

## A guide to the Adoption of Children Act 1926

Adoption of infant Act 1926 is available to read in the original form on the legislation.gov.uk website in PDF format. This is the earliest recorded adoption Act on the government legislation site and is still a live legislation. Although some parts may have been amended or repealed in later Acts.

There are 12 sections to this Act.

1. The court may, upon receiving the correct application make an adoption order in favour of the applicant under the provisions of this Act as long as the infant named in the application has never been married.

Terminology in this Act is as follows. The person who wishes to adopt = adopter. The infant authorised to be adopted = adopted child and infant = a person under 21 years of age.

Where the application to adopt is made by jointly by a married couple the court can name both parties as adopters. However, apart from in the case of a joint application as set out above the court will not authorise more than one person to adopt an infant.

2. An adoption order will be refused if the following apply: the applicant is under 25 years of age, the applicant is less than 21 years older than the infant they wish to adopt. In cases of the permitted blood relation ties the adopter can be less than 21 years older than the adoptee.

Unless there are special circumstances to justify an exception measure the court will not grant any order where the sole applicant is male and adoptee is female.

An adoption order will not be made without the consent of every person or body who has legal parental responsibility for the infant. However, the court can dispense with this consent if the parent or body with legal parental responsibility has abandoned the infant, can't be found or is incapable of giving consent and if the person from whom consent is sought has persistently neglected the infant or refused to contribute to their maintenance.

An adoption order will not be granted in respect of a single spouse in relation to a married couple without the consent of the other spouse unless the 2<sup>nd</sup> spouse can't be found, is incapable of giving consent or the spouses are separated (living apart) and the separation appears to be permanent.

An adoption order will not be granted if any applicant is not a permanent resident in England or Wales or in respect of any infant who is not a British subject and so resident.

3. Before the court makes an adoption order they need to be satisfied of the following: that every person whose consent is needed and has not been dispensed with by the court and that the person or persons giving consent fully understand that the adoption is permanent and removes their parental rights. In regards to orders being made for the welfare of the infant, consideration is given to the infants wishes in regards to age and understanding of the infant. Finally, that the applicant has not agreed to receive or already received any payment or other reward in consideration of the adoption except such as the court may sanction.

4. The court may impose terms and conditions in respect of the adopter providing a bond or otherwise to make provisions for the adopted child if the court decides as part of the adoption order.
5. Once an adoption order has been made, all rights, obligations and liabilities of the adopted infants blood relation parents and relatives are removed and these are transferred to the adopter as if the adopted infant was born to them.

An adoption order however does not take away the rights of the adopted child to any rights or interest in property from the blood related family.

Where the adopter takes interest in the adoptees interest this is to be dealt with as if the adopted child was the birth child of the adopter. Any life insurance on or for the adopted child will be treated as if the adopter was the birth parent.

6. The court may upon application of an adoption order postpone the determination of the order and make an interim order (which shall not be an adoption order for the purposes of this Act) giving custody of the infant to the proposed adopted parent/s for a period of up to two years as a probationary period but will still require the proposed adopted parent to fulfil all obligations towards the infant as if they were the infants' parents. All and any consents needed as pertaining to this Act will be the same for an interim order as they are for an adoption order.
7. For the purpose of this Act an adoption or interim order for the infant made be made even if the aforementioned infant is already adopted and the previous adopted parents, if still alive, will be treated the same as if they were the infants' birth parents.
8. This section sets out the types of court to whom an application can be made. It also introduces the role of a guardian ad litem for the infant who, will put the interests and safeguarding of the infant at the forefront of the case. Furthermore, it states that the local authority can act as the guardian ad litem.
9. It is unlawful for any adopter, parent or guardian to receive any payment or reward in respect of the adoption without sanction from the court under this Act or for any person to agree to make or give any adopter, parent or guardian any such payment.
10. This section sets out the rules in respect to any ongoing circumstances made prior to the enactment of this Act where a child is being looked after by anyone other than the blood related parents and how in these circumstances no consent is needed from the original parents.
11. This section sets out the rules for the Adopted children register. Which includes adding the words adopted to the adopted infants birth certificate. This section also sets out the rules surrounding the privacy of such information and that it will be a closed register, meaning that the public can't have access to it without a court order.
12. This just states that this Act will be referred to as the Adoption of Children Act, 1926 and that it is not applicable in either Scotland or Northern Ireland.

Looking at Hansard.parliament.uk the following information can be found in respect of this Act.

The home secretary was asked about the failure of the Act, if any amendments were due where this Act was concerned and if they intended to prohibit all advertising in respect to child adoption. The answer was no.