[F63]the intended spouse or civil partner**]** may be within the prohibited degrees of relationship for the purposes of the Marriage Act 1949 (c. 76) **[**[F64]or for the purposes of the Civil Partnership Act 2004 (c. 33)**]**.

(8) Before the Registrar General gives any information by virtue of this section, any prescribed fee which he has demanded must be paid.

(9) In this section—

"appointed day" means the day appointed for the commencement of sections 56 to 65,

"prescribed" means prescribed by regulations made by the Registrar General with the approval of **[**[F65]the Secretary of State**]**.

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**Textual Amendments**

**F62** Words in s. 79(7)(b) inserted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(8)(a)**, 263(2); S.I. 2005/3175, art. 2(9)

**F63** Words in s. 79(7) substituted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(8)(b)**, 263(2); S.I. 2005/3175, art. 2(9)

**F64** Words in s. 79(7) inserted (30.12.2005) by The Civil Partnership Act 2004 (International Immunities and Privileges, Companies and Adoption) Order 2005 (S.I. 2005/3542), arts. 1(2), **4**

**F65** Words in s. 79(9) substituted (3.4.2008) by The Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), **Sch. 2 para. 12(b)** (with art. 4)

**Modifications etc. (not altering text)**

**C73** S. 79: transfer of functions (3.4.2008) by The Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), **Sch. 1 para. 12(b)** (with art. 4)

**C74** S. 79(1)-(3) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C75** S. 79(7)-(9) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I155** S. 79 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I156** S. 79(5)(7)-(9) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vi)**

*Adoption Contact Register*

## 80 Adoption Contact Register

(1) The Registrar General must continue to maintain at the General Register Office in accordance with regulations a register in two Parts to be called the Adoption Contact Register.

(2) Part 1 of the register is to contain the prescribed information about adopted persons who have given the prescribed notice expressing their wishes as to making contact with their relatives.

(3) The Registrar General may only make an entry in Part 1 of the register for an adopted person—

(a) a record of whose birth is kept by the Registrar General,

(b) who has attained the age of 18 years, and

(c) who the Registrar General is satisfied has such information as is necessary to enable him to obtain a certified copy of the record of his birth.

(4) Part 2 of the register is to contain the prescribed information about persons who have given the prescribed notice expressing their wishes, as relatives of adopted persons, as to making contact with those persons.

(5) The Registrar General may only make an entry in Part 2 of the register for a person—

(a) who has attained the age of 18 years, and

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(b) who the Registrar General is satisfied is a relative of an adopted person and has such information as is necessary to enable him to obtain a certified copy of the record of the adopted person's birth.

(6) Regulations may provide for—

(a) the disclosure of information contained in one Part of the register to persons for whom there is an entry in the other Part,

(b) the payment of prescribed fees in respect of the making or alteration of entries in the register and the disclosure of information contained in the register.

**Commencement Information**

**I157** S. 80(1)(3)(5) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I158** S. 80(2)(4)(6) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vi)**

**I159** S. 80(2)(4)(6) in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 81 Adoption Contact Register: supplementary

(1) The Adoption Contact Register is not to be open to public inspection or search.

(2) In section 80, "relative", in relation to an adopted person, means any person who (but for his adoption) would be related to him by blood (including half-blood) **[**[F66], marriage or civil partnership**]**.

(3) The Registrar General must not give any information entered in the register to any person except in accordance with subsection (6)(a) of that section or regulations made by virtue of section 64(4)(b).

(4) In section 80, "regulations" means regulations made by the Registrar General with the approval of **[**[F67]the Secretary of State**]**, and "prescribed" means prescribed by such regulations.

**Textual Amendments**

**F66** Words in s. 81(2) substituted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(9)**, 263(2); S.I. 2005/3175, art. 2(9)

**F67** Words in s. 81(4) substituted (3.4.2008) by The Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), **Sch. 2 para. 12(c)** (with art. 4)

**Modifications etc. (not altering text)**

**C76** S. 81(4): transfer of functions (3.4.2008) by The Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), **Sch. 1 para. 12(c)** (with art. 4)

**Commencement Information**

**I160** S. 81(1)-(3) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I161** S. 81(4) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vi)**

**I162** S. 81(4) in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

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*General*

## 82 Interpretation

(1) In this Chapter—

"records" includes certified copies kept by the Registrar General of entries in any register of births,

"registers of live-births" means the registers of live-births made under the Births and Deaths Registration Act 1953 (c. 20).

(2) Any register, record or index maintained under this Chapter may be maintained in any form the Registrar General considers appropriate; and references (however expressed) to entries in such a register, or to their amendment, marking or cancellation, are to be read accordingly.

**Modifications etc. (not altering text)**

**C77** S. 82 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I163** S. 82 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

# CHAPTER 6

## ADOPTIONS WITH A FOREIGN ELEMENT

*Bringing children into and out of the United Kingdom*

## 83 Restriction on bringing children in

(1) This section applies where a person who is habitually resident in the British Islands (the "British resident")—

(a) brings, or causes another to bring, a child who is habitually resident outside the British Islands into the United Kingdom for the purpose of adoption by the British resident, or

(b) at any time brings, or causes another to bring, into the United Kingdom a child adopted by the British resident under an external adoption effected within the period of **[**[F68]twelve**]** months ending with that time.

The references to adoption, or to a child adopted, by the British resident include a reference to adoption, or to a child adopted, by the British resident and another person.

(2) But this section does not apply if the child is intended to be adopted under a Convention adoption order.

(3) An external adoption means an adoption, other than a Convention adoption, of a child effected under the law of any country or territory outside the British Islands, whether or not the adoption is—

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(a) an adoption within the meaning of Chapter 4, or
(b) a full adoption (within the meaning of section 88(3)).

(4) Regulations may require a person intending to bring, or to cause another to bring, a child into the United Kingdom in circumstances where this section applies—
(a) to apply to an adoption agency (including a Scottish or Northern Irish adoption agency) in the prescribed manner for an assessment of his suitability to adopt the child, and
(b) to give the agency any information it may require for the purpose of the assessment.

(5) Regulations may require prescribed conditions to be met in respect of a child brought into the United Kingdom in circumstances where this section applies.

(6) In relation to a child brought into the United Kingdom for adoption in circumstances where this section applies, regulations may—
(a) provide for any provision of Chapter 3 to apply with modifications or not to apply,
(b) if notice of intention to adopt has been given, impose functions in respect of the child on the local authority to which the notice was given.

(7) If a person brings, or causes another to bring, a child into the United Kingdom at any time in circumstances where this section applies, he is guilty of an offence if—
(a) he has not complied with any requirement imposed by virtue of subsection (4), or
(b) any condition required to be met by virtue of subsection (5) is not met,

before that time, or before any later time which may be prescribed.

(8) A person guilty of an offence under this section is liable—
(a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both,
(b) on conviction on indictment, to imprisonment for a term not exceeding twelve months, or a fine, or both.

(9) In this section, "prescribed" means prescribed by regulations and "regulations" means regulations made by the Secretary of State, after consultation with the Assembly.

**Textual Amendments**

**F68** Word in s. 83(1)(b) substituted (1.10.2007) by Children and Adoption Act 2006 (c. 20), **ss. 14(1)**, 17(2) (with s. 14(2)); S.I. 2007/2287, art. 1(2)(c)

**Modifications etc. (not altering text)**

**C78** S. 83(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C79** S. 83(5) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C80** S. 83(7)-(9) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I164** S. 83(1)-(7)(9) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vii)**

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**I165** S. 83(1)-(7)(9) in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I166** S. 83(8) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 84 Giving parental responsibility prior to adoption abroad

(1) The High Court may, on an application by persons who the court is satisfied intend to adopt a child under the law of a country or territory outside the British Islands, make an order giving parental responsibility for the child to them.

(2) An order under this section may not give parental responsibility to persons who the court is satisfied meet those requirements as to domicile, or habitual residence, in England and Wales which have to be met if an adoption order is to be made in favour of those persons.

(3) An order under this section may not be made unless any requirements prescribed by regulations are satisfied.

(4) An application for an order under this section may not be made unless at all times during the preceding ten weeks the child's home was with the applicant or, in the case of an application by two people, both of them.

(5) Section 46(2) to (4) has effect in relation to an order under this section as it has effect in relation to adoption orders.

(6) Regulations may provide for any provision of this Act which refers to adoption orders to apply, with or without modifications, to orders under this section.

(7) In this section, "regulations" means regulations made by the Secretary of State, after consultation with the Assembly.

**Commencement Information**

**I167** S. 84 in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vii)**

**I168** S. 84 in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 85 Restriction on taking children out

(1) A child who—

(a) is a Commonwealth citizen, or

(b) is habitually resident in the United Kingdom,

must not be removed from the United Kingdom to a place outside the British Islands for the purpose of adoption unless the condition in subsection (2) is met.

(2) The condition is that—

(a) the prospective adopters have parental responsibility for the child by virtue of an order under section 84, or

(b) the child is removed under the authority of an order under **[**[F69]section 59 of the Adoption and Children (Scotland) Act 2007 (asp 4)**]** or Article 57 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)).

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(3) Removing a child from the United Kingdom includes arranging to do so; and the circumstances in which a person arranges to remove a child from the United Kingdom include those where he—

(a) enters into an arrangement for the purpose of facilitating such a removal of the child,

(b) initiates or takes part in any negotiations of which the purpose is the conclusion of an arrangement within paragraph (a), or

(c) causes another person to take any step mentioned in paragraph (a) or (b).

An arrangement includes an agreement (whether or not enforceable).

(4) A person who removes a child from the United Kingdom in contravention of subsection (1) is guilty of an offence.

(5) A person is not guilty of an offence under subsection (4) of causing a person to take any step mentioned in paragraph (a) or (b) of subsection (3) unless it is proved that he knew or had reason to suspect that the step taken would contravene subsection (1).

But this subsection only applies if sufficient evidence is adduced to raise an issue as to whether the person had the knowledge or reason mentioned.

(6) A person guilty of an offence under this section is liable—

(a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both,

(b) on conviction on indictment, to imprisonment for a term not exceeding twelve months, or a fine, or both.

(7) In any proceedings under this section—

(a) a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer is admissible, upon proof that the officer or the deponent cannot be found in the United Kingdom, as evidence of the matters stated in it, and

(b) it is not necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

**Textual Amendments**

**F69** Words in s. 85(2)(b) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(3)**

**Commencement Information**

**I169** S. 85 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 86 Power to modify sections 83 and 85

(1) Regulations may provide for section 83 not to apply if—

(a) the adopters or (as the case may be) prospective adopters are natural parents, natural relatives or guardians of the child in question (or one of them is), or

(b) the British resident in question is a partner of a parent of the child,

and any prescribed conditions are met.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(2) Regulations may provide for section 85(1) to apply with modifications, or not to apply, if—

(a) the prospective adopters are parents, relatives or guardians of the child in question (or one of them is), or

(b) the prospective adopter is a partner of a parent of the child,

and any prescribed conditions are met.

(3) On the occasion of the first exercise of the power to make regulations under this section—

(a) the statutory instrument containing the regulations is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament, and

(b) accordingly section 140(2) does not apply to the instrument.

(4) In this section, "prescribed" means prescribed by regulations and "regulations" means regulations made by the Secretary of State after consultation with the Assembly.

**Commencement Information**

**I170** S. 86 in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vii)**

**I171** S. 86 in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*Overseas adoptions*

## 87 Overseas adoptions

(1) In this Act, "overseas adoption"—

(a) means an adoption of a description specified in an order made by the Secretary of State, being a description of adoptions effected under the law of any country or territory outside the British Islands, but

(b) does not include a Convention adoption.

(2) Regulations may prescribe the requirements that ought to be met by an adoption of any description effected after the commencement of the regulations for it to be an overseas adoption for the purposes of this Act.

(3) At any time when such regulations have effect, the Secretary of State must exercise his powers under this section so as to secure that subsequently effected adoptions of any description are not overseas adoptions for the purposes of this Act if he considers that they are not likely within a reasonable time to meet the prescribed requirements.

(4) In this section references to this Act include the Adoption Act 1976 (c. 36).

(5) An order under this section may contain provision as to the manner in which evidence of any overseas adoption may be given.

(6) In this section—

"adoption" means an adoption of a child or of a person who was a child at the time the adoption was applied for,

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

"regulations" means regulations made by the Secretary of State after consultation with the Assembly.

**Commencement Information**

**I172** S. 87(1)(a)(2)(5)(6) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(vii)**

**I173** S. 87(1)(a)(2)(5)(6) in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I174** S. 87(1)(b)(4) in force at 1.6.2003 by S.I. 2003/366, **art. 2(5)(a)**

**I175** S. 87(3) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*Miscellaneous*

## 88 Modification of section 67 for Hague Convention adoptions

(1) If the High Court is satisfied, on an application under this section, that each of the following conditions is met in the case of a Convention adoption, it may direct that section 67(3) does not apply, or does not apply to any extent specified in the direction.

(2) The conditions are—

(a) that under the law of the country in which the adoption was effected, the adoption is not a full adoption,

(b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption or that the United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention),

(c) that it would be more favourable to the adopted child for a direction to be given under subsection (1).

(3) A full adoption is an adoption by virtue of which the child is to be treated in law as not being the child of any person other than the adopters or adopter.

(4) In relation to a direction under this section and an application for it, sections 59 and 60 of the Family Law Act 1986 (c. 55) (declarations under Part 3 of that Act as to marital status) apply as they apply in relation to a direction under that Part and an application for such a direction.

**Commencement Information**

**I176** S. 88 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 89 Annulment etc. of overseas or Hague Convention adoptions

(1) The High Court may, on an application under this subsection, by order annul a Convention adoption or Convention adoption order on the ground that the adoption is contrary to public policy.

(2) The High Court may, on an application under this subsection—

(a) by order provide for an overseas adoption or a determination under section 91 to cease to be valid on the ground that the adoption or determination is contrary

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

to public policy or that the authority which purported to authorise the adoption or make the determination was not competent to entertain the case, or

(b) decide the extent, if any, to which a determination under section 91 has been affected by a subsequent determination under that section.

(3) The High Court may, in any proceedings in that court, decide that an overseas adoption or a determination under section 91 is to be treated, for the purposes of those proceedings, as invalid on either of the grounds mentioned in subsection (2)(a).

(4) Subject to the preceding provisions, the validity of a Convention adoption, Convention adoption order or overseas adoption or a determination under section 91 cannot be called in question in proceedings in any court in England and Wales.

**Commencement Information**

**I177** S. 89 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 90 Section 89: supplementary

(1) Any application for an order under section 89 or a decision under subsection (2)(b) or (3) of that section must be made in the prescribed manner and within any prescribed period.

"Prescribed" means prescribed by rules.

(2) No application may be made under section 89(1) in respect of an adoption unless immediately before the application is made—

(a) the person adopted, or

(b) the adopters or adopter,

habitually reside in England and Wales.

(3) In deciding in pursuance of section 89 whether such an authority as is mentioned in section 91 was competent to entertain a particular case, a court is bound by any finding of fact made by the authority and stated by the authority to be so made for the purpose of determining whether the authority was competent to entertain the case.

**Commencement Information**

**I178** S. 90 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 91 Overseas determinations and orders

(1) Subsection (2) applies where any authority of a Convention country (other than the United Kingdom) or of the Channel Islands, the Isle of Man or any British overseas territory has power under the law of that country or territory—

(a) to authorise, or review the authorisation of, an adoption order made in that country or territory, or

(b) to give or review a decision revoking or annulling such an order or a Convention adoption.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(2) If the authority makes a determination in the exercise of that power, the determination is to have effect for the purpose of effecting, confirming or terminating the adoption in question or, as the case may be, confirming its termination.

(3) Subsection (2) is subject to section 89 and to any subsequent determination having effect under that subsection.

**Commencement Information**

**I179** S. 91 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(f)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## [F70 91A Power to charge

(1) This section applies to adoptions to which—

(a) section 83 applies, or

(b) regulations made under section 1 of the Adoption (Intercountry Aspects) Act 1999 apply.

(2) The Secretary of State may charge a fee to adopters for services provided or to be provided by him in relation to adoptions to which this section applies.

(3) The Assembly may charge a fee to adopters for services provided or to be provided by it as the Central Authority in relation to adoptions to which this section applies by virtue of subsection (1)(b).

(4) The Secretary of State and the Assembly may determine the level of fee as he or it sees fit, and may in particular—

(a) charge a flat fee or charge different fees in different cases or descriptions of case, and

(b) in any case or description of case, waive a fee.

(5) But the Secretary of State and the Assembly must each secure that, taking one financial year with another, the income from fees under this section does not exceed the total cost to him or, as the case may be, to it of providing the services in relation to which the fees are imposed.

(6) In this section—

references to adoptions and adopters include prospective adoptions and prospective adopters,

"Central Authority" is to be construed in accordance with section 2 of the Adoption (Intercountry Aspects) Act 1999,

"financial year" means a period of twelve months ending with 31st March.**]**

**Textual Amendments**

**F70** S. 91A inserted (2.4.2007 for W. for specified purposes, 28.10.2010 so far as not already in force) by Children and Adoption Act 2006 (c. 20), **ss. 13**, 17(2); S.I. 2007/733, art. 2; S.I. 2010/2612, art. 2

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

## CHAPTER 7

MISCELLANEOUS

*Restrictions*

### 92 Restriction on arranging adoptions etc.

(1) A person who is neither an adoption agency nor acting in pursuance of an order of the High Court **[**[F71]or the family court**]** must not take any of the steps mentioned in subsection (2).

(2) The steps are—

(a) asking a person other than an adoption agency to provide a child for adoption,

(b) asking a person other than an adoption agency to provide prospective adopters for a child,

(c) offering to find a child for adoption,

(d) offering a child for adoption to a person other than an adoption agency,

(e) handing over a child to any person other than an adoption agency with a view to the child's adoption by that or another person,

(f) receiving a child handed over to him in contravention of paragraph (e),

(g) entering into an agreement with any person for the adoption of a child, or for the purpose of facilitating the adoption of a child, where no adoption agency is acting on behalf of the child in the adoption,

(h) initiating or taking part in negotiations of which the purpose is the conclusion of an agreement within paragraph (g),

(i) causing another person to take any of the steps mentioned in paragraphs (a) to (h).

(3) Subsection (1) does not apply to a person taking any of the steps mentioned in paragraphs (d), (e), (g), (h) and (i) of subsection (2) if the following condition is met.

(4) The condition is that—

(a) the prospective adopters are parents, relatives or guardians of the child (or one of them is), or

(b) the prospective adopter is the partner of a parent of the child.

(5) References to an adoption agency in subsection (2) include a prescribed person outside the United Kingdom exercising functions corresponding to those of an adoption agency, if the functions are being exercised in prescribed circumstances in respect of the child in question.

(6) The Secretary of State may, after consultation with the Assembly, by order make any amendments of subsections (1) to (4), and any consequential amendments of this Act, which he considers necessary or expedient.

(7) In this section—

(a) "agreement" includes an arrangement (whether or not enforceable),

(b) "prescribed" means prescribed by regulations made by the Secretary of State after consultation with the Assembly.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Textual Amendments**

**F71** Words in s. 92(1) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 155**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**Modifications etc. (not altering text)**

**C81** S. 92 modified (30.12.2005) by The Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005 (S.I. 2005/3222), regs. 1(1), **3-5**

**Commencement Information**

**I180** S. 92 in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(viii)**

**I181** S. 92 in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(g)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 93 Offence of breaching restrictions under section 92

(1) If a person contravenes section 92(1), he is guilty of an offence; and, if that person is an adoption society, the person who manages the society is also guilty of the offence.

(2) A person is not guilty of an offence under subsection (1) of taking the step mentioned in paragraph (f) of section 92(2) unless it is proved that he knew or had reason to suspect that the child was handed over to him in contravention of paragraph (e) of that subsection.

(3) A person is not guilty of an offence under subsection (1) of causing a person to take any of the steps mentioned in paragraphs (a) to (h) of section 92(2) unless it is proved that he knew or had reason to suspect that the step taken would contravene the paragraph in question.

(4) But subsections (2) and (3) only apply if sufficient evidence is adduced to raise an issue as to whether the person had the knowledge or reason mentioned.

(5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding £10,000, or both.

**Modifications etc. (not altering text)**

**C82** S. 93 modified (30.12.2005) by The Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005 (S.I. 2005/3222), regs. 1(1), **3-5**

**Commencement Information**

**I182** S. 93 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(g)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 94 Restriction on reports

(1) A person who is not within a prescribed description may not, in any prescribed circumstances, prepare a report for any person about the suitability of a child for adoption or of a person to adopt a child or about the adoption, or placement for adoption, of a child.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

"Prescribed" means prescribed by regulations made by the Secretary of State after consultation with the Assembly.

(2) If a person—

(a) contravenes subsection (1), or

(b) causes a person to prepare a report, or submits to any person a report which has been prepared, in contravention of that subsection,

he is guilty of an offence.

(3) If a person who works for an adoption society—

(a) contravenes subsection (1), or

(b) causes a person to prepare a report, or submits to any person a report which has been prepared, in contravention of that subsection,

the person who manages the society is also guilty of the offence.

(4) A person is not guilty of an offence under subsection (2)(b) unless it is proved that he knew or had reason to suspect that the report would be, or had been, prepared in contravention of subsection (1).

But this subsection only applies if sufficient evidence is adduced to raise an issue as to whether the person had the knowledge or reason mentioned.

(5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

**Commencement Information**

**I183** S. 94(1) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, **art. 2(1)(m)(ix)**

**I184** S. 94(1) in force at 30.12.2005 in so far as not already in force by S.I. 2005/2213, **art. 2(g)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**I185** S. 94(2)-(5) in force at 30.12.2005 by S.I. 2005/2213, **art. 2(g)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 95 Prohibition of certain payments

(1) This section applies to any payment (other than an excepted payment) which is made for or in consideration of—

(a) the adoption of a child,

(b) giving any consent required in connection with the adoption of a child,

(c) removing from the United Kingdom a child who is a Commonwealth citizen, or is habitually resident in the United Kingdom, to a place outside the British Islands for the purpose of adoption,

(d) a person (who is neither an adoption agency nor acting in pursuance of an order of the High Court **[**[F72]or family court**]**) taking any step mentioned in section 92(2),

(e) preparing, causing to be prepared or submitting a report the preparation of which contravenes section 94(1).

(2) In this section and section 96, removing a child from the United Kingdom has the same meaning as in section 85.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

(3) Any person who—
- (a) makes any payment to which this section applies,
- (b) agrees or offers to make any such payment, or
- (c) receives or agrees to receive or attempts to obtain any such payment,

is guilty of an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding £10,000, or both.

**Textual Amendments**

**F72** Words in s. 95(1)(d) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 156**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**Commencement Information**

**I186** S. 95 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(g)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 96 Excepted payments

(1) A payment is an excepted payment if it is made by virtue of, or in accordance with provision made by or under, this Act, the Adoption (Scotland) Act 1978 (c. 28)**[**[F73], the Adoption and Children (Scotland) Act 2007 (asp 4)**]** or the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)).

(2) A payment is an excepted payment if it is made to a registered adoption society by—
- (a) a parent or guardian of a child, or
- (b) a person who adopts or proposes to adopt a child,

in respect of expenses reasonably incurred by the society in connection with the adoption or proposed adoption of the child.

(3) A payment is an excepted payment if it is made in respect of any legal or medical expenses incurred or to be incurred by any person in connection with an application to a court which he has made or proposes to make for an adoption order, a placement order, or an order under section 26**[**[F74], 51A**]** or 84.

(4) A payment made as mentioned in section 95(1)(c) is an excepted payment if—
- (a) the condition in section 85(2) is met, and
- (b) the payment is made in respect of the travel and accommodation expenses reasonably incurred in removing the child from the United Kingdom for the purpose of adoption.

**Textual Amendments**

**F73** Words in s. 96(1) inserted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(4)**

**F74** Word in s. 96(3) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 9(4)**, 139(6); S.I. 2014/889, art. 4(a) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Commencement Information**

**I187** S. 96 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(g)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 97 Sections 92 to 96: interpretation

In sections 92 to 96—

(a) "adoption agency" includes a Scottish or Northern Irish adoption agency,

(b) "payment" includes reward,

(c) references to adoption are to the adoption of persons, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the British Islands.

**Commencement Information**

**I188** S. 97 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(g)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*Information*

## 98 Pre-commencement adoptions: information

(1) Regulations under section 9 may make provision for the purpose of—

(a) assisting persons adopted before the appointed day who have attained the age of 18 to obtain information in relation to their adoption, and

(b) facilitating contact between such persons and their relatives.

(2) For that purpose the regulations may confer functions on—

(a) registered adoption support agencies,

(b) the Registrar General,

(c) adoption agencies.

(3) For that purpose the regulations may—

(a) authorise or require any person mentioned in subsection (2) to disclose information,

(b) authorise or require the disclosure of information contained in records kept under section 8 of the Public Records Act 1958 (c. 51) (court records),

and may impose conditions on the disclosure of information, including conditions restricting its further disclosure.

(4) The regulations may authorise the charging of prescribed fees by any person mentioned in subsection (2) or in respect of the disclosure of information under subsection (3)(b).

(5) An authorisation or requirement to disclose information by virtue of subsection (3)(a) has effect in spite of any restriction on the disclosure of information in Chapter 5.

(6) The making of regulations by virtue of subsections (2) to (4) which relate to the Registrar General requires the approval of **[**[F75]the Secretary of State**]**.

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(7) In this section—

"appointed day" means the day appointed for the commencement of sections 56 to 65,

"registered adoption support agency" means an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000 (c. 14),

"relative", in relation to an adopted person, means any person who (but for his adoption) would be related to him by blood (including half-blood) **[**[F76], marriage or civil partnership**]**.

**Textual Amendments**

**F75** Words in s. 98(6) substituted (3.4.2008) by The Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), **Sch. 2 para. 12(d)** (with art. 4)

**F76** Words in s. 98(7) substituted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 79(10)**, 263(2); S.I. 2005/3175, art. 2(9)

**Modifications etc. (not altering text)**

**C83** S. 98(6): transfer of functions (3.4.2008) by The Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), **Sch. 1 para. 12(d)** (with art. 4)

**Commencement Information**

**I189** S. 98 in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**

**I190** S. 98 in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(j)**

*Proceedings*

## 99 Proceedings for offences

Proceedings for an offence by virtue of section 9 or 59 may not, without the written consent of the Attorney General, be taken by any person other than **[**[F77]Her Majesty's Chief Inspector of Education, Children's Services and Skills**]** or the Assembly.

**Textual Amendments**

**F77** Words in s. 99 substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 76**; S.I. 2007/935, art. 5(gg)

**Commencement Information**

**I191** S. 99 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(h)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## [F78]100 Appeals

. . . . . .

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
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**Textual Amendments**

**F78** S. 100 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 210**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

## 101 Privacy

(1) Proceedings under this Act in the High Court or **[**[F79]the family court**]** may be heard and determined in private.

(2) In section 12 of the Administration of Justice Act 1960 (c. 65) (publication of information relating to proceedings in private), in subsection (1)(a)(ii), after "1989" there is inserted " or the Adoption and Children Act 2002 ".

(3) In section 97 of the 1989 Act (privacy for children involved in certain proceedings), after "this Act" in subsections (1) and (2) there is inserted " or the Adoption and Children Act 2002 ".

**Textual Amendments**

**F79** Words in s. 101(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 157**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**Modifications etc. (not altering text)**

**C84** S. 101(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I192** S. 101 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(h)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*The Children and Family Court Advisory and Support Service*

## 102 Officers of the Service

(1) For the purposes of—

(a) any relevant application,

(b) the signification by any person of any consent to placement or adoption,

rules must provide for the appointment in prescribed cases of an officer of the Children and Family Court Advisory and Support Service ("the Service") **[**[F80]or a Welsh family proceedings officer**]**.

(2) The rules may provide for the appointment of such an officer in other circumstances in which it appears to the Lord Chancellor to be necessary or expedient to do so.

(3) The rules may provide for the officer—

(a) to act on behalf of the child upon the hearing of any relevant application, with the duty of safeguarding the interests of the child in the prescribed manner,

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(b) where the court so requests, to prepare a report on matters relating to the welfare of the child in question,

(c) to witness documents which signify consent to placement or adoption,

(d) to perform prescribed functions.

(4) A report prepared in pursuance of the rules on matters relating to the welfare of a child must—

(a) deal with prescribed matters (unless the court orders otherwise), and

(b) be made in the manner required by the court.

(5) A person who—

(a) in the case of an application for the making, varying or revocation of a placement order, is employed by the local authority which made the application,

(b) in the case of an application for an adoption order in respect of a child who was placed for adoption, is employed by the adoption agency which placed him, or

(c) is within a prescribed description,

is not to be appointed under subsection (1) or (2).

(6) In this section, "relevant application" means an application for—

(a) the making, varying or revocation of a placement order,

(b) the making of an order under section 26, or the varying or revocation of such an order,

(c) the making of an adoption order, or

(d) the making of an order under section 84.

(7) Rules may make provision as to the assistance which the court may require an officer of the Service **[**[F81]or a Welsh family proceedings officer**]** to give to it.

**[**[F82](8) In this section and section 103 "Welsh family proceedings officer" has the meaning given by section 35 of the Children Act 2004.**]**

**Textual Amendments**

**F80** Words in s. 102(1) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 67(6), Sch. 3 para. 16(1)**(2)**; S.I. 2005/700, art. 2(2)

**F81** Words in s. 102(7) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 67(6), Sch. 3 para. 16(1)**(3)**; S.I. 2005/700, art. 2(2)

**F82** S. 102(8) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 67(6), Sch. 3 para. 16(1)**(4)**; S.I. 2005/700, art. 2(2)

**Modifications etc. (not altering text)**

**C85** S. 102(1)-(4) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**C86** S. 102(6)-(8) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I193** S. 102 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(i)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

## 103 Right of officers of the Service to have access to adoption agency records

(1) Where an officer of the Service **[**[F83]or a Welsh family proceedings officer**]** has been appointed to act under section 102(1), he has the right at all reasonable times to examine and take copies of any records of, or held by, an adoption agency which were compiled in connection with the making, or proposed making, by any person of any application under this Part in respect of the child concerned.

(2) Where an officer of the Service **[**[F84]or a Welsh family proceedings officer**]** takes a copy of any record which he is entitled to examine under this section, that copy or any part of it is admissible as evidence of any matter referred to in any—

(a) report which he makes to the court in the proceedings in question, or

(b) evidence which he gives in those proceedings.

(3) Subsection (2) has effect regardless of any enactment or rule of law which would otherwise prevent the record in question being admissible in evidence.

**Textual Amendments**

**F83** Words in s. 103(1) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 67(6), **Sch. 3 para. 17**; S.I. 2005/700, art. 2(2)

**F84** Words in s. 103(2) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 67(6), **Sch. 3 para. 17**; S.I. 2005/700, art. 2(2)

**Commencement Information**

**I194** S. 103 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(i)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

*Evidence*

## 104 Evidence of consent

(1) If a document signifying any consent which is required by this Part to be given is witnessed in accordance with rules, it is to be admissible in evidence without further proof of the signature of the person by whom it was executed.

(2) A document signifying any such consent which purports to be witnessed in accordance with rules is to be presumed to be so witnessed, and to have been executed and witnessed on the date and at the place specified in the document, unless the contrary is proved.

**Modifications etc. (not altering text)**

**C87** S. 104 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I195** S. 104 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(j)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

*Scotland, Northern Ireland and the Islands*

## 105 Effect of certain Scottish orders and provisions

(1) A Scottish adoption order or an order under section 25 of the Adoption (Scotland) Act 1978 (c. 28) (interim adoption orders) has effect in England and Wales as it has in Scotland, but as if references to the parental responsibilities and the parental rights in relation to a child were to parental responsibility for the child.

(2) **[**[F85]A Scottish permanence order which includes provision granting authority for the child to be adopted has the same effect in England and Wales as it has in Scotland**]**, but as if references to the parental responsibilities and the parental rights in relation to a child were to parental responsibility for the child.

**[**[F86](3) Any person who contravenes any of the provisions of the Adoption and Children (Scotland) Act 2007 mentioned in subsection (3A) is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale or both.

(3A) The provisions are—

(a) section 20 (restrictions on removal: child placed for adoption);

(b) section 21 (restrictions on removal: notice of intention to adopt given);

(c) section 22 (restrictions on removal: application for adoption order pending).**]**

(4) Orders made under **[**[F87]section 24 of the Adoption and Children (Scotland) Act 2007 (return of child removed in breach of certain provisions)**]** are to have effect in England and Wales as if they were orders of the High Court under section 41 of this Act.

**[**[F88](5) In this section, "Scottish permanence order" means a permanence order under section 80 of the Adoption and Children (Scotland) Act 2007 (asp 4) (including a deemed permanence order having effect by virtue of article 13(1), 14(2), 17(1) or 19(2) of the Adoption and Children (Scotland) Act 2007 (Commencement No. 4, Transitional and Savings Provisions Order 2009 (S.S.I. 2009/267)).**]**

**Textual Amendments**

**F85** Words in s. 105(2) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(5)(a)**

**F86** S. 105(3)(3A) substituted for s. 105(3) (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(5)(b)**

**F87** Words in s. 105(4) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(5)(c)**

**F88** S. 105(5) inserted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(5)(d)**

**Modifications etc. (not altering text)**

**C88** S. 105(2) modified (2.11.2010) by The Adoption and Children (Scotland) Act 2007 (Consequential Provisions) Order 2010 (S.I. 2010/2469), arts. 1(1), **4**

**C89** S. 105(3)(4) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

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**Commencement Information**

**I196** S. 105 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(j)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 106 Effect of certain Northern Irish orders and provisions

(1) A Northern Irish adoption order or an order under Article 26 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)) (interim orders) has effect in England and Wales as it has in Northern Ireland.

(2) An order made under Article 17 or 18 of the Adoption (Northern Ireland) Order 1987 (freeing orders), or the variation or revocation of such an order under Article 20 or 21 of that Order, have effect in England and Wales as they have in Northern Ireland.

(3) Any person who—

(a) contravenes Article 28(1) or (2) of the Adoption (Northern Ireland) Order 1987 (removal where adoption agreed etc.), or

(b) contravenes Article 29(1) or (2) of that Order (removal where applicant provided home),

is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(4) Orders made under Article 30 of that Order (order to return or not to remove child) are to have effect in England and Wales as if they were orders of the High Court under section 41 of this Act.

**Modifications etc. (not altering text)**

**C90** S. 106(3)(4) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I197** S. 106 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(j)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 107 Use of adoption records from other parts of the British Islands

Any document which is receivable as evidence of any matter—

**[**[F89](a) in Scotland under section 56(1) or (2) of the Adoption and Children (Scotland) Act 2007 (asp 4) (admissibility of extracts as evidence),**]**

(b) in Northern Ireland under Article 63(1) of the Adoption (Northern Ireland) Order 1987, or

(c) in the Isle of Man or any of the Channel Islands under an enactment corresponding to section 77(3) of this Act,

is also receivable as evidence of that matter in England and Wales.

***Status:*** *Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*
***Changes to legislation:*** *Adoption and Children Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 October 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)*

**Textual Amendments**

**F89** S. 107(a) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 6(6)**

**Modifications etc. (not altering text)**

**C91** S. 107 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

**Commencement Information**

**I198** S. 107 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(j)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 108 Channel Islands and the Isle of Man

(1) Regulations may provide—

(a) for a reference in any provision of this Act to an order of a court to include an order of a court in the Isle of Man or any of the Channel Islands which appears to the Secretary of State to correspond in its effect to the order in question,

(b) for a reference in any provision of this Act to an adoption agency to include a person who appears to the Secretary of State to exercise functions under the law of the Isle of Man or any of the Channel Islands which correspond to those of an adoption agency and for any reference in any provision of this Act to a child placed for adoption by an adoption agency to be read accordingly,

(c) for a reference in any provision of this Act to an enactment (including an enactment contained in this Act) to include a provision of the law of the Isle of Man or any of the Channel Islands which appears to the Secretary of State to correspond in its effect to the enactment,

(d) for any reference in any provision of this Act to the United Kingdom to include the Isle of Man or any of the Channel Islands.

(2) Regulations may modify any provision of this Act, as it applies to any order made, or other thing done, under the law of the Isle of Man or any of the Channel Islands.

(3) In this section, "regulations" means regulations made by the Secretary of State after consultation with the Assembly.

**Commencement Information**

**I199** S. 108 in force at 7.12.2004 by S.I. 2004/3203, **art. 2(1)(k)**

*General*

## 109 Avoiding delay

(1) In proceedings in which a question may arise as to whether an adoption order or placement order should be made, or any other question with respect to such an order, the court must (in the light of any **[**[F90]provision in rules of court that is of the kind mentioned in subsection (2)(a) or (b))**]**—

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(a) draw up a timetable with a view to determining such a question without delay, and

(b) give such directions as it considers appropriate for the purpose of ensuring that the timetable is adhered to.

(2) Rules may—

(a) prescribe periods within which prescribed steps must be taken in relation to such proceedings, and

(b) make other provision with respect to such proceedings for the purpose of ensuring that such questions are determined without delay.

**Textual Amendments**

**F90** Words in s. 109(1) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 14(8)**, 139(6); S.I. 2014/889, art. 4(c) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**Commencement Information**

**I200** S. 109 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(j)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

## 110 Service of notices etc.

Any notice or information required to be given by virtue of this Act may be given by post.

**Commencement Information**

**I201** S. 110 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(j)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

**Status:**
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