

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 2

The Adoption Process

Section 35 - Effect of order on existing rights etc.

146. By virtue of subsection (1), where an adoption order is made on the application of a member of a relevant couple under section 30(3) (a step-parent or equivalent adoption), the making of the order does not extinguish the parental responsibilities and parental rights that are vested in the other member of the couple. Neither does it extinguish any duty owed to the child by that other member in respect of paying or providing aliment in respect of any period after the making of the order, nor any duty to make payment arising out of parental responsibilities and parental rights in respect of this period.
147. Otherwise, by virtue of subsection (2), the making of an adoption order extinguishes any parental responsibilities and parental rights that vested in any person immediately before the making of the order and extinguishes any duties owed immediately before the making of the order to pay or provide aliment or make any payment arising out of parental responsibilities or parental rights relating to the child in relation to any period occurring after the making of the order.
148. However, under subsection (3), the making of an adoption order does not extinguish a duty deriving from a deed or agreement which constitutes a trust or which expressly provides that it is not extinguished by the making of an adoption order.
149. By virtue of subsection (5), the making of an adoption order also has no effect on parental responsibilities and parental rights in relation to the period prior to the making of the order.