



Adoption and Children Act 2002

2002 CHAPTER 38

PART 1

ADOPTION

CHAPTER 3

PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

Removal of children in non-agency cases

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 [^{F1}or section 76(5) of 2014 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 [^{F2}or section 76(5) of the 2014 Act].

Changes to legislation: Adoption and Children Act 2002, Section 39 is up to date with all changes known to be in force on or before 20 April 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) View outstanding changes

Textual Amendments

- F1** Words in s. 39(2)(b) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), **regs. 2(1), 195(a)**
- F2** Words in s. 39(3)(c) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), **regs. 2(1), 195(b)**

Modifications etc. (not altering text)

- C1** 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)**
- C2** 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)**
- C3** 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

- I1** 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)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4A inserted by [2014 c. 6 s. 5](#)
- s. 141(7) inserted by [2010 c. 26 Sch. 3 para. 13](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22, s. 17\(4\)](#) ; [S.I. 2013/2200 art. 2\(a\)](#))