



# Adoption and Children Act 2002

## 2002 CHAPTER 38

### PART 1 **E+W+S**

#### ADOPTION

### CHAPTER 3 **E+W+S**

#### PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

##### *Placement of children by adoption agency for adoption*

### 18 Placement for adoption by agencies **E+W**

- (1) An adoption agency may—
  - (a) place a child for adoption with prospective adopters, or
  - (b) where it has placed a child with any persons (whether under this Part or not), leave the child with them as prospective adopters,but, except in the case of a child who is less than six weeks old, may only do so under section 19 or a placement order.
- (2) An adoption agency may only place a child for adoption with prospective adopters if the agency is satisfied that the child ought to be placed for adoption.
- (3) A child who is placed or authorised to be placed for adoption with prospective adopters by a local authority is looked after by the authority.
- (4) If an application for an adoption order has been made by any persons in respect of a child and has not been disposed of—
  - (a) an adoption agency which placed the child with those persons may leave the child with them until the application is disposed of, but
  - (b) apart from that, the child may not be placed for adoption with any prospective adopters.

*Status: Point in time view as at 08/12/2008.*

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“Adoption order” includes a Scottish or Northern Irish adoption order.

- (5) References in this Act (apart from this section) to an adoption agency placing a child for adoption—
- (a) are to its placing a child for adoption with prospective adopters, and
  - (b) include, where it has placed a child with any persons (whether under this Act or not), leaving the child with them as prospective adopters;
- and references in this Act (apart from this section) to a child who is placed for adoption by an adoption agency are to be interpreted accordingly.
- (6) References in this Chapter to an adoption agency being, or not being, authorised to place a child for adoption are to the agency being or (as the case may be) not being authorised to do so under section 19 or a placement order.
- (7) This section is subject to sections 30 to 35 (removal of children placed by adoption agencies).

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

- C1** [S. 18\(4\)](#) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **11(1)(b)**, 52, 55

**Commencement Information**

- II** [S. 18](#) 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)

**19 Placing children with parental consent** E+W

- (1) Where an adoption agency is satisfied that each parent or guardian of a child has consented to the child—
- (a) being placed for adoption with prospective adopters identified in the consent, or
  - (b) being placed for adoption with any prospective adopters who may be chosen by the agency,
- and has not withdrawn the consent, the agency is authorised to place the child for adoption accordingly.
- (2) Consent to a child being placed for adoption with prospective adopters identified in the consent may be combined with consent to the child subsequently being placed for adoption with any prospective adopters who may be chosen by the agency in circumstances where the child is removed from or returned by the identified prospective adopters.
- (3) Subsection (1) does not apply where—
- (a) an application has been made on which a care order might be made and the application has not been disposed of, or
  - (b) a care order or placement order has been made after the consent was given.
- (4) References in this Act to a child placed for adoption under this section include a child who was placed under this section with prospective adopters and continues to be placed with them, whether or not consent to the placement has been withdrawn.

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(5) This section is subject to section 52 (parental etc. consent).

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

**C2** S. 19 restricted by 1978 c. 28, s. 16(3D) (as inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 3 para. 23](#) (with [Sch. 4 paras. 6-8](#)); S.S.I. 2005/643, art. 2(c))

**Commencement Information**

**I2** S. 19 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)

**20 Advance consent to adoption** **E+W**

- (1) A parent or guardian of a child who consents to the child being placed for adoption by an adoption agency under section 19 may, at the same or any subsequent time, consent to the making of a future adoption order.
- (2) Consent under this section—
  - (a) where the parent or guardian has consented to the child being placed for adoption with prospective adopters identified in the consent, may be consent to adoption by them, or
  - (b) may be consent to adoption by any prospective adopters who may be chosen by the agency.
- (3) A person may withdraw any consent given under this section.
- (4) A person who gives consent under this section may, at the same or any subsequent time, by notice given to the adoption agency—
  - (a) state that he does not wish to be informed of any application for an adoption order, or
  - (b) withdraw such a statement.
- (5) A notice under subsection (4) has effect from the time when it is received by the adoption agency but has no effect if the person concerned has withdrawn his consent.
- (6) This section is subject to section 52 (parental etc. consent).

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

**C3** S. 20 restricted by 1978 c. 28, s. 16(3D) (as inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 3 para. 23](#) (with [Sch. 4 paras. 6-8](#)); S.S.I. 2005/643, art. 2(c))

**Commencement Information**

**I3** S. 20 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)

**21 Placement orders** **E+W**

- (1) A placement order is an order made by the court authorising a local authority to place a child for adoption with any prospective adopters who may be chosen by the authority.

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- (2) The court may not make a placement order in respect of a child unless—
- (a) the child is subject to a care order,
  - (b) the court is satisfied that the conditions in section 31(2) of the 1989 Act (conditions for making a care order) are met, or
  - (c) the child has no parent or guardian.
- (3) The court may only make a placement order if, in the case of each parent or guardian of the child, the court is satisfied—
- (a) that the parent or guardian has consented to the child being placed for adoption with any prospective adopters who may be chosen by the local authority and has not withdrawn the consent, or
  - (b) that the parent’s or guardian’s consent should be dispensed with.
- This subsection is subject to section 52 (parental etc. consent).
- (4) A placement order continues in force until—
- (a) it is revoked under section 24,
  - (b) an adoption order is made in respect of the child, or
  - (c) the child marries [<sup>F1</sup>, forms a civil partnership] or attains the age of 18 years.

“Adoption order” includes a Scottish or Northern Irish adoption order.

#### Textual Amendments

- F1** Words in s. 21(4)(c) inserted (30.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 79(2)**, 263(2); S.I. 2005/3175, art. 2(9)

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

- C4** S. 21 restricted by 1978 c. 28, s. 16(3D) (as inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 3 para. 23** (with [Sch. 4 paras. 6-8](#)); S.S.I. 2005/643, art. 2(c))
- C5** S. 21(4)(b) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **11(1)(c)**, 52, 55

#### Commencement Information

- I4** S. 21 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)

## 22 Applications for placement orders **E+W**

- (1) A local authority must apply to the court for a placement order in respect of a child if—
- (a) the child is placed for adoption by them or is being provided with accommodation by them,
  - (b) no adoption agency is authorised to place the child for adoption,
  - (c) the child has no parent or guardian or the authority consider that the conditions in section 31(2) of the 1989 Act are met, and
  - (d) the authority are satisfied that the child ought to be placed for adoption.
- (2) If—
- (a) an application has been made (and has not been disposed of) on which a care order might be made in respect of a child, or

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- (b) a child is subject to a care order and the appropriate local authority are not authorised to place the child for adoption,  
the appropriate local authority must apply to the court for a placement order if they are satisfied that the child ought to be placed for adoption.
- (3) If—
- (a) a child is subject to a care order, and
- (b) the appropriate local authority are authorised to place the child for adoption under section 19,  
the authority may apply to the court for a placement order.
- (4) If a local authority—
- (a) are under a duty to apply to the court for a placement order in respect of a child, or
- (b) have applied for a placement order in respect of a child and the application has not been disposed of,  
the child is looked after by the authority.
- (5) Subsections (1) to (3) do not apply in respect of a child—
- (a) if any persons have given notice of intention to adopt, unless the period of four months beginning with the giving of the notice has expired without them applying for an adoption order or their application for such an order has been withdrawn or refused, or
- (b) if an application for an adoption order has been made and has not been disposed of.
- “Adoption order” includes a Scottish or Northern Irish adoption order.
- (6) Where—
- (a) an application for a placement order in respect of a child has been made and has not been disposed of, and
- (b) no interim care order is in force,  
the court may give any directions it considers appropriate for the medical or psychiatric examination or other assessment of the child; but a child who is of sufficient understanding to make an informed decision may refuse to submit to the examination or other assessment.
- (7) The appropriate local authority—
- (a) in relation to a care order, is the local authority in whose care the child is placed by the order, and
- (b) in relation to an application on which a care order might be made, is the local authority which makes the application.

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

- C6** S. 22(5)(a)(b) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **11(1)(d)**, 52, 55

**Commencement Information**

- I5** S. 22 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)

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## 23 Varying placement orders **E+W**

- (1) The court may vary a placement order so as to substitute another local authority for the local authority authorised by the order to place the child for adoption.
- (2) The variation may only be made on the joint application of both authorities.

### Commencement Information

**I6** [S. 23](#) 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)

## 24 Revoking placement orders **E+W**

- (1) The court may revoke a placement order on the application of any person.
- (2) But an application may not be made by a person other than the child or the local authority authorised by the order to place the child for adoption unless—
  - (a) the court has given leave to apply, and
  - (b) the child is not placed for adoption by the authority.
- (3) The court cannot give leave under subsection (2)(a) unless satisfied that there has been a change in circumstances since the order was made.
- (4) If the court determines, on an application for an adoption order, not to make the order, it may revoke any placement order in respect of the child.
- (5) Where—
  - (a) an application for the revocation of a placement order has been made and has not been disposed of, and
  - (b) the child is not placed for adoption by the authority,
 the child may not without the court’s leave be placed for adoption under the order.

### Modifications etc. (not altering text)

**C7** [S. 24\(4\)](#) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), [regs. 1\(1\)](#), [11\(1\)\(e\)](#), 52, 55

### Commencement Information

**I7** [S. 24](#) 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)

## 25 Parental responsibility **E+W+S**

- (1) This section applies while—
  - (a) a child is placed for adoption under section 19 or an adoption agency is authorised to place a child for adoption under that section, or
  - (b) a placement order is in force in respect of a child.
- (2) Parental responsibility for the child is given to the agency concerned.

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- (3) While the child is placed with prospective adopters, parental responsibility is given to them.
- (4) The agency may determine that the parental responsibility of any parent or guardian, or of prospective adopters, is to be restricted to the extent specified in the determination.

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

**C8** S. 25 extended (S.) (with modifications) by 1978 c. 28, s. 53B (as inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 3 para. 30](#) (with [Sch. 4 paras. 6-8](#)); S.S.I. 2005/643, art. 2(c))

**Commencement Information**

**I8** S. 25 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)

**26 Contact E+W**

- (1) On an adoption agency being authorised to place a child for adoption, or placing a child for adoption who is less than six weeks old, any provision for contact under the 1989 Act ceases to have effect [<sup>F2</sup>and any contact activity direction relating to contact with the child is discharged].
- (2) While an adoption agency is so authorised or a child is placed for adoption—
  - (a) no application may be made for any provision for contact under that Act, but
  - (b) the court may make an order under this section requiring the person with whom the child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for the person named in the order and the child otherwise to have contact with each other.
- (3) An application for an order under this section may be made by—
  - (a) the child or the agency,
  - (b) any parent, guardian or relative,
  - (c) any person in whose favour there was provision for contact under the 1989 Act which ceased to have effect by virtue of subsection (1),
  - (d) if a residence order was in force immediately before the adoption agency was authorised to place the child for adoption or (as the case may be) placed the child for adoption at a time when he was less than six weeks old, the person in whose favour the order was made,
  - (e) if a person had care of the child immediately before that time by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, that person,
  - (f) any person who has obtained the court's leave to make the application.
- (4) When making a placement order, the court may on its own initiative make an order under this section.
- (5) This section does not prevent an application for a contact order under section 8 of the 1989 Act being made where the application is to be heard together with an application for an adoption order in respect of the child.

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- (6) In this section, [F3“contact activity direction” has the meaning given by section 11A of the 1989 Act and] “provision for contact under the 1989 Act” means a contact order under section 8 of that Act or an order under section 34 of that Act (parental contact with children in care).

#### Textual Amendments

- F2** Words in s. 26(1) inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\), s. 17\(2\), Sch. 2 para. 14\(2\)](#); S.I. 2008/2870, art. 2(2)(e)
- F3** Words in s. 26(6) inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\), s. 17\(2\), Sch. 2 para. 14\(3\)](#); S.I. 2008/2870, art. 2(2)(e)

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

- C9** S. 26 restricted by 1986 c. 55, s. 2(2B) (as inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\), s. 148\(1\), Sch. 3 para. 48](#) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o))

#### Commencement Information

- I9** S. 26 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)

## 27 Contact: supplementary **E+W**

- (1) An order under section 26—
- (a) has effect while the adoption agency is authorised to place the child for adoption or the child is placed for adoption, but
  - (b) may be varied or revoked by the court on an application by the child, the agency or a person named in the order.
- (2) The agency may refuse to allow the contact that would otherwise be required by virtue of an order under that section if—
- (a) it is satisfied that it is necessary to do so in order to safeguard or promote the child’s welfare, and
  - (b) the refusal is decided upon as a matter of urgency and does not last for more than seven days.
- (3) Regulations may make provision as to—
- (a) the steps to be taken by an agency which has exercised its power under subsection (2),
  - (b) the circumstances in which, and conditions subject to which, the terms of any order under section 26 may be departed from by agreement between the agency and any person for whose contact with the child the order provides,
  - (c) notification by an agency of any variation or suspension of arrangements made (otherwise than under an order under that section) with a view to allowing any person contact with the child.
- (4) Before making a placement order the court must—
- (a) consider the arrangements which the adoption agency has made, or proposes to make, for allowing any person contact with the child, and
  - (b) invite the parties to the proceedings to comment on those arrangements.



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- (5) An order under section 26 may provide for contact on any conditions the court considers appropriate.

#### Commencement Information

- I10** S. 27(1)(2)(4)(5) 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)
- I11** S. 27(3) in force at 7.2.2004 for W. by S.I. 2004/252, **art. 2(b)**
- I12** S. 27(3) in force at 7.12.2004 for E. by S.I. 2004/3203, **art. 2(1)(f)**

## 28 Further consequences of placement **E+W+S**

- (1) Where a child is placed for adoption under section 19 or an adoption agency is authorised to place a child for adoption under that section—
- a parent or guardian of the child may not apply for a residence order unless an application for an adoption order has been made and the parent or guardian has obtained the court's leave under subsection (3) or (5) of section 47,
  - if an application has been made for an adoption order, a guardian of the child may not apply for a special guardianship order unless he has obtained the court's leave under subsection (3) or (5) of that section.
- (2) Where—
- a child is placed for adoption under section 19 or an adoption agency is authorised to place a child for adoption under that section, or
  - a placement order is in force in respect of a child,
- then (whether or not the child is in England and Wales) a person may not do either of the following things, unless the court gives leave or each parent or guardian of the child gives written consent.
- (3) Those things are—
- causing the child to be known by a new surname, or
  - removing the child from the United Kingdom.
- (4) Subsection (3) does not prevent the removal of a child from the United Kingdom for a period of less than one month by a person who provides the child's home.

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

- C10** S. 28(1) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **11(1)(f)**, 52, 55
- C11** S. 28(2) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **52**, 53
- C12** S. 28(2)-(4) extended (S.) (with modifications) by 1978 c. 28, s. 53B (as inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 3 para. 30** (with Sch. 4 paras. 6-8); S.S.I. 2005/643, art. 2(c))
- C13** S. 28(2) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **6**, 7

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#### Commencement Information

**I13** S. 28 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)

## 29 Further consequences of placement orders **U.K.**

- (1) Where a placement order is made in respect of a child and either—
  - (a) the child is subject to a care order, or
  - (b) the court at the same time makes a care order in respect of the child, the care order does not have effect at any time when the placement order is in force.
- (2) On the making of a placement order in respect of a child, any order mentioned in section 8(1) of the 1989 Act, and any supervision order in respect of the child, ceases to have effect.
- (3) Where a placement order is in force—
  - (a) no prohibited steps order, residence order or specific issue order, and
  - (b) no supervision order or child assessment order,
 may be made in respect of the child.
- (4) Subsection (3)(a) does not apply in respect of a residence order if—
  - (a) an application for an adoption order has been made in respect of the child, and
  - (b) the residence order is applied for by a parent or guardian who has obtained the court’s leave under subsection (3) or (5) of section 47 or by any other person who has obtained the court’s leave under this subsection.
- (5) Where a placement order is in force, no special guardianship order may be made in respect of the child unless—
  - (a) an application has been made for an adoption order, and
  - (b) the person applying for the special guardianship order has obtained the court’s leave under this subsection or, if he is a guardian of the child, has obtained the court’s leave under section 47(5).
- (6) Section 14A(7) of the 1989 Act applies in respect of an application for a special guardianship order for which leave has been given as mentioned in subsection (5)(b) with the omission of the words “the beginning of the period of three months ending with”.
- (7) Where a placement order is in force—
  - (a) section 14C(1)(b) of the 1989 Act (special guardianship: parental responsibility) has effect subject to any determination under section 25(4) of this Act,
  - (b) section 14C(3) and (4) of the 1989 Act (special guardianship: removal of child from UK etc.) does not apply.

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

- C14** S. 29(4)(a) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), [11\(1\)\(g\)](#), 52, 55
- C15** S. 29(5)(a) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), [11\(1\)\(g\)](#), 52, 55

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**Commencement Information**

**I14** S. 29 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)

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