



# Adoption and Children (Scotland) Act 2007

2007 asp 4

## PART 2

### PERMANENCE ORDERS

#### *The making of permanence orders*

#### **83 Order granting authority for adoption: conditions**

- (1) The conditions referred to in section 80(2)(c) are—
- (a) that the local authority has, in the application for the permanence order, requested that the order include provision granting authority for the child to be adopted,
  - (b) that the court is satisfied that the child has been, or is likely to be, placed for adoption,
  - (c) that, in the case of each parent or guardian of the child, the court is satisfied—
    - (i) that the parent or guardian understands what the effect of making an adoption order would be and consents to the making of such an order in relation to the child, or
    - (ii) that the parent's or guardian's consent to the making of such an order should be dispensed with on one of the grounds mentioned in subsection (2),
  - (d) that the court considers that it would be better for the child if it were to grant authority for the child to be adopted than if it were not to grant such authority.
- (2) Those grounds are—
- (a) that the parent or guardian is dead,
  - (b) that the parent or guardian cannot be found or is incapable of giving consent,
  - (c) that subsection (3) or (4) applies,
  - (d) that, where neither of those subsections applies, the welfare of the child otherwise requires the consent to be dispensed with.
- (3) This subsection applies if the parent or guardian—

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*Status: This is the original version (as it was originally enacted).*

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- (a) has parental responsibilities or parental rights in relation to the child other than those mentioned in sections 1(1)(c) and 2(1)(c) of the 1995 Act,
  - (b) is, in the opinion of the court, unable satisfactorily to—
    - (i) discharge those responsibilities, or
    - (ii) exercise those rights, and
  - (c) is likely to continue to be unable to do so.
- (4) This subsection applies if—
- (a) the parent or guardian has, by virtue of the making of a permanence order which does not include provision granting authority for the child to be adopted, no parental responsibilities or parental rights in relation to the child, and
  - (b) it is unlikely that such responsibilities will be imposed on, or such rights given to, the parent or guardian.
- (5) In subsections (1)(c) and (2), “parent”, in relation to the child in respect of whom the permanence order is to be made, means—
- (a) a parent who has any parental responsibilities or parental rights in relation to the child, or
  - (b) a parent who, by virtue of a permanence order which does not include provision granting authority for the child to be adopted, has no such responsibilities or rights.