



Adoption Act 1968

CHAPTER 53

ARRANGEMENT OF SECTIONS

Further provision for adoption in Great Britain

Section

1. Further power to make adoption orders.
2. Application of Adoption Act 1958 etc. to adoption orders.
3. Restrictions on making of adoption orders.

Recognition of adoptions and adoption proceedings taking place overseas

4. Extension of enactments to certain adoptions made overseas.
5. Recognition of determinations made overseas in adoption proceedings.
6. Annulment etc. of certain adoptions and determinations made overseas.
7. Provisions supplementary to section 6.

Miscellaneous and general

8. Registration.
9. Nationality.
10. Supplemental.
11. Interpretation.
12. Rules and orders etc.
13. Powers of Parliament of Northern Ireland.
14. Short title, commencement and extent.

ELIZABETH II



1968 CHAPTER 53

An Act to make provision for extending the powers of courts in the United Kingdom with respect to the adoption of children; for enabling effect to be given in the United Kingdom to adoptions effected in other countries and to determinations of authorities in other countries with respect to adoptions; and for purposes connected with the matters aforesaid. [26th July 1968]

WHEREAS a Convention relating to the adoption of children was concluded at the Hague on 15th November 1965 and was signed on behalf of the United Kingdom on that date:

And whereas, with a view to the ratification by Her Majesty of that Convention and for other purposes, it is expedient to amend the law relating to the adoption of children:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Further provision for adoption in Great Britain

1.—(1) Subject to the provisions of this Act, the court may, upon an application made in the prescribed manner by a qualified person or qualified spouses, make an order under this section (in this Act referred to as an adoption order) authorising the applicant or applicants to adopt a qualified infant. Further power to make adoption orders.

(2) An adoption order may be made notwithstanding that the infant is already adopted under an adoption order or otherwise.

Application
of Adoption
Act 1958 etc.
to adoption
orders.
1958 c. 5
(7 & 8 Eliz. 2).

2.—(1) Subject to the provisions of this section, the Adoption Act 1958 shall have effect as if any reference in that Act to an adoption order within the meaning of that Act, other than a reference in the provisions mentioned in subsection (2) of this section, included a reference to an adoption order within the meaning of this Act.

(2) The aforesaid provisions of the Act of 1958 are sections 1(1) to (4), 9(1) and (5), 10(1), 11(1) and (3), 12(1) and (2), 13(4), 15(5), 16(4), 17(5), 19(2), 20(6), 24(7) and 26(2) and (3).

(3) The Act of 1958 as modified by subsection (1) of this section shall have effect in relation to an adoption order and a proposed adoption order subject to the following further modifications—

- (a) the following provisions shall be omitted, that is to say, section 9(2) to (4) and (6), section 11(2), in section 14(3) the words “and be deemed always to have included” and in section 57(1) the definitions of “adoption order”, “Adoption Rules” and “infant”;
- (b) any reference to Adoption Rules or the court within the meaning of that Act or to an act of sederunt under that Act shall respectively be construed as a reference to rules and the court within the meaning of this Act and to an act of sederunt under this Act;
- (c) in section 7(1)(a) the reference to the Act of 1958 shall include a reference to this Act and in section 8(3) the reference to section 3 of that Act shall include a reference to section 3(1) of this Act;
- (d) in section 12, for so much of subsection (1) as precedes paragraph (a) there shall be substituted the words “In relation to an application for an adoption order made by an applicant who is not or applicants who are not ordinarily resident in Great Britain”.

(4) Sections 4 to 6 of the Act of 1958 (which relate to consents) shall not apply to an adoption order proposed to be made in respect of an infant who is not a United Kingdom national.

(5) In any enactment passed before the date on which this subsection comes into force, other than an enactment contained in the Adoption Acts 1958 to 1964, any reference to an adoption order within the meaning of the Act of 1958 or to adoption or a person adopted under that Act or such an order shall respectively be construed as including a reference to, or to adoption or a person adopted under, an adoption order within the meaning of this Act.

3.—(1) An adoption order shall not be made on the application of a person who is not a United Kingdom national or of spouses who are not United Kingdom nationals if the adoption which would be effected by the order is prohibited by a provision of the internal law of the country of which the person is a national or the spouses are nationals, being a provision specified in an order of the Secretary of State as one notified to the Government of the United Kingdom in pursuance of the provisions of the Convention relating to prohibitions on an adoption contained in the national law of the adopter. Restrictions on making of adoption orders.

(2) An adoption order shall not be made in pursuance of an application made at a time when the applicant or applicants and the infant are United Kingdom nationals and reside in Great Britain or a specified country.

(3) An adoption order shall not be made in respect of an infant who is not a United Kingdom national—

(a) except in accordance with the provisions, if any, relating to consents and consultations of the internal law relating to adoption of the country of which the infant is a national ; and

(b) where the application for the order is made by one of two spouses, unless the other spouse consents to the application or the court dispenses with his or her consent on being satisfied as to any of the matters mentioned in section 5(4) of the Act of 1958.

(4) The reference to consents and consultations in paragraph (a) of subsection (3) of this section does not include a reference to consent by and consultation with the applicant for the order and members of the applicant's family (including his or her spouse), and for the purposes of that subsection consents may be proved in the prescribed manner and the court shall be treated as the authority by whom, under the law mentioned in that paragraph, consents may be dispensed with and the adoption in question may be authorised ; and where the provisions there mentioned require the attendance before that authority of any person who does not reside in Great Britain, that requirement shall be treated as satisfied for the purposes of the said subsection (3) if—

(a) that person has been given a reasonable opportunity of communicating his opinion on the adoption in question to the proper officer or clerk of the court, or to an appropriate authority of the country in question, for transmission to the court ; and

(b) where he has availed himself of that opportunity, his opinion has been transmitted to the court.

(5) An adoption order shall not be made unless the applicant for the order is a qualified person or the applicants for the order are qualified spouses not only at the time of the application but also immediately before the order is made.

(6) Except in the case of an adoption by qualified spouses, an adoption order shall not be made authorising more than one person to adopt a qualified infant.

*Recognition of adoptions and adoption proceedings
taking place overseas*

Extension of
enactments to
certain
adoptions
made overseas.

4.—(1) Subject to sections 5 and 6 of this Act, any provision (however expressed) in any enactment passed before the date on which this section comes into force under which a person adopted in pursuance of an adoption order within the meaning of the Act of 1958 is for any purpose treated as the child of the adopter, or any other relationship is deduced by reference to such an order, shall have effect as respects anything done or any event occurring on or after that date as extending to an overseas adoption.

1964 c. 41.

(2) Subject as aforesaid, the following provisions of the Act of 1958, that is to say, sections 14(2), 15(1) to (4), 17(3), 19(1) and 25 (which relate respectively to insurance for funeral expenses, affiliation orders, distribution of property, citizenship and registers of baptism) and section 23(5) of the Succession (Scotland) Act 1964 (which defines “adoption order” for the purposes of Part IV of that Act) shall have effect as if any reference to an adoption order within the meaning of the Act of 1958 included a reference to an overseas adoption.

(3) In this Act “overseas adoption” means an adoption of such a description as the Secretary of State may by order specify, being a description of adoptions of infants appearing to him to be effected under the law of any country outside Great Britain; and an order under this subsection may contain provision as to the manner in which evidence of an overseas adoption may be given.

Recognition of
determinations
made overseas
in adoption
proceedings.

5.—(1) Where an authority of a convention country or a specified country having power under the law of that country—

- (a) to authorise or review the authorisation of a convention adoption or a specified order; or
- (b) to give or review a decision revoking or annulling a convention adoption, a specified order or an adoption order,

makes a determination in the exercise of that power, then, subject to section 6 of this Act and any subsequent determination having effect under this subsection, the determination shall have effect in Great Britain for the purpose of effecting, confirming or terminating the adoption in question or confirming its termination, as the case may be.

(2) In this Act "convention adoption" means an overseas adoption of a description designated by an order under section 4(3) of this Act as that of an adoption regulated by the Convention.

6.—(1) The court may, upon an application under this subsection, by order annul a convention adoption—

- Annulment
etc.
of certain
adoptions and
determinations
made overseas.
- (a) on the ground that at the relevant time the adoption was prohibited by a notified provision, if under the internal law then in force in the country of which the adopter was then a national or the adopters were then nationals the adoption could have been impugned on that ground ;
 - (b) on the ground that at the relevant time the adoption contravened provisions relating to consents of the internal law relating to adoption of the country of which the adopted person was then a national, if under that law the adoption could then have been impugned on that ground ;
 - (c) on any other ground on which the adoption can be impugned under the law for the time being in force in the country in which the adoption was effected.

(2) Where a person adopted by his father or mother alone by virtue of a convention adoption has subsequently become a legitimated person on the marriage of his father and mother, the court may, upon an application under this subsection by the parties concerned, by order revoke the adoption.

(3) The court may, upon an application under this subsection—

- (a) order that an overseas adoption or a determination shall cease to be valid in Great Britain on the ground that the adoption or determination is contrary to public policy or that the authority which purported to authorise the adoption or make the determination was not competent to entertain the case ;
- (b) decide the extent, if any, to which a determination has been affected by a subsequent determination.

(4) Any court in Great Britain may, in any proceedings in that court, decide that an overseas adoption or a determination shall, for the purposes of those proceedings, be treated as invalid in Great Britain on either of the grounds mentioned in subsection (3) of this section.

(5) Except as provided by this section, the validity of an overseas adoption or a determination shall not be impugned in proceedings in any court in Great Britain.

Provisions
supplementary
to section 6.

7.—(1) Any application for an order under section 6 or a decision under section 6(3)(b) of this Act shall be made in the prescribed manner and within such period, if any, as may be prescribed.

(2) No application shall be made under subsection (1) or subsection (2) of section 6 of this Act in respect of an adoption unless immediately before the application is made the person adopted or the adopter resides in Great Britain or, as the case may be, both adopters reside there.

(3) In deciding in pursuance of section 6 of this Act whether such an authority as is mentioned in section 5(1) of this Act was competent to entertain a particular case, a court shall be bound by any finding of fact made by the authority and stated by the authority to be so made for the purpose of determining whether the authority was competent to entertain the case.

(4) In section 6 of this Act and this section—

“determination” means such a determination as is mentioned in section 5(1) of this Act;

“notified provision” means a provision specified in an order of the Secretary of State as one in respect of which a notification to or by the Government of the United Kingdom was in force at the relevant time in pursuance of the provisions of the Convention relating to prohibitions contained in the national law of the adopter; and

“relevant time” means the time when the adoption in question purported to take effect under the law of the country in which it purports to have been effected.

Miscellaneous and general

Registration.

8.—(1) The direction contained in an adoption order in pursuance of section 21 of the Act of 1958 (under which the Registrar General is required to register adoptions in the Adopted Children Register) shall include an instruction that

the entry made in that register in consequence of the order shall be marked with the words "Convention order".

(2) If the Registrar General is satisfied that an entry in the Registers of Births relates to a person adopted under an overseas adoption and that he has sufficient particulars relating to that person to enable an entry in the form set out in Schedule 1 to the Act of 1958, as modified by this subsection, to be made in the Adopted Children Register in respect of that person, he shall—

- (a) make such an entry in the Adopted Children Register ;
and
- (b) if there is a previous entry in respect of that person in that register, mark the entry (or if there is more than one such entry the last of them) with the word "Re-adopted" followed by the name in brackets of the country in which the adoption was effected ; and
- (c) unless the entry in the Registers of Births is already marked with the word "Adopted" (whether or not followed by other words), mark the entry with that word followed by the name in brackets of the country aforesaid ;

and for the purposes of this subsection the said Schedule 1 shall have effect as if column 6 were headed "Date and place of adoption".

(3) If the Registrar General is satisfied—

- (a) that an adoption order or an overseas adoption has ceased to have effect, whether on annulment or otherwise ; or
- (b) that any entry or mark was erroneously made in pursuance of subsection (2) of this section in any register mentioned in that subsection,

he may cause such alterations to be made in any such register as he considers are required in consequence of the error or to correct the error ; and where an entry in such a register is amended in pursuance of this subsection, any copy or extract of the entry shall be deemed to be accurate if and only if it shows the entry as amended but without indicating that it has been amended.

(4) Without prejudice to subsection (3) of this section, where an entry in the Registers of Births is marked in pursuance of subsection (2) of this section and the birth in question is subsequently re-registered under section 14 of the Births and 1953 c. 20.

Deaths Registration Act 1953 (which provides for re-registration of the birth of a legitimated person) the entry made on re-registration shall be marked in the like manner.

(5) In the application of this section to Scotland—

- (a) for any reference to the Registrar General or the Registers of Births there shall be substituted respectively a reference to the Registrar General of Births, Deaths and Marriages for Scotland and the register of births ;
 - (b) for the references to section 21 of and Schedule 1 to the Act of 1958 there shall be substituted respectively references to section 23 of and Schedule 2 to that Act ;
 - (c) in subsection (2), for the words “ column 6 were headed ” there shall be substituted the words “ item 6 were entitled ” ; and
 - (d) in subsection (4), for the reference to section 14 of the Births and Deaths Registration Act 1953 there shall be substituted a reference to section 20(1)(c) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.
- 1953 c. 20.
1965 c. 49.

Nationality.

9.—(1) If the Secretary of State by order declares that a description of persons specified in the order has, in pursuance of the Convention, been notified to the Government of the United Kingdom as the description of persons who are deemed to possess the nationality of a particular convention country, persons of that description shall, subject to the following provisions of this section, be treated for the purposes of this Act as nationals of that country.

(2) Subject to section 7(3) of this Act and subsection (3) of this section, where it appears to the court in any proceedings under this Act, or to any court by which a decision in pursuance of section 6(4) of this Act falls to be given, that a person is or was at a particular time a national of two or more countries, then—

- (a) if it appears to the said court that he is or was then a United Kingdom national, he shall be treated for the purposes of those proceedings or that decision as if he were or had then been a United Kingdom national only ;
- (b) if, in a case not falling within paragraph (a) above, it appears to the said court that one only of those

countries is or was then a convention country, he shall be treated for those purposes as if he were or had then been a national of that country only ;

- (c) if, in a case not falling within paragraph (a) above, it appears to the said court that two or more of those countries are or were then convention countries, he shall be treated for those purposes as if he were or had then been a national of such one only of those convention countries as the said court considers is the country with which he is or was then most closely connected ;
- (d) in any other case, he shall be treated for those purposes as if he were or had then been a national of such one only of those countries as the said court considers is the country with which he is or was then most closely connected.

(3) A court in which proceedings are brought in pursuance of section 6 of this Act shall be entitled to disregard the provisions of subsection (2) of this section in so far as it appears to that court appropriate to do so for the purposes of those proceedings ; but nothing in this subsection shall be construed as prejudicing the provisions of section 7(3) of this Act.

(4) Where, after such inquiries as the court in question considers appropriate, it appears to the court in any proceedings under this Act, or to any court by which such a decision as aforesaid falls to be given, that a person has no nationality or no ascertainable nationality, he shall be treated for the purposes of those proceedings or that decision as a national of the country in which he resides or, where that country is one of two or more countries having the same law of nationality, as a national of those countries.

(5) Where an adoption order, a specified order or an overseas adoption ceases to have effect, either on annulment or otherwise, the cesser shall not affect the status as a citizen of the United Kingdom and Colonies of any person who, by virtue of section 19(1) of the Act of 1958, became such a citizen in consequence of the order or adoption.

10.—(1) In any case where the internal law of a country falls Supplemental, to be ascertained for the purposes of this Act by any court and there are in force in that country two or more systems of internal law, the relevant system shall be ascertained in accordance with any rule in force throughout that country indicating which of the systems is relevant in the case in question or, if there is no such rule, shall be the system appearing to that court to be most closely connected with the case.

(2) Except as otherwise expressly provided by this Act, nothing in this Act shall be construed as depriving an adoption effected outside Great Britain, or a determination made outside Great Britain with respect to such an adoption, of any recognition falling to be accorded to it under the law of England and Wales or Scotland apart from this Act.

(3) In section 1(4) of the Act of 1958 (which enables an adoption order to be made under that Act notwithstanding that a previous adoption order under it has been made in respect of the relevant infant) the references to an order previously made and to the previous and last previous order shall be construed as including references to an adoption order under this Act, a specified order and an overseas adoption ; and in section 46(2) of the Matrimonial Causes Act 1965 and section 99(2) of the Superannuation Act 1965 (which provide for the interpretation of references to adoption in those Acts) the references to an enactment of the Parliament of Northern Ireland corresponding to the Act of 1958 shall be construed as including references to an enactment of that Parliament corresponding to this Act, and in the said section 99(2) the reference to an adoption order within the meaning of the Act of 1958 shall be construed as including a reference to an adoption order made under any enactment in force in any of the Channel Islands or the Isle of Man and corresponding to section 1 of this Act.

1965 c. 72.
1965 c. 74.

Interpretation. **11.**—(1) In this Act the following expressions have the following meanings unless the context otherwise requires, that is to say—

1958 c. 5
(7 & 8 Eliz. 2).

“ the Act of 1958 ” means the Adoption Act 1958 ;

“ adoption order ” has the meaning assigned to it by section 1 of this Act ;

“ the Convention ” means the Convention mentioned in the preamble to this Act ;

“ convention adoption ” has the meaning assigned to it by section 5(2) of this Act ;

“ convention country ” means any country (excluding Great Britain and a specified country) for the time being designated by an order of the Secretary of State as a country in which, in his opinion, the Convention is in force ;

“ the court ” means the High Court or the Court of Session ;

“ internal law ”, in relation to any country, means the law applicable in a case where no question arises as to the law in force in any other country ;

- “overseas adoption” has the meaning assigned to it by section 4(3) of this Act ;
- “prescribed” means prescribed by rules or, in Scotland, by act of sederunt ;
- “qualified infant” means a person who—
- (a) is under eighteen years of age on such date as the Secretary of State may by order specify and is not and has not been married ; and
 - (b) is a United Kingdom national or a national of a convention country and resides in Great Britain, a specified country or a convention country ;
- “qualified person” means a person who either resides in Great Britain and is a United Kingdom national or a national of a convention country or resides in a convention country or a specified country and is a United Kingdom national ;
- “qualified spouses” means two persons married to each other in a case where—
- (a) both reside in Great Britain and each is a United Kingdom national or a national of a convention country ; or
 - (b) both are United Kingdom nationals and each resides in Great Britain, a specified country or a convention country ;
- “reside” means habitually reside and “resides” shall be construed accordingly ;
- “rules” means rules made under section 12(1) of this Act ;
- “specified country” means, for the purposes of any provision of this Act, any of the following countries, that is to say, Northern Ireland, any of the Channel Islands, the Isle of Man and a colony, being a country designated for the purposes of that provision by order of the Secretary of State or, if no country is so designated, any of those countries ;
- “specified order” means an adoption order made under any enactment in force in a specified country and corresponding to section 1 of this Act ; and
- “United Kingdom national” means, for the purposes of any provision of this Act, a citizen of the United Kingdom and Colonies satisfying such conditions, if any, as the Secretary of State may by order specify for the purposes of that provision.

(2) Any reference in this Act to any enactment is a reference to it as amended, and includes a reference to it as applied, by or under any other enactment including this Act.

Rules and orders etc.

12.—(1) Provision in regard to any matter to be prescribed under this Act, or under Part I of the Act of 1958 in its application to adoption orders and proposed adoption orders, and dealing generally with all matters of procedure and incidental matters arising out of this Act or the said Part I and for carrying this Act or the said Part I into effect shall be made, in England and Wales, by rules made by the Lord Chancellor and, in Scotland, by act of sederunt; and the rules or act of sederunt may include provision—

- (a) for applications for adoption orders to be heard and determined otherwise than in open court;
- (b) for excluding or restricting the jurisdiction of any court where an application for an adoption order within the meaning of this Act or the Act of 1958 has been refused by that or any other court.

(2) Any power to make orders or rules under this Act shall be exercisable by statutory instrument, and any statutory instrument made by virtue of this subsection (except an instrument containing only orders under the provisions of sections 3(1) and 9(1) and the provisions defining “notified provision” in section 7(4) and “convention country” and “specified country” in section 11(1) or under any of those provisions) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) An order made under any provision of this Act (except section 14(2)) may be revoked or varied by a subsequent order under that provision.

(4) Any order or rules made under this Act may make different provision for different circumstances and may contain such incidental and transitional provisions as the authority making the order or rules considers expedient.

(5) References to an order in subsections (2) to (4) of this section do not include references to an order of a court.

Powers of Parliament of Northern Ireland.
1920 c. 67.

13. Notwithstanding anything in the Government of Ireland Act 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of the foregoing provisions of this Act other than section 9(5) and the provisions extending section 19(1) of the Act of 1958.

14.—(1) This Act may be cited as the Adoption Act 1968. Short title,

(2) This Act shall come into force on such date as the Secretary of State may by order appoint, and different dates may be appointed under this subsection for different purposes of this Act. commencement and extent.

(3) This Act, except the provisions extending section 19(1) of the Act of 1958 and except sections 9(5) and 13 and this section, does not extend to Northern Ireland.

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