



# Adoption and Children Act 2002

## 2002 CHAPTER 38

### PART 1

#### ADOPTION

### CHAPTER 3

#### PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

##### *Removal of children who are or may be placed by adoption agencies*

### **30 General prohibitions on removal**

(1) Where—

- (a) a child is placed for adoption by an adoption agency under section 19, or
- (b) a child is placed for adoption by an adoption agency and either the child is less than six weeks old or the agency has at no time been authorised to place the child for adoption,

a person (other than the agency) must not remove the child from the prospective adopters.

(2) Where—

- (a) a child who is not for the time being placed for adoption is being provided with accommodation by a local authority, and
- (b) the authority have applied to the court for a placement order and the application has not been disposed of,

only a person who has the court's leave (or the authority) may remove the child from the accommodation.

(3) Where subsection (2) does not apply, but—

- (a) a child who is not for the time being placed for adoption is being provided with accommodation by an adoption agency, and

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**Changes to legislation:** *Adoption and Children Act 2002, Cross Heading: Removal of children who are or may be placed by adoption agencies is up to date with all changes known to be in force on or before 22 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) the agency is authorised to place the child for adoption under section 19 or would be so authorised if any consent to placement under that section had not been withdrawn,  
 a person (other than the agency) must not remove the child from the accommodation.
- (4) This section is subject to sections 31 to 33 but those sections do not apply if the child is subject to a care order.
- (5) This group of sections (that is, this section and those sections) apply whether or not the child in question is in England and Wales.
- (6) This group of sections does not affect the exercise by any local authority or other person of any power conferred by any enactment, other than section 20(8) of the 1989 Act [<sup>F1</sup>or section 76(5) of the 2014 Act] (removal of children from local authority accommodation).
- (7) This group of sections does not prevent the removal of a child who is arrested.
- (8) A person who removes a child in contravention of this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

#### Textual Amendments

- F1** Words in s. 30(6) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **191**

#### Commencement Information

- II** S. 30 in force at 30.12.2005 by [S.I. 2005/2213](#), **art. 2(c)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

### 31 Recovery by parent etc. where child not placed or is a baby

- (1) Subsection (2) applies where—
  - (a) a child who is not for the time being placed for adoption is being provided with accommodation by an adoption agency, and
  - (b) the agency would be authorised to place the child for adoption under section 19 if consent to placement under that section had not been withdrawn.
- (2) If any parent or guardian of the child informs the agency that he wishes the child to be returned to him, the agency must return the child to him within the period of seven days beginning with the request unless an application is, or has been, made for a placement order and the application has not been disposed of.
- (3) Subsection (4) applies where—
  - (a) a child is placed for adoption by an adoption agency and either the child is less than six weeks old or the agency has at no time been authorised to place the child for adoption, and
  - (b) any parent or guardian of the child informs the agency that he wishes the child to be returned to him,
 unless an application is, or has been, made for a placement order and the application has not been disposed of.

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- (4) The agency must give notice of the parent’s or guardian’s wish to the prospective adopters who must return the child to the agency within the period of seven days beginning with the day on which the notice is given.
- (5) A prospective adopter who fails to comply with subsection (4) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.
- (6) As soon as a child is returned to an adoption agency under subsection (4), the agency must return the child to the parent or guardian in question.

#### Commencement Information

- I2** S. 31 in force at 30.12.2005 by [S.I. 2005/2213](#), [art. 2\(c\)](#) (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

## 32 Recovery by parent etc. where child placed and consent withdrawn

- (1) This section applies where—
  - (a) a child is placed for adoption by an adoption agency under section 19, and
  - (b) consent to placement under that section has been withdrawn,
 unless an application is, or has been, made for a placement order and the application has not been disposed of.
- (2) If a parent or guardian of the child informs the agency that he wishes the child to be returned to him—
  - (a) the agency must give notice of the parent’s or guardian’s wish to the prospective adopters, and
  - (b) the prospective adopters must return the child to the agency within the period of 14 days beginning with the day on which the notice is given.
- (3) A prospective adopter who fails to comply with subsection (2)(b) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.
- (4) As soon as a child is returned to an adoption agency under this section, the agency must return the child to the parent or guardian in question.
- (5) Where a notice under subsection (2) is given, but—
  - [<sup>F2</sup>(a) before the notice was given, an application—
    - (i) for an adoption order (including a Scottish or Northern Irish adoption order),
    - (ii) for a special guardianship order,
    - (iii) for a child arrangements order to which subsection (6) applies, or
    - (iv) for permission to apply for an order within sub-paragraph (ii) or (iii),
 was made in respect of the child, and
  - (b) the application (and, in a case where permission is given on an application to apply for an order within paragraph (a)(ii) or (iii), the application for the order) has not been disposed of,]

the prospective adopters are not required by virtue of the notice to return the child to the agency unless the court so orders.

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- [<sup>F3</sup>(6) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom a child is to live, and
  - (b) when the child is to live with any person.]

#### Textual Amendments

- F2** S. 32(5)(a)(b) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 2 para. 63\(2\)](#); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F3** S. 32(6) inserted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 2 para. 63\(3\)](#); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)

#### Modifications etc. (not altering text)

- C1** S. 32(5) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), [11\(1\)\(h\)](#), 52, 55

#### Commencement Information

- I3** S. 32 in force at 30.12.2005 by [S.I. 2005/2213](#), [art. 2\(c\)](#) (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

### 33 Recovery by parent etc. where child placed and placement order refused

- (1) This section applies where—
  - (a) a child is placed for adoption by a local authority under section 19,
  - (b) the authority have applied for a placement order and the application has been refused, and
  - (c) any parent or guardian of the child informs the authority that he wishes the child to be returned to him.
- (2) The prospective adopters must return the child to the authority on a date determined by the court.
- (3) A prospective adopter who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.
- (4) As soon as a child is returned to the authority, they must return the child to the parent or guardian in question.

#### Commencement Information

- I4** S. 33 in force at 30.12.2005 by [S.I. 2005/2213](#), [art. 2\(c\)](#) (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

### 34 Placement orders: prohibition on removal

- (1) Where a placement order in respect of a child—
  - (a) is in force, or

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- (b) has been revoked, but the child has not been returned by the prospective adopters or remains in any accommodation provided by the local authority, a person (other than the local authority) may not remove the child from the prospective adopters or from accommodation provided by the authority.
- (2) A person who removes a child in contravention of subsection (1) is guilty of an offence.
- (3) Where a court revoking a placement order in respect of a child determines that the child is not to remain with any former prospective adopters with whom the child is placed, they must return the child to the local authority within the period determined by the court for the purpose; and a person who fails to do so is guilty of an offence.
- (4) Where a court revoking a placement order in respect of a child determines that the child is to be returned to a parent or guardian, the local authority must return the child to the parent or guardian as soon as the child is returned to the authority or, where the child is in accommodation provided by the authority, at once.
- (5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.
- (6) This section does not affect the exercise by any local authority or other person of a power conferred by any enactment, other than section 20(8) of the 1989 Act [<sup>F4</sup>or section 76(5) of the 2014 Act (removal of children from local authority accommodation)].
- (7) This section does not prevent the removal of a child who is arrested.
- (8) This section applies whether or not the child in question is in England and Wales.

#### Textual Amendments

- F4** Words in s. 34(6) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **192**

#### Commencement Information

- I5** S. 34 in force at 30.12.2005 by [S.I. 2005/2213](#), **art. 2(c)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

### 35 Return of child in other cases

- (1) Where a child is placed for adoption by an adoption agency and the prospective adopters give notice to the agency of their wish to return the child, the agency must—
- receive the child from the prospective adopters before the end of the period of seven days beginning with the giving of the notice, and
  - give notice to any parent or guardian of the child of the prospective adopters' wish to return the child.
- (2) Where a child is placed for adoption by an adoption agency, and the agency—
- is of the opinion that the child should not remain with the prospective adopters, and
  - gives notice to them of its opinion,

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the prospective adopters must, not later than the end of the period of seven days beginning with the giving of the notice, return the child to the agency.

- (3) If the agency gives notice under subsection (2)(b), it must give notice to any parent or guardian of the child of the obligation to return the child to the agency.
- (4) A prospective adopter who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.
- (5) Where—
- (a) an adoption agency gives notice under subsection (2) in respect of a child,
  - [<sup>F5</sup>(b) before the notice was given, an application—
    - (i) for an adoption order (including a Scottish or Northern Irish adoption order),
    - (ii) for a special guardianship order,
    - (iii) for a child arrangements order to which subsection (5A) applies, or
    - (iv) for permission to apply for an order within sub-paragraph (ii) or (iii),
 was made in respect of the child, and
  - (c) the application (and, in a case where permission is given on an application to apply for an order within paragraph (b)(ii) or (iii), the application for the order) has not been disposed of,]

prospective adopters are not required by virtue of the notice to return the child to the agency unless the court so orders.

[<sup>F6</sup>(5A) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom a child is to live, and
- (b) when a child is to live with any person.]

(6) This section applies whether or not the child in question is in England and Wales.

#### Textual Amendments

- F5** S. 35(5)(b)(c) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 2 para. 64(2)**; [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F6** S. 35(5A) inserted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 2 para. 64(3)**; [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)

#### Modifications etc. (not altering text)

- C2** S. 35 applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **6**, 8
- C3** S. 35(5) applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **11(2)**, 52, 55

#### Commencement Information

- I6** S. 35 in force at 30.12.2005 by [S.I. 2005/2213](#), art. 2(c) (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

**Changes to legislation:**

Adoption and Children Act 2002, Cross Heading: Removal of children who are or may be placed by adoption agencies is up to date with all changes known to be in force on or before 22 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.

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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. 4A inserted by [2014 c. 6 s. 5](#)
- s. 141(7) inserted by [2010 c. 26 Sch. 3 para. 13](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))