

# **ADOPTION AND CHILDREN (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Chapter 2**

#### ***The Adoption Process***

#### ***Section 26 - Looked after children: adoption not proceeding***

101. This section applies where a child who is looked after by a local authority is living with prospective adopters, but has not been placed there by an adoption agency or a registered adoption society, and the prospective adopters have given notice of intention to adopt under section 18.
102. By virtue of subsection (2), the prospective adopters can notify the local authority that they intend to cease caring for the child.
103. By virtue of subsection (3), the local authority can notify the prospective adopters that it intends to remove the child from their care. Where an application for an adoption order has been made in relation to the child then, by virtue of subsection (5), the local authority can give such notice only if leave of the court has been given.
104. By virtue of subsection (4), where notice is given under subsection (2) or (3), the prospective adopters must deliver the child to the local authority or a nominated person within 7 days of giving such notice.
105. Under subsection (6) where an adoption order in relation to a child is refused or withdrawn, the child need only be delivered to the local authority if the local authority so requires and in which case the child must be delivered before the expiry of 7 days beginning with the date of the requirement.
106. By virtue of subsection (7), where the prospective adopters are awaiting the outcome of an adoption application, a local authority cannot require the child to be delivered other than under this section.
107. Subsection (8) provides that it is an offence for a person to contravene this section. The offence is punishable by imprisonment for a period of up to 3 months or a fine not exceeding level 5 on the standard scale or both.
108. By virtue of subsection (9), where a person is convicted of an offence under this section, the court may order that the child is delivered to his or her parent or guardian or to the local authority.