

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3

Miscellaneous

Section 105 - Notification of proposed application for order

349. This section applies where a local authority proposes to apply for a permanence order or becomes aware that an application for an adoption order for a child in its area is planned and the following three conditions are all met. The first of these conditions is that the father of the child is not married to the mother of the child on the “relevant date” (i.e. when the local authority decides to apply for the permanence order or becomes aware of the planned application for an adoption order. The second condition is that on the relevant date the father of the child does not have, and has never had, parental responsibilities and parental rights in regard to the child. The third condition is that the local authority knows the identity and whereabouts of the father or is able to find out this information using reasonable and practicable steps.
350. Under subsection (2), where this section applies, a local authority must notify the father either that it proposes to apply for a permanence order or that an adoption order application has been, or is to be, made. The local authority must also provide the father with specific information, as prescribed in regulations about the processes of applying for the order in question. The local authority must provide notice at least 4 weeks before the relevant date on which it intends to apply for the permanence order or as soon as is reasonably practicable when it becomes aware of the application, or intended application, for the adoption order.