# 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

*The making of adoption orders*

**46 Adoption orders** E+W

(1) An adoption order is an order made by the court on an application under section 50 or 51 giving parental responsibility for a child to the adopters or adopter.

(2) The making of an adoption order operates to extinguish—

    (a) the parental responsibility which any person other than the adopters or adopter has for the adopted child immediately before the making of the order,

    (b) any order under the 1989 Act or the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)),

    (c) any order under the Children (Scotland) Act 1995 (c. 36) other than an excepted order, and

    [F1(ca) any child assessment order or child protection order within the meaning given in section 202(1) of the Children's Hearing (Scotland) Act 2011,]

    (d) any duty arising by virtue of an agreement or an order of a court to make payments, so far as the payments are in respect of the adopted child's maintenance or upbringing for any period after the making of the adoption order.

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*Adoption and Children Act 2002 (c. 38)*
*Part 1 – Adoption*
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"Excepted order" means an order under section 9, 11(1)(d) or 13 of the Children (Scotland) Act 1995 or an exclusion order within the meaning of section 76(1) of that Act.

(3) An adoption order—

  (a) does not affect parental responsibility so far as it relates to any period before the making of the order, and

  (b) in the case of an order made on an application under section 51(2) by the partner of a parent of the adopted child, does not affect the parental responsibility of that parent or any duties of that parent within subsection (2)(d).

(4) Subsection (2)(d) does not apply to a duty arising by virtue of an agreement—

  (a) which constitutes a trust, or

  (b) which expressly provides that the duty is not to be extinguished by the making of an adoption order.

(5) An adoption order may be made even if the child to be adopted is already an adopted child.

(6) Before making an adoption order, the court must consider whether there should be arrangements for allowing any person contact with the child; and for that purpose the court must consider any existing or proposed arrangements and obtain any views of the parties to the proceedings.

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**Textual Amendments**

**F1** S. 46(2)(ca) inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 1 para. 9**

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

**C1** S. 46(1)-(4) 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**

**Commencement Information**

**I1** S. 46 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)

**Changes to legislation:**
Adoption and Children Act 2002, Section 46 is up to date with all changes known to be in force on or before 28 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.
View outstanding changes

> **Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**
> Whole provisions yet to be inserted into this Act (including any effects on those provisions):
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> – s. 4A inserted by 2014 c. 6 s. 5
> – s. 141(7) inserted by 2010 c. 26 Sch. 3 para. 13 (This amendment not applied to legislation.gov.uk. Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by 2013 c. 22, s. 17(4) ; S.I. 2013/2200 art. 2(a))