



Adoption and Children (Scotland) Act 2007

2007 asp 4

PART 2

PERMANENCE ORDERS

Variation

94 Proceedings

- (1) In any proceedings for variation of a permanence order by the local authority on whose application the order was granted, the appropriate court must permit any person who is affected by the order, and who wishes to make representations to the court, to do so.
- (2) In any proceedings for variation of a permanence order by a person other than the local authority on whose application the order was granted, the appropriate court must permit any person mentioned in subsection (3) who wishes to make representations to the court to do so.
- (3) Those persons are—
 - (a) the local authority on whose application the permanence order was made,
 - (b) if the child in respect of whom the original order was made is—
 - (i) aged 12 or over, or
 - (ii) under the age of 12 but, in the court's opinion (taking account of the child's age and maturity), is capable of understanding the effect of the order,
that child,
 - (c) any person who has parental responsibilities or parental rights in relation to the child,
 - (d) any person on whom a duty was imposed, or power conferred, by the order,
 - (e) any person in whom were vested, immediately before the making of the order, any parental responsibilities or parental rights which, by virtue of the making of the order, vest in another person,

Status: This is the original version (as it was originally enacted).

- (f) any person in whom were vested, immediately before a variation by virtue of section 92 of the order, parental responsibilities or parental rights which, by virtue of the variation, vest in another person, and
 - (g) any other person who claims an interest.
- (4) A person other than the local authority on whose application a permanence order was granted may not apply to the court for a variation of the order without first obtaining the leave of the court.
- (5) If the court is satisfied—
 - (a) that there has been a material change in the circumstances directly relating to any of the order’s provisions, or
 - (b) that for any other reason it is proper to allow the application to be made, it must grant that leave.
- (6) In determining whether there has been a material change in circumstances, the court must have regard, in particular, to any aspect of—
 - (a) the welfare of the child in respect of whom the permanence order was made, and
 - (b) the circumstances of—
 - (i) a parent, or the parents, of the child,
 - (ii) the child’s guardian, or
 - (iii) any person mentioned in paragraph (e) or (f) of subsection (3).
- (7) In subsection (1), the reference to variation of a permanence order includes a reference to amendment of the order to include provision granting authority for the child to whom the order relates to be adopted.