



Adoption and Children (Scotland) Act 2007

2007 asp 4

PART 1

ADOPTION

CHAPTER 2

THE ADOPTION PROCESS

Return of children

24 Return of child removed in breach of certain provisions

- (1) The relevant court may, on the application of a person from whose care a child has been removed in breach of any of the relevant provisions, order the person who has so removed the child to return the child to the applicant.
- (2) The relevant court may, on the application of a person who has reasonable grounds for believing that another person is intending to remove a child from the applicant's care in breach of any of the relevant provisions, by order direct that other person not to remove the child from the applicant's care in breach of the provision concerned.
- (3) The “relevant court” is—
 - (a) if there is pending in respect of the child an application for an adoption order or a permanence order, the court in which the application is pending,
 - (b) in any other case—
 - (i) the Court of Session, or
 - (ii) the sheriff court of the sheriffdom within which the applicant resides.
- (4) The relevant provisions are—
 - (a) sections 20, 21, 22 and 23,
 - (b) sections 30, 34, 35 and 36 of the 2002 Act,
 - (c) Articles 28 and 29 of the Northern Ireland Order.

Changes to legislation: *Adoption and Children (Scotland) Act 2007, Cross Heading: Return of children is up to date with all changes known to be in force on or before 27 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*

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. 24 excluded (28.9.2009) by [Adoptions with a Foreign Element \(Scotland\) Regulations 2009 \(S.S.I. 2009/182\)](#), regs. 1(1), **9(4)(d)**
- C3** S. 24 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**

Commencement Information

- II** S. 24 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)

25 Return of child placed for adoption by adoption agency

- (1) This section applies where—
- in pursuance of arrangements made by an adoption agency or a registered adoption society for the adoption of a child by persons (the “prospective adopters”), the child has been placed with the prospective adopters, and
 - no adoption order has been made in relation to the child on the application of the prospective adopters.
- (2) The prospective adopters may give notice to the agency or society of their intention not to retain the care of the child.
- (3) The agency or society may give notice to the prospective adopters of its intention not to allow the child to remain in the care of the prospective adopters.
- (4) If an application for an adoption order in relation to the child has been made by the prospective adopters, notice under subsection (3) may be given only with leave of the court which is hearing the application.
- (5) Subsection (6) applies where—
- notice is given by virtue of subsection (2) or (3), or
 - an application for an adoption order made by the prospective adopters is refused or withdrawn.
- (6) The prospective adopters must, before the expiry of the relevant period, return the child to—
- the agency or, as the case may be, society, or
 - a person nominated by the agency or, as the case may be, society for the purposes of this section.
- (7) In subsection (6), “relevant period” means—
- in the case mentioned in paragraph (a) of subsection (5), the period of 7 days beginning with the day on which notice was given,
 - in the case mentioned in paragraph (b) of that subsection—
 - the period of 7 days beginning with the day on which the application was refused or withdrawn, or
 - if, before the expiry of the period mentioned in sub-paragraph (i), the court makes an order extending that period for a period (not exceeding 6 weeks) specified in the order, the period so specified.

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- (8) A person who fails to return a child in contravention of this section commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 5 on the standard scale or both.
- (9) The court by which a person is convicted by virtue of subsection (8) may order that the child in respect of whom the offence is committed be returned to the child's parent or guardian or, as the case may be, the adoption agency or registered adoption society.

Modifications etc. (not altering text)

- C4** S. 25 applied (with modifications) (28.9.2009) by [Adoptions with a Foreign Element \(Scotland\) Regulations 2009 \(S.S.I. 2009/182\)](#), regs. 1(1), **6(3)**
- C5** S. 25 excluded (28.9.2009) by [Adoptions with a Foreign Element \(Scotland\) Regulations 2009 \(S.S.I. 2009/182\)](#), regs. 1(1), **9(4)(e)**
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Commencement Information

- I2** S. 25 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\(3\)\(c\)](#)