



# Adoption and Children Act 2002

## 2002 CHAPTER 38

### PART 1

#### ADOPTION

### CHAPTER 3

#### PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

##### *Breach of restrictions on removal*

#### **41 Recovery orders**

- (1) This section applies where it appears to the court—
  - (a) that a child has been removed in contravention of any of the preceding provisions of this Chapter or that there are reasonable grounds for believing that a person intends to remove a child in contravention of those provisions, or
  - (b) that a person has failed to comply with section 31(4), 32(2), 33(2), 34(3) or 35(2).
- (2) The court may, on the application of any person, by an order—
  - (a) direct any person who is in a position to do so to produce the child on request to any person mentioned in subsection (4),
  - (b) authorise the removal of the child by any person mentioned in that subsection,
  - (c) require any person who has information as to the child's whereabouts to disclose that information on request to any constable or officer of the court,
  - (d) authorise a constable to enter any premises specified in the order and search for the child, using reasonable force if necessary.
- (3) Premises may only be specified under subsection (2)(d) if it appears to the court that there are reasonable grounds for believing the child to be on them.
- (4) The persons referred to in subsection (2) are—

*Status: Point in time view as at 30/12/2005.*

*Changes to legislation: Adoption and Children Act 2002, Cross Heading: Breach of restrictions on removal is up to date with all changes known to be in force on or before 06 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)*

- (a) any person named by the court,
  - (b) any constable,
  - (c) any person who, after the order is made under that subsection, is authorised to exercise any power under the order by an adoption agency which is authorised to place the child for adoption.
- (5) A person who intentionally obstructs a person exercising a power of removal conferred by the order is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) A person must comply with a request to disclose information as required by the order even if the information sought might constitute evidence that he had committed an offence.
- (7) But in criminal proceedings in which the person is charged with an offence (other than one mentioned in subsection (8))—
- (a) no evidence relating to the information provided may be adduced, and
  - (b) no question relating to the information may be asked,
- by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of the person.
- (8) The offences excluded from subsection (7) are—
- (a) an offence under section 2 or 5 of the Perjury Act 1911 (c. 6) (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath),
  - (b) an offence under section 44(1) or (2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (false statements made on oath or otherwise than on oath).
- (9) An order under this section has effect in relation to Scotland as if it were an order made by the Court of Session which that court had jurisdiction to make.

#### Commencement Information

- I1** S. 41(1)-(4) in force at 30.12.2005 by S.I. 2005/2213, art. 2(c) (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)
- I2** S. 41(5)-(9) in force at 30.12.2005 for E.W. by S.I. 2005/2213, art. 2(c) (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)
- I3** S. 41(5)-(9) in force at 30.12.2005 in so far as not already in force by S.S.I. 2005/643, art. 2(a)

**Status:**

Point in time view as at 30/12/2005.

**Changes to legislation:**

Adoption and Children Act 2002, Cross Heading: Breach of restrictions on removal is up to date with all changes known to be in force on or before 06 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.