



Adoption and Children Act 2002

2002 CHAPTER 38

PART 1

ADOPTION

CHAPTER 3

PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

Removal of children in non-agency cases

36 Restrictions on removal

- (1) At any time when a child's home is with any persons ("the people concerned") with whom the child is not placed by an adoption agency, but the people concerned—
- (a) have applied for an adoption order in respect of the child and the application has not been disposed of,
 - (b) have given notice of intention to adopt, or
 - (c) have applied for leave to apply for an adoption order under section 42(6) and the application has not been disposed of,

a person may remove the child only in accordance with the provisions of this group of sections (that is, this section and sections 37 to 40).

The reference to a child placed by an adoption agency includes a child placed by a Scottish or Northern Irish adoption agency.

- (2) For the purposes of this group of sections, a notice of intention to adopt is to be disregarded if—
- (a) the period of four months beginning with the giving of the notice has expired without the people concerned applying for an adoption order, or

Changes to legislation: *Adoption and Children Act 2002, Section 36 is up to date with all changes known to be in force on or before 24 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*

- (b) the notice is a second or subsequent notice of intention to adopt and was given during the period of five months beginning with the giving of the preceding notice.
- (3) For the purposes of this group of sections, if the people concerned apply for leave to apply for an adoption order under section 42(6) and the leave is granted, the application for leave is not to be treated as disposed of until the period of three days beginning with the granting of the leave has expired.
- (4) This section does not prevent the removal of a child who is arrested.
- (5) Where a parent or guardian may remove a child from the people concerned in accordance with the provisions of this group of sections, the people concerned must at the request of the parent or guardian return the child to the parent or guardian at once.
- (6) A person who—
 - (a) fails to comply with subsection (5), or
 - (b) 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.
- (7) This group of sections applies whether or not the child in question is in England and Wales.

Modifications etc. (not altering text)

- C1** S. 36 applied (with modifications) (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **52**, 54(2)(a)
- C2** Ss. 36-40 excluded (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **54(1)**
- C3** S. 36(1) applied (with modifications) (6.4.2010) by [The Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), regs. 1(1), 2, **Sch. 1**
- C4** S. 36(2) excluded (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **6(b)**
- C5** S. 36(4) applied (with modifications) (6.4.2010) by [The Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), regs. 1(1), 2, **Sch. 1**
- C6** S. 36(5) excluded (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **6(b)**
- C7** S. 36(6)(7) applied (with modifications) (6.4.2010) by [The Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), regs. 1(1), 2, **Sch. 1**

Commencement Information

- I1** S. 36 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, Section 36 is up to date with all changes known to be in force on or before 24 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 36 extended (N.I.) by [2022 c. 18 \(N.I.\) s. 110\(2\)\(3\)](#)

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\(a\)](#))