



Adoption Act 1976

1976 CHAPTER 36

PART II

ADOPTION ORDERS

The making of adoption orders

12 Adoption orders.

- (1) An adoption order is an order [^{F1}giving parental responsibility for a child to] the adopters, made on their application by an authorised court.
- (2) The order does not affect [^{F2}parental responsibility so far as it relates] to any period before the making of the order.
- (3) The making of an adoption order operates to extinguish—
 - [^{F3}(a) the parental responsibility which any person has for the child immediately before the making of the order;
 - (aa) any order under the Children Act 1989]
 - (b) any duty arising by virtue of an agreement or the order of a court to make payments, so far as the payments are in respect of the child's maintenance [^{F4}or upbringing for any period after the making of the order.]
- (4) Subsection (3)(b) 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 not be made in relation to a child who is or has been married.
- (6) An adoption order may contain such terms and conditions as the court thinks fit.
- (7) An adoption order may be made notwithstanding that the child is already an adopted child.

Status: Point in time view as at 01/12/2003.

Changes to legislation: Adoption Act 1976, Cross Heading: The making of adoption orders is up to date with all changes known to be in force on or before 11 August 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

- F1** Words in s. 12(1) substituted (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.3(1)**(with Sch. 14 para. 1(1)); S. I. 1991/828, **art. 3(2)**
- F2** Words in s. 12(2) substituted (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.3(2)**(with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F3** S. 12(3)(a)(aa) substituted (14. 10. 1991) for para. (a) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 3(3)**(with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F4** Words in s. 12(3)(b) substituted (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.3(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Modifications etc. (not altering text)

- C1** S. 12 applied (with modifications) (1.6.2003) by The Intercountry Adoption (Hague Convention) Regulations 2003 (S.I. 2003/118), regs. 1(1), 34, **Sch. 3** (with reg. 37)

13 Child to live with adopters before order made.

(1) Where—

- (a) [^{F5}(subject to subsection (1A))]the applicant, or one of the applicants, is a parent, step-parent or relative of the child, or
- (b) the child was placed with the applicants by an adoption agency or in pursuance of an order of the High Court,

an adoption order shall not be made unless the child is at least 19 weeks old and at all times during the preceding 13 weeks had his home with the applicants or one of them.

[^{F6}(1A) Where an adoption is proposed to be effected by a Convention adoption order, the order shall not be made unless at all times during the preceding six months the child had his home with the applicants or one of them.]

- (2) Where subsection (1)[^{F7}or (1A)] does not apply, an adoption order shall not be made unless the child is at least 12 months old and at all times during the preceding 12 months had his home with the applicants or one of them.
- (3) An adoption order shall 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 married couple, both applicants together in the home environment have been afforded—
- (a) where the child was placed with the applicant by an adoption agency, to that agency, or
- (b) in any other case, to the local authority within whose area the home is.

Textual Amendments

- F5** Words in s. 13(1)(a) inserted (1.6.2003) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 4 para. 10(a)** (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(5)(c)(i)
- F6** S. 13(1A) inserted (1.6.2003) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 4 para. 10(b)** (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(5)(c)(i)
- F7** Words in s. 13(2) inserted (1.6.2003) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 4 para. 10(c)** (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(5)(c)(i)

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Modifications etc. (not altering text)

- C2** S. 13(1) excluded (1.6.2003) by [Adoption \(Bringing Children into the United Kingdom\) Regulations 2003 \(S.I. 2003/1173\)](#), regs. 1(1), **6(1)**
- C3** S. 13(1A) modified (1.6.2003) by [Adoption \(Bringing Children into the United Kingdom\) Regulations 2003 \(S.I. 2003/1173\)](#), regs. 1(1), **6(2)**

14 Adoption by married couple.

[^{F8}(1) An adoption order shall not be made on the application of more than one person except in the circumstances specified in subsections (1A) and (1B).

(1A) An adoption order may be made on the application of a married couple where both the husband and the wife have attained the age of 21 years.

(1B) An adoption order may be made on the application of a married couple where—

- (a) the husband or the wife—
- (i) is the father or mother of the child; and
 - (ii) has attained the age of 18 years:
- and
- (b) his or her spouse has attained the age of 21 years.]

(2) An adoption order shall not be made on the application of a married couple unless—

- (a) at least one of them is domiciled in a part of the United Kingdom, or in the Channel Islands or the Isle of Man, or
- (b) the application is for a Convention adoption order and [^{F9}the requirements of regulations under section 17 are] complied with.

^{F10}(3)

Textual Amendments

- F8** S. 14(1)–(1B) substituted (14.10.1991) for s. 14(1) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 88, **Sch. 10 para.4** (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, **art. 3(2)**
- F9** Words in s. 14(2) substituted (1.6.2003) by [Adoption \(Intercountry Aspects\) Act 1999 \(c. 18\)](#), s. 18(3), **Sch. 2 para. 3(1)** (with s. 17); S.I. 2003/189, **art. 2(2)(h)**
- F10** S. 14(3) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(7), **Sch.15** (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, **art. 3(2)**

15 Adoption by one person.

(1) ^{F11} . . . An adoption order may be made on the application of one person where he has attained the age of 21 years and—

- (a) is not married, or
- (b) is married and the court is satisfied that—
- (i) his spouse cannot be found, or
 - (ii) the spouses have separated and are living apart, and the separation is likely to be permanent, or
 - (iii) his spouse is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.

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- (2) An adoption order shall not be made on the application of one person unless—
- (a) he is domiciled in a part of the United Kingdom, or in the Channel Islands or the Isle of Man, or
 - (b) the application is for a Convention adoption order and [^{F12}the requirements of regulations under section 17 are] complied with.
- (3) An adoption order shall not be made on the application of the mother or father of the child alone unless the court is satisfied that—
- (a) the other natural parent is dead or cannot be found [^{F13}or, by virtue of section 28 of the Human Fertilisation and Embryology Act 1990, there is no other parent], or
 - (b) there is some other reason justifying the exclusion of the other natural parent, and where such an order is made the reason justifying the exclusion of the other natural parent shall be recorded by the court.

^{F14}(4)

Textual Amendments

- F11** Words in s. 15(1) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**
- F12** Words in s. 15(2) substituted (1.6.2003) by Adoption (Intercountry Aspects) Act 1999 (c. 18), s. 18(3), **Sch. 2 para. 3(2)** (with s. 17); S.I. 2003/189, art. 2(2)(h)
- F13** Words in s. 15(3)(a) inserted (1.8.1991) by Human Fertilisation and Embryology Act 1990 (c. 37, SIF 83:1), s. 49(5), **Sch. 4 para.4** (with ss. 39(3), 43(2)); S.I. 1991/1400, **art.2(2)**
- F14** S. 15(4) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15**; (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Modifications etc. (not altering text)

- C4** S. 15(3)(a) modified (temp.) (1.12.2003) by Human Fertilisation and Embryology (Deceased Fathers) Act 2003 (c. 24), s. 3(7)(8)4(2); S.I. 2003/3095, art. 2

16 Parental agreement.

- (1) An adoption order shall not be made unless—
- (a) the child is free for adoption by virtue of an order made
 - [^{F15}(i) in England and Wales, under section 18;
 - (ii) in Scotland, under section 18 of the Adoption (Scotland) ^{M1}Act 1978; or
 - (iii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order ^{M2}1987.]; or
 - (b) in the case of each parent or guardian of the child the court is satisfied that—
 - (i) he freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants), or
 - (ii) his agreement to the making of the adoption order should be dispensed with on a ground specified in subsection (2).
- (2) The grounds mentioned in subsection (1)(b)(ii) are that the parent or guardian—
- (a) cannot be found or is incapable of giving agreement;

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- (b) is withholding his agreement unreasonably;
- (c) has persistently failed without reasonable cause to discharge [^{F16}his parental responsibility for] the child;
- (d) has abandoned or neglected the child;
- (e) has persistently ill-treated the child;
- (f) has seriously ill-treated the child (subject to subsection (5)).

^{F17}(3)

- (4) Agreement is ineffective for the purposes of subsection (1)(b)(i) if given by the mother less than six weeks after the child's birth.
- (5) Subsection (2)(f) does not apply unless (because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of the parent or guardian is unlikely.

Textual Amendments

- F15** S. 16(1)(i)–(iii) substituted (14. 10. 1991) for words in s. 16 (1) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.5\(1\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art.3\(2\)](#)
- F16** Words in s. 16(2) substituted (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para. 5\(2\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F17** S. 16(3) repealed (1.6.2003) by [Adoption \(Intercountry Aspects\) Act 1999 \(c. 18\)](#), s. 18(3), [Sch. 2 para. 3\(3\)](#), [3](#) (with s. 17); S.I. 2003/189, [art. 2\(2\)\(h\)\(i\)](#)

Modifications etc. (not altering text)

- C5** S. 16 applied (with modifications) (1.6.2003) by [The Intercountry Adoption \(Hague Convention\) Regulations 2003 \(S.I. 2003/118\)](#), regs. 1(1), 34, [Sch. 3](#) (with reg. 37)

Marginal Citations

- M1** [1978 c.28\(49:11\)](#).
- M2** [S.I. 1987/2203 \(N.I. 22\)](#).

[^{F18}17 Convention adoption orders.

An adoption order shall be made as a Convention adoption order if—

- (a) the application is for a Convention adoption order; and
- (b) such requirements as may be prescribed by regulations made by the Secretary of State are complied with.]

Textual Amendments

- F18** S. 17 substituted (1.6.2003 for specified purposes, 1.6.2003 in so far as not already in force) by [Adoption \(Intercountry Aspects\) Act 1999 \(c. 18\)](#), [ss. 3, 18\(3\)](#) (with s. 17); S.I. 2003/189, [art. 2\(1\)\(b\)\(2\)\(b\)](#)

Modifications etc. (not altering text)

- C6** S. 17 restricted (23.1.2003) by [1999 c. 18](#), [ss. 16\(1\), 18\(3\)](#); S.I. 2003/189, [art. 2\(1\)\(a\)](#)

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