

## **POLICY NOTE**

### **THE SPECIAL RESTRICTIONS ON ADOPTIONS FROM ETHIOPIA (SCOTLAND) ORDER 2018**

**SSI 2018/272**

1. The above instrument was made in exercise of the power conferred by section 62(3) of the Adoption and Children (Scotland) Act 2007 (“the Act”).

#### **Legislative Background**

2. Section 62 of the Act makes provision regarding the restriction of intercountry adoptions from a country or territory outside the British Islands (the “relevant country”) where the Scottish Ministers have reason to believe that, because of practices taking place in the relevant country in connection with the adoption of children, it would be contrary to public policy to further the bringing of children into the United Kingdom by British residents for the purposes of adoption or within 12 months of an adoption in the relevant country.
3. Section 62(3) of the Act allows the Scottish Ministers to declare by order that special restrictions are to apply for the time being to any relevant country. The Scottish Ministers will be able to apply restrictions to the bringing of children who are adopted under the law of that country into the United Kingdom from outwith the British Islands, or who are brought into the United Kingdom for the purposes of adoption. The provisions in section 62 apply equally to adoptions from countries in which the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (“the Hague Convention”) is in force and those countries in which it is not.
4. Section 64 of the Act makes provision for the special restrictions mentioned in section 62. These restrictions are that the Scottish Ministers should take no further action in connection with bringing a child from outwith the British Islands into the United Kingdom who was adopted under the law of the relevant country or is to be brought into the United Kingdom for the purposes of adoption.

#### **Policy Background and Objectives**

5. The Special Restrictions on Adoptions from Ethiopia (Scotland) Order 2018 provides that special restrictions are to apply for the time being in relation to the bringing of children from Ethiopia into Scotland in the cases mentioned by section 62 of the Act. This amounts to a suspension of intercountry adoptions from Ethiopia as it prevents the Scottish Government from taking any step which it might otherwise have taken in processing such cases, unless it is satisfied that a case should be treated as an exception. The Special Restrictions on Adoptions from Abroad (Ethiopia) Order 2018 (S.I. 2018/517), which entered into force on 21 May 2018, imposes the same restrictions in respect of the rest of the United Kingdom.
6. The Order is being made in response to significant child safeguarding concerns about practices and procedures in the Ethiopian intercountry adoption system. The UK government informed the Scottish Government of these concerns which are based on

evidence received by the UK Government through international partners, including Central Adoption Authorities and diplomatic missions. This information indicates a pattern of unethical practice and procedural irregularities within the Ethiopian system, including instances of private orphanages receiving remuneration in relation to child placement decisions and false claims in relation to children available for adoption. There is also a lack of certainty around the legal guarantees in the Ethiopian adoption process regarding issues such as child matching. The Ethiopian Government has failed to provide satisfactory reassurance, guarantees or clarification that pending and future intercountry adoption applications will be able to be processed and finalised in line with satisfactory international standards. As a result, there is a lack of confidence that adoptions from Ethiopia meet the requirements we expect for the purpose of the adoption process, and as a result we cannot guarantee that an adoption effected there is the best option for a child. Several countries have already suspended adoptions from Ethiopia (e.g. Spain in 2017, Denmark in 2016) due to these concerns.

Putting in place this suspension means that future applications to adopt from Ethiopia will not be permitted unless the Scottish Ministers are satisfied that a particular case ought to be treated as an exception.

### **Consultation**

7. The Special Restrictions on Adoptions from Ethiopia (Scotland) Order 2018 relates to procedural matters relevant to the Scottish Ministers. Any impact falls primarily on the Scottish Government rather than the public or business, charity or the voluntary sector.
8. Furthermore, the Scottish Government engaged with key stakeholders in March 2018, following receipt of information regarding concerns around adoption services in Ethiopia by the UK Government. No further consultation is required.

### **Children and Families Directorate**

**31 August 2018**