Adoption and Children Act 2002

2002 CHAPTER 38

PART 1

ADOPTION

CHAPTER 1

INTRODUCTORY

1 Considerations applying to the exercise of powers

(1) **[F1Subsections (2) to (4) apply]** whenever a court or adoption agency is coming to a decision relating to the adoption of a child.

(2) The paramount consideration of the court or adoption agency must be the child's welfare, throughout his life.

(3) The court or adoption agency must at all times bear in mind that, in general, any delay in coming to the decision is likely to prejudice the child's welfare.

(4) The court or adoption agency must have regard to the following matters (among others)—
   (a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding),
   (b) the child's particular needs,
   (c) the likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person,
   (d) the child's age, sex, background and any of the child's characteristics which the court or agency considers relevant,
   (e) any harm (within the meaning of the Children Act 1989 (c. 41)) which the child has suffered or is at risk of suffering,

(f) the relationship which the child has with relatives, and with any other person in relation to whom the court or agency considers the relationship to be relevant, including—

(i) the likelihood of any such relationship continuing and the value to the child of its doing so,

(ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs,

(iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child.

(5) [**F2**In placing a child for adoption, an adoption agency in Wales] must give due consideration to the child's religious persuasion, racial origin and cultural and linguistic background.

(6) [**F3**In coming to a decision relating to the adoption of a child, a court or adoption agency] must always consider the whole range of powers available to it in the child's case (whether under this Act or the Children Act 1989); and the court must not make any order under this Act unless it considers that making the order would be better for the child than not doing so.

(7) In this section, "coming to a decision relating to the adoption of a child", in relation to a court, includes—

(a) coming to a decision in any proceedings where the orders that might be made by the court include an adoption order (or the revocation of such an order), a placement order (or the revocation of such an order) or an order under section 26 [**F4**or 51A] (or the revocation or variation of such an order),

(b) coming to a decision about granting leave in respect of any action (other than the initiation of proceedings in any court) which may be taken by an adoption agency or individual under this Act,

but does not include coming to a decision about granting leave in any other circumstances.

(8) For the purposes of this section—

(a) references to relationships are not confined to legal relationships,

(b) references to a relative, in relation to a child, include the child's mother and father.

[**F5**(9) In this section "adoption agency in Wales" means an adoption agency that is—

(a) a local authority in Wales, or

(b) a registered adoption society whose principal office is in Wales.]

Textual Amendments

F1 Words in s. 1(1) substituted (25.7.2014) by Children and Families Act 2014 (c. 6), **ss. 3(3)(a)**, 139(6); S.I. 2014/889, art. 6(b)

F2 Words in s. 1(5) substituted (25.7.2014) by Children and Families Act 2014 (c. 6), **ss. 3(2)**, 139(6); S.I. 2014/889, art. 6(b)

F3 Words in s. 1(6) substituted (25.7.2014) by Children and Families Act 2014 (c. 6), **ss. 3(3)(b)**, 139(6); S.I. 2014/889, art. 6(b)

F4 Words in s. 1(7)(a) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 9(2)**, 139(6); S.I. 2014/889, art. 4(a) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

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F5   S. 1(9) inserted (25.7.2014) by Children and Families Act 2014 (c. 6), **ss. 3(3)(c)**, 139(6); S.I. 2014/889, art. 6(b)

Modifications etc. (not altering text)

C1   S. 1 applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 2, **Sch. 1**

C2   S. 1(7)(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)(a)**, 52, 55

Commencement Information

I1   S. 1 in force at 30.12.2005 by S.I. 2005/2213, **art. 2(a)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)

Status:
Point in time view as at 06/04/2016. This version of this provision has been superseded.

Changes to legislation:
Adoption and Children Act 2002, Section 1 is up to date with all changes known to be in force on or before 24 June 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.