

ADOPTION AND CHILDREN ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Adoption

Chapter 3 - Placement for Adoption and Adoption Orders

Section 46: Adoption orders

136. *Section 46* explains the effect of an adoption order. It gives parental responsibility for a child to the adopters. It extinguishes the birth parent's parental responsibility, any order under the Children Act 1989 (which includes residence orders), most orders under the Children (Scotland) Act 1995 or the Children (Northern Ireland) Order 1995 and any duty in an agreement or an order of a court to make maintenance payments (*subsection (2)*). The two sorts of orders under the Children (Scotland) Act 1995 which would remain in force once an adoption order has been made are orders concerning property and exclusion orders which bar a parent from the family home because of the risk he or she poses to the child. An adoption by a partner of a parent does not affect the parental responsibility of the parent of the adopted child or any duties of that parent (*subsection (3)*). *Subsection (5)* provides that an adoption order can be made even if the child to be adopted is already an adopted child.
137. Once an adoption order is made, any liabilities of the birth parent under the Child Support Act 1991 will cease to have effect. A parent for the purposes of that Act is defined as any person who is in law the mother or father of the child (see section 55(1) of that Act). Once a child is adopted the birth parent ceases to be the parent of the child, and the adoptive parents become the parents of the child for the purposes of that Act, therefore on adoption any existing maintenance assessment will cease to have effect and a court order (if any) for the child's maintenance will cease by virtue of *section 46(2)(c)*.
138. *Subsection (6)* provides that before making an adoption order the court must consider whether there should be arrangements for allowing contact. In this respect it may consider any existing or proposed arrangements. The court may make an order under section 8 of the Children Act 1989 of its own motion or there may be an application for such an order before it (see paragraph 94).