



Adoption and Children (Scotland) Act 2007

2007 asp 4

PART 1

ADOPTION

CHAPTER 2

THE ADOPTION PROCESS

Effect of order on existing rights etc.

35 Effect of order on existing rights etc.

- (1) Where an adoption order is made on the application of a member of a relevant couple by virtue of subsection (3) of section 30, the making of the order—
 - (a) does not affect any parental responsibilities and parental rights which immediately before the making of the order were vested in the other member of the relevant couple,
 - (b) does not extinguish any duty owed to the child by that other member—
 - (i) to pay or provide aliment in respect of any period occurring after the making of the order,
 - (ii) to make any payment arising out of parental responsibilities and parental rights in respect of such a period.
- (2) Otherwise, the making of an adoption order—
 - (a) extinguishes any parental responsibilities and parental rights relating to the child which immediately before the making of the order were vested in any person,
 - (b) subject to subsection (3), extinguishes any duty owed to the child immediately before the making of the order—
 - (i) to pay or provide aliment in respect of any period occurring after the making of the order,

Changes to legislation: *Adoption and Children (Scotland) Act 2007, Cross Heading: Effect of order on existing rights etc. is up to date with all changes known to be in force on or before 28 April 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. (See end of Document for details) View outstanding changes*

- (ii) to make any payment arising out of parental responsibilities and parental rights in respect of such a period.
- (3) The making of an adoption order does not extinguish a duty arising under a deed or 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.
- (4) An adoption order does not affect parental responsibilities and parental rights so far as they relate to any period before the making of the order.

Modifications etc. (not altering text)

- C1** Pt. 1 Ch. 2 applied in part (28.9.2009) by [Adoptions with a Foreign Element \(Scotland\) Regulations 2009 \(S.S.I. 2009/182\)](#), regs. 1(1), **9(1)**
- C2** S. 35 applied (with modifications) (6.4.2010) by [The Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), regs. 1(1), 4, **Sch. 3**
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Commencement Information

- I1** S. 35 in force at 28.9.2009 by [S.S.I. 2009/267](#), **arts. 1(2), 2** (with arts. 3-21) (as amended (7.5.2012) by [S.S.I. 2012/99](#), art. 2)

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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):

- s. 14(3A) inserted by [2020 asp 16 s. 30\(5\)](#)
- s. 14(4A)-(4C) inserted by [2020 asp 16 s. 2\(2\)\(c\)](#)
- s. 84(5A)(5B) inserted by [2020 asp 16 s. 2\(3\)\(c\)](#)