



# Adoption and Children (Scotland) Act 2007

2007 asp 4

## PART 3

### MISCELLANEOUS

*Provisions applicable to adoption orders and permanence orders*

#### **105 Notification of proposed application for order**

- (1) Subsection (2) applies where—
- (a) a local authority—
    - (i) proposes to make an application for a permanence order in respect of a child, or
    - (ii) becomes aware that an application for an adoption order in respect of a child in its area has been, or is to be, made,
  - (b) the father of the child is not married to the mother of the child on the relevant date,
  - (c) the father, never having had parental responsibilities or parental rights in relation to the child, does not have such responsibilities or rights on the relevant date, and
  - (d) the authority—
    - (i) knows the identity and whereabouts of the father, or
    - (ii) can, by taking such reasonable and practicable steps as are appropriate in the circumstances of the case, ascertain that information.
- (2) The local authority must, on or after the relevant date—
- (a) give notice to the father that—
    - (i) it proposes to apply for a permanence order,
    - (ii) an application for an adoption order has been made, or
    - (iii) an application for an adoption order is to be made,as the case may be, and

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**Changes to legislation:** *Adoption and Children (Scotland) Act 2007, Section 105 is up to date with all changes known to be in force on or before 26 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*

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- (b) provide the father with prescribed information relating to the processes for applying for the order in question.
- (3) Where a local authority is required to give notice under subsection (2)(a)(i), it must give the notice at least 4 weeks before the application for the permanence order is made.
- (4) Where a local authority is required to give notice under sub-paragraph (ii) or (iii) of subsection (2)(a), it must give the notice as soon as is reasonably practicable after it becomes aware that the application for an adoption order has been or, as the case may be, is to be made.
- (5) In this section—
  - (a) “relevant date” means—
    - (i) the date on which the local authority determines it will make the application mentioned in sub-paragraph (i) of subsection (1)(a), or
    - (ii) the date on which the authority becomes aware of the application mentioned in sub-paragraph (ii) of that subsection,as the case may be,
  - (b) “prescribed” means prescribed by regulations made by the Scottish Ministers.

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#### **Commencement Information**

- II** S. 105 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\(3\)\(c\)](#)