



Adoption and Children (Scotland) Act 2007

2007 asp 4

PART 2

PERMANENCE ORDERS

The making of permanence orders

84 Conditions and considerations applicable to making of order

- (1) Except where subsection (2) applies, a permanence order may not be made in respect of a child who is aged 12 or over unless the child consents.
- (2) This subsection applies where the court is satisfied that the child is incapable of consenting to the order.
- (3) The court may not make a permanence order in respect of a child unless it considers that it would be better for the child that the order be made than that it should not be made.
- (4) In considering whether to make a permanence order and, if so, what provision the order should make, the court is to regard the need to safeguard and promote the welfare of the child throughout childhood as the paramount consideration.
- (5) Before making a permanence order, the court must—
 - (a) after taking account of the child's age and maturity, so far as is reasonably practicable—
 - (i) give the child the opportunity to indicate whether the child wishes to express any views, and
 - (ii) if the child does so wish, give the child the opportunity to express them,
 - (b) have regard to—
 - (i) any such views the child may express,
 - (ii) the child's religious persuasion, racial origin and cultural and linguistic background, and

Status: This is the original version (as it was originally enacted).

- (iii) the likely effect on the child of the making of the order, and
- (c) be satisfied that—
 - (i) there is no person who has the right mentioned in subsection (1)(a) of section 2 of the 1995 Act to have the child living with the person or otherwise to regulate the child's residence, or
 - (ii) where there is such a person, the child's residence with the person is, or is likely to be, seriously detrimental to the welfare of the child.
- (6) A child who is aged 12 or over is presumed to be of sufficient age and maturity to form a view for the purposes of subsection (5)(a).