

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 2

The Adoption Process

Section 30 - Adoption by one person

121. This section sets out the circumstances in which one person (as opposed to a couple) may adopt a child.
122. By virtue of subsection (1), that person must be aged 21 or over, and either domiciled in the British Islands (subsection (6)(a)) or have been habitually resident in the British Islands for at least one year before the date of the application for an adoption order (subsection (6)(b)).
123. In addition to these two conditions, such persons must fall within one of the following categories.
124. By virtue of subsection (2), the applicant must be a single person (i.e., a person who is unmarried, not a civil partner and not part of a couple living together in an enduring family relationship).
125. By virtue of subsection (3) a person may apply for an adoption order where they are a member of a “relevant” couple, if the other member of the couple is a parent of the child to be adopted and is aged 18 or over. That parent must also have parental responsibilities and parental rights in relation to the child to be adopted and meet same domicile or residence requirements as the applicant. This category therefore relates to step-parents, civil partners and cohabitants and allows them to make an application to adopt the child of their spouse, civil partner or person with whom they are living in an enduring family relationship.
126. By virtue of subsection (4) an adoption order may be granted on the application of one person if his or her spouse or civil partner, not being a parent of the child, cannot be found, is separated from the applicant on a basis that is likely to be permanent, or is incapable of making an application for adoption because of illness.
127. By virtue of subsection (5), one person may adopt where they are living in an enduring family relationship with someone who is incapable of applying to adopt because of illness. Again, the application may be made only if the applicant’s cohabitant is not the parent of the child to be adopted.
128. By virtue of subsection (7), where the application to adopt is made by a person who is the natural parent of the child to be adopted, an adoption order can only be made if the other parent is dead or cannot be found, or there is no other parent by virtue of section 28 of the Human Fertilisation and Embryology Act 1990 (meaning of “father”) (disregarding

*These notes relate to the Adoption and Children (Scotland) Act
2007 (asp 4) which received Royal Assent on 15 January 2007*

subsections (5A) to (5I) of that section), or there is another reason justifying the exclusion of the other parent.

129. For the purposes of this section, 'parent' has the same meaning as that given at section 29(4), namely a parent who has any parental responsibilities or parental rights in relation to the child.