



2022 CHAPTER 18

PART 1

Adoption

CHAPTER 3

Placement for adoption and adoption orders

Removal of children in non-agency cases

Restrictions on removal

33.—(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 39(6) and the application has not been disposed of,

a person may remove the child only in accordance with the provisions of this group of sections (that is, this section and sections 34 to 37).

(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 39(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 secure the child's return 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 Northern Ireland.

(8) The reference in subsection (1) to a child placed by an adoption agency includes a child placed by an adoption agency within the meaning of section 2(1) of the Adoption and Children Act 2002 or Scottish adoption agency within the meaning of section 144(3) of that Act.