



# Adoption (Scotland) Act 1978

## 1978 CHAPTER 28

### PART II

#### ADOPTION ORDERS

##### *Supplemental*

#### **22 Notification to local authority of adoption application.**

- (1) An adoption order shall not be made in respect of a child who was not placed with the applicant by an adoption agency unless the applicant has, at least 3 months before the date of the order, given notice to the local authority within whose area he has his home of his intention to apply for the adoption order.
- (2) On receipt of such a notice the local authority shall investigate the matter and submit to the court a report of their investigation.
- (3) Under subsection (2), the local authority shall in particular investigate,—
  - (a) so far as is practicable, the suitability of the applicant, and any other matters relevant to the operation of section 6 in relation to the application; and
  - (b) whether the child was placed with the applicant in contravention of section 11.
- (4) A local authority which [<sup>F1</sup>receive] notice under subsection (1) in respect of a child whom the authority know to be in the care of another local authority shall, not more than 7 days after the receipt of the notice, inform that other local authority in writing that they have received the notice.

#### **Textual Amendments**

- F1** Word in s. 22(4) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.38](#) (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), [art. 3\(2\)](#)

#### **Modifications etc. (not altering text)**

- C1** [S. 22](#) excluded (transitionally) by [S.I. 1984/1050](#), [art. 4](#), [Sch. 1 paras. 2, 3](#)

*Status: Point in time view as at 01/12/2003.*

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**C2** S. 22 applied (with modifications) (1.6.2003) by [The Intercountry Adoption \(Hague Convention\) \(Scotland\) Regulations 2003 \(S.S.I. 2003/19\)](#), reg. 1(1), [sch. 3](#) (with reg. 35)

## [<sup>F2</sup>22A Children subject to supervision requirements.

- (1) An approved adoption society shall refer the case of a child who is subject to a supervision requirement to the Principal Reporter where it is satisfied that the best interests of the child would be served by its placing the child for adoption and it intends so to place him.
- (2) On a case being referred to him under subsection (1), the Principal Reporter shall arrange for a children’s hearing to review the supervision requirement in question and shall make any arrangements incidental to that review.
- (3) Subsections (9), (13) and (14) of section 73 of the Children (Scotland) Act 1995 (which provide, respectively, for acting on the review of a supervision requirement, a report by a children’s hearing and consideration of that report) shall apply in relation to a children’s hearing arranged under this section as those subsections apply in relation to one arranged by virtue of subsection (4)(c)(iii) of that section.
- (4) In this section “Principal Reporter” has the same meaning as in Part II of the Children (Scotland) Act 1995.]

### Textual Amendments

**F2** S. 22A inserted (1.4.1997) by [1995 c. 36, s. 98\(1\)](#), [Sch. 2 para. 15](#) (with s. 103(1)); [S.I. 1996/3201, art. 3\(7\)](#) (as amended by [S.I. 1997/744, arts. 2, 3](#))

### Modifications etc. (not altering text)

**C3** S. 22A modified (1.4.1997) by [S.I. 1996/3266, regs. 12\(5\), 13\(2\)](#)

## 23 Reports where child placed by agency.

Where an application for an adoption order relates to a child placed by an adoption agency, the agency shall submit to the court a report on the suitability of the applicants and any other matters relevant to the operation of section 6, and shall assist the court in any manner the court may direct.

### Modifications etc. (not altering text)

**C4** S. 23 excluded (transitionally) by [S.I. 1984/1050, art. 4, Sch. 1 paras. 2, 3](#)

## 24 Restrictions on making adoption orders.

- (1) The court shall not proceed to determine an application for an adoption order in relation to a child where a previous application for a British adoption order made in relation to the child by the same persons was refused by any court unless—
  - (a) in refusing the previous application the court directed that this subsection should not apply, or
  - (b) it appears to the court that because of a change in circumstances or for any other reason it is proper to proceed with the application.

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[<sup>F3</sup>(2) The court may make an adoption order in relation to a child even where it is found that the applicants have, as respects the child, contravened section 51.

(3) In considering whether to make an adoption order or an order under section 18(1), the court shall regard the welfare of the child concerned as its paramount consideration and shall not make the order in question unless it considers that it would be better for the child that it should do so than that it should not.]

#### Textual Amendments

**F3** S. 24(2)(3) substituted for s. 24(2) (1.4.1997) by 1995 c. 36, s. 98(1), **Sch. 2 para. 16** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)

## 25 Interim orders.

(1) Where on an application for an adoption order the requirements [<sup>F4</sup>—  
(a) of section 16(1); and  
(b) in a case where the child was not placed with the applicant by an adoption agency, of section 22(1),

are complied with] , the court may postpone the determination of the application and make an order [<sup>F5</sup> giving parental responsibilities and parental rights to] the applicants for a probationary period not exceeding 2 years upon such terms for the aliment of the child and otherwise as the court thinks fit.

(2) Where the probationary period specified in an order under subsection (1) is less than 2 years, the court may by a further order extend the period to a duration not exceeding 2 years in all.

#### Textual Amendments

**F4** Words in s. 25(1) substituted (1.4.1997) by 1995 c. 36, s. 98(1), **Sch. 2 para. 17(a)** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)

**F5** Words in s. 25(1) substituted (1.11.1996) by 1995 c. 36, s. 98(1), **Sch. 2 para. 17(b)** (with s. 103(1)); S.I. 1996/2203, **art. 3(3)**, **Sch.**

#### Modifications etc. (not altering text)

**C5** S. 25 excluded (transitionally) by S.I. 1984/1050, **art. 4**, **Sch. 1 paras. 2, 3, 6**

## [<sup>F6</sup>25A Timetable for resolving question as to whether agreement to adoption order etc. should be dispensed with.

In proceedings in which the question arises as to whether the court is satisfied as is mentioned in section 16(1)(b)(ii) or 18(1)(b), the court shall, with a view to determining the question without delay—

- (a) draw up a timetable specifying periods within which certain steps must be taken in relation to those proceedings; and
- (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.]

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**Textual Amendments**

**F6** S. 25A inserted (1.4.1997) by 1995 c. 36, s. 98(1), **Sch. 2 para. 18** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)

**F7** **26** .....

**Textual Amendments**

**F7** S. 26 repealed (1.4.1997) by 1996 c. 25, s. 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)

**Status:**

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