



Adoption (Scotland) Act 1978

1978 CHAPTER 28

PART II

ADOPTION ORDERS

The making of adoption orders

12 Adoption orders.

- (1) An adoption order is an order vesting the parental [^{F1}responsibilities and parental rights in relation] to a child in the adopters, made on their application by an authorised court [^{F2}; except that an adoption order may be made in relation to a person who has attained the age of 18 years if the application for it was made before such attainment].
 - (2) The order does not affect the parental [^{F3}responsibilities and parental rights] so far as they relate to any period before the making of the order.
 - (3) [^{F4}Subject to subsection (3A)]the making of an adoption order operates to extinguish—
 - (a) any parental [^{F5}responsibility or parental right] relating to the child which immediately before the making of the order was vested in a person (not being one of the adopters) who was—
 - (i) a parent of the child, or
 - (ii) a [^{F6} . . . guardian of the child appointed by a deed or by the order of a court;
 - (b) any duty owed to [^{F7} . . . the child—
 - (i) to pay or provide aliment in respect of any period occurring after the making of the order;
 - (ii) to make any payment arising out of parental [^{F8}responsibilities and parental rights] in respect of such a period.
- [^{F9}(3A) Where the adoption order is made by virtue of section 15(1)(aa), its making shall not operate to extinguish the parental responsibilities and parental rights which immediately before the making of the order were vested in the natural parent to whom the adopter is married.]

Status: Point in time view as at 01/04/1997. This version of this provision has been superseded.

Changes to legislation: Adoption (Scotland) Act 1978, Section 12 is up to date with all changes known to be in force on or before 10 July 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)

- (4) Nothing in subsection (3) shall ^{F10}
 extinguish any duty arising under a deed or agreement which constitutes a trust or which expressly provides that the duty is not to be extinguished by the making of an adoption order;
^{F11}(b)
- (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.
- [^{F12}(8) An adoption order shall not be made in relation to a child of or over the age of 12 years unless with the child’s consent; except that, where the court is satisfied that the child is incapable of giving his consent to the making of the order, it may dispense with that consent.]
- [^{F13}(9) Where a court making an adoption order in relation to a child who is subject to a supervision requirement is satisfied that, in consequence of its doing so, compulsory measures of supervision in respect of the child are no longer necessary, it may determine that the child shall forthwith cease to be subject to that requirement.]

Textual Amendments

- F1** Words in s. 12(1) substituted (1.11.1996) by 1995 c. 36, s. 98(1), **Sch. 2 para. 7(a)(i)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F2** Words in s. 12(1) added (1.4.1997) by 1995 c. 36, s. 98(1), **Sch. 2 para. 7(a)(ii)** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)
- F3** Words in s. 12(2) substituted (1.11.1996) by 1995 c. 36, s. 98(1), **Sch. 2 para. 7(b)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F4** Words in s. 12(3) inserted (1.4.1997) by 1995 c. 36, **s. 97(1)(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. 12(3)(a) substituted (1.11.1996) by 1995 c. 36, s. 98(1), **Sch. 2 para. 7(c)(i)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F6** Words in s. 12(3)(a)(ii) repealed (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), ss. 10, 11(2), **Sch. 2** (with s. 1(3))
- F7** Words in s. 12(3)(b) repealed (1.11.1996) by 1995 c. 36, s. 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.** Table
- F8** Words in s. 12(3)(b) substituted (1.11.1996) by 1995 c. 36, s. 98(1), **Sch. 2 para. 7(c)(ii)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F9** S. 12(3A) inserted (1.4.1997) by 1995 c. 36, **s. 97(1)(b)** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **art. 2**)
- F10** Word “a” in s. 12(4) repealed (1.11.1996) by 1995 c. 36, s. 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.** Table
- F11** S. 12(4)(b) repealed (1.11.1996) by 1995 c. 36, s. 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.** Table
- F12** S. 12(8) substituted (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), **ss. 2(3)(a), 11(2)** (with s. 1(3))
- F13** S. 12(9) added (1.4.1997) by 1995 c. 36, s. 98(1), **Sch. 2 para. 7(d)** (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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