



Adoption and Children (Scotland) Act 2007

2007 asp 4

PART 1

ADOPTION

CHAPTER 2

THE ADOPTION PROCESS

Pre-adoption requirements

15 Child to live with adopters before adoption order made

- (1) Where—
 - (a) subsection (2) applies, an adoption order may not be made in relation to a child unless the conditions in subsection (3) are met,
 - (b) subsection (2) does not apply, an adoption order may not be made in relation to the child unless the condition in subsection (4) is met.
- (2) This subsection applies if—
 - (a) the person applying for the adoption order (the “applicant”), or one of the applicants, is a parent, step-parent or relative of the child, or
 - (b) the child was placed with the applicant, or applicants, by an adoption agency.
- (3) The conditions are—
 - (a) that the child is at least 19 weeks old, and
 - (b) that at all times during the period of 13 weeks immediately preceding the making of the order the child's home was with the applicants.
- (4) The condition is that at all times during the period of 12 months immediately preceding the making of the order the child's home was with the applicants.
- (5) In relation to—

Changes to legislation: Adoption and Children (Scotland) Act 2007, Cross Heading: Pre-adoption requirements is up to date with all changes known to be in force on or before 14 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

- (a) an adoption proposed to be effected by a Convention adoption order, or
- (b) an adoption of a child habitually resident outwith the British Islands which is proposed to be effected by an adoption order other than a Convention adoption order,

subsection (3)(b) has effect as if the reference to a period of 13 weeks were a reference to a period of 6 months.

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. 15 excluded (28.9.2009) by [Adoptions with a Foreign Element \(Scotland\) Regulations 2009 \(S.S.I. 2009/182\)](#), regs. 1(1), **9(4)(a)**

Commencement Information

- I1** S. 15 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)

16 Home visits

- (1) Where a child was placed for adoption with the applicants by an adoption agency, an adoption order may not be made unless the appropriate court is satisfied that the condition in subsection (2) is met.
- (2) The condition is that sufficient opportunities to see the child with the applicant or, in the case of an application by two applicants, both of them together in the home environment have been given to the agency.
- (3) Where the child was not placed for adoption with the applicants by an adoption agency, an adoption order may not be made unless the appropriate court is satisfied that the condition in subsection (4) is met.
- (4) The condition is that sufficient opportunities to see the child with the applicant or, in the case of an application by two applicants, both of them together in the home environment have been given—
 - (a) where the home is in Scotland, to the local authority within whose area the home is situated,
 - (b) where the home is outwith Scotland, to any local authority.

Commencement Information

- I2** S. 16 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)

17 Reports where child placed by agency

- (1) Subsection (2) applies where an application for an adoption order relates to a child placed for adoption by an adoption agency.
- (2) The agency must—
 - (a) submit to the court a report on—

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- (i) the suitability of the applicants, and
 - (ii) any other matters relevant to the operation of section 14, and
- (b) assist the court in any manner the court directs.

Commencement Information

I3 S. 17 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)

18 Notification to local authority of adoption application

- (1) Subsection (2) applies where a child was not placed for adoption with the applicants by an adoption agency.
- (2) An adoption order may not be made in relation to the child unless the applicants have, at least 3 months before the date of the order, given notice to the appropriate local authority of their intention to apply for the order.
- (3) In subsection (2), “appropriate local authority” means—
 - (a) where the applicants have their home in Scotland, the local authority within whose area the home is situated,
 - (b) where they have their home outwith Scotland, any local authority.

Commencement Information

I4 S. 18 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)

19 Notice under section 18: local authority's duties

- (1) This section applies where a local authority receives a notice under section 18 in respect of a child.
- (2) On receipt of the notice the authority must—
 - (a) investigate the matter, and
 - (b) submit to the court a report of the investigation.
- (3) The local authority must in particular investigate—
 - (a) so far as is reasonably practicable, the suitability of the applicants and any other matters relevant to the operation of section 14 in relation to the application,
 - (b) whether there has been a contravention of section 75 in relation to the child, and
 - (c) whether there has been a failure to comply with section 76(2) in relation to the child.
- (4) If the authority knows that the child is being looked after by another local authority, it must, before the expiry of the period of 7 days beginning with the day on which it receives the notice, give the other authority a copy of the notice.

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Commencement Information

- I5** S. 19 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)

Changes to legislation:

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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\(3\)\(c\)](#)