

Adoption Amendment Act 2017 – Summary of changes

The Adoption (Amendment) Act 2017 came into effect on 19 October 2017 after Minister Katherine Zappone signed the Commencement Order. The Amendment Act changes various parts of the Adoption Act 2010, which governs how all adoptions in Ireland are carried out.

This is a summary of the main changes in the amendment. For a detailed understanding of the changes, you need to refer directly to the Act and the Amendment or you should seek independent legal advice.

The changes

All children have equal eligibility

All children are now considered equal in terms of their eligibility for adoption. The fact that they were adopted before or born to married parents is no longer an automatic restriction.

Best interests of the child paramount

The best interests of the child are recognised as the most important consideration in any adoption application. There is a detailed list of considerations in the amendment to judge these. The considerations focus on how an adoption will likely affect the child, and they also make it clear that the child's own opinion is very important.

Children must be under 18

The only legal specification about a child's age now is that they still must be under 18 years of age. Previously, a distinction was made about a child under or over seven.

More couples can adopt a child

A couple living together in a civil partnership or co-habiting (which has a specific legal definition) for at least 3 years can now apply to adopt a child. Before only married couples or individual applicants could apply.

Step-parents can now apply

Step-parents can now apply to adopt their partner's child without that partner (who is already the parent of the child) also applying to adopt the child.

New laws for a person to become a guardian

New laws for a person to become a guardian of a child are now recognised. These were introduced by the Child and Family Relationships Act 2015. They mainly affects who is required to give consent to an adoption.

Relevant non-guardians now recognised

'Relevant non-guardians' are now recognised in the Act. The definition of relevant non-guardian is complicated but in basic terms it is a person who is:

- recognised as the parent of a child but is not a guardian, or
- a type of guardian who doesn't have the right to consent to an adoption. They have a right to be consulted about the adoption of the child, similar to what fathers (without guardianship rights) already had under the previous version of the Act.

Further consideration to be given by High Court

Cases which need to be decided by the High Court when the parents of the child cannot or will not consent to an adoption, must now be further considered in terms of the attempts of those parents to raise the child. For example, the child must be out of their care for a longer period of time. The rights of the parents and the child under the Constitution are now directly referenced in these cases.

Repeal of some parts of 2015 Act

Parts of the Children and Family Relationships Act 2015 which were to amend the Adoption Act 2010 have been repealed. They were never commenced in law.