



Child Abduction Act 1984

CHAPTER 37

ARRANGEMENT OF SECTIONS

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Child Abduction Act 1984

1984 CHAPTER 37

An Act to amend the criminal law relating to the abduction of children. [12th July 1984]

BE IT 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:—

PART I

OFFENCES UNDER LAW OF ENGLAND AND WALES

1.—(1) Subject to subsections (5) and (8) below, a person connected with a child under the age of sixteen commits an offence if he takes or sends the child out of the United Kingdom without the appropriate consent. Offence of abduction of child by parent, etc.

(2) A person is connected with a child for the purposes of this section if—

- (a) he is a parent or guardian of the child ; or
- (b) there is in force an order of a court in England or Wales awarding custody of the child to him, whether solely or jointly with any other person ; or
- (c) in the case of an illegitimate child, there are reasonable grounds for believing that he is the father of the child.

(3) In this section “ the appropriate consent ”, in relation to a child, means—

- (a) the consent of each person—
 - (i) who is a parent or guardian of the child ; or

PART I

(ii) to whom custody of the child has been awarded (whether solely or jointly with any other person) by an order of a court in England or Wales ;
or

(b) if the child is the subject of such a custody order, the leave of the court which made the order ; or

(c) the leave of the court granted on an application for a direction under section 7 of the Guardianship of Minors Act 1971 or section 1(3) of the Guardianship Act 1973.

1971 c. 3.
1973 c. 29.

(4) In the case of a custody order made by a magistrates' court, subsection (3)(b) above shall be construed as if the reference to the court which made the order included a reference to any magistrates' court acting for the same petty sessions area as that court.

(5) A person does not commit an offence under this section by doing anything without the consent of another person whose consent is required under the foregoing provisions if—

(a) he does it in the belief that the other person—

(i) has consented ; or

(ii) would consent if he was aware of all the relevant circumstances ; or

(b) he has taken all reasonable steps to communicate with the other person but has been unable to communicate with him ; or

(c) the other person has unreasonably refused to consent,

but paragraph (c) of this subsection does not apply where what is done relates to a child who is the subject of a custody order made by a court in England or Wales, or where the person who does it acts in breach of any direction under section 7 of the Guardianship of Minors Act 1971 or section 1(3) of the Guardianship Act 1973.

(6) Where, in proceedings for an offence under this section, there is sufficient evidence to raise an issue as to the application of subsection (5) above, it shall be for the prosecution to prove that that subsection does not apply.

(7) In this section—

(a) " guardian " means a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child ; and

(b) a reference to a custody order or an order awarding custody includes a reference to an order awarding legal custody and a reference to an order awarding care and control.

(8) This section shall have effect subject to the provisions of the Schedule to this Act in relation to a child who is in the care of a local authority or voluntary organisation or who is committed to a place of safety or who is the subject of custodianship proceedings or proceedings or an order relating to adoption.

2.—(1) Subject to subsection (2) below, a person not falling within section 1(2)(a) or (b) above commits an offence if, without lawful authority or reasonable excuse, he takes or detains a child under the age of sixteen—

Offence of abduction of child by other persons.

- (a) so as to remove him from the lawful control of any person having lawful control of the child ; or
- (b) so as to keep him out of the lawful control of any person entitled to lawful control of the child.

(2) In proceedings against any person for an offence under this section, it shall be a defence for that person to show that at the time of the alleged offence—

- (a) he believed that the child had attained the age of sixteen ; or
- (b) in the case of an illegitimate child, he had reasonable grounds for believing himself to be the child's father.

3. For the purposes of this Part of this Act—

Construction of references to taking, sending and detaining.

- (a) a person shall be regarded as taking a child if he causes or induces the child to accompany him or any other person or causes the child to be taken ;
- (b) a person shall be regarded as sending a child if he causes the child to be sent ; and
- (c) a person shall be regarded as detaining a child if he causes the child to be detained or induces the child to remain with him or any other person.

4.—(1) A person guilty of an offence under this Part of this Act shall be liable—

Penalties and prosecutions.

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, as defined in section 74 of the Criminal Justice Act 1982, or to both such imprisonment and fine ;
- (b) on conviction on indictment, to imprisonment for a term not exceeding seven years.

(2) No prosecution for an offence under section 1 above shall be instituted except by or with the consent of the Director of Public Prosecutions.

Restriction on prosecutions for offence of kidnapping.

5. Except by or with the consent of the Director of Public Prosecutions no prosecution shall be instituted for an offence of kidnapping if it was committed—

- (a) against a child under the age of sixteen ; and
- (b) by a person connected with the child, within the meaning of section 1 above.

PART II

OFFENCE UNDER LAW OF SCOTLAND

Offence in Scotland of parent, etc. taking or sending child out of United Kingdom.

6.—(1) Subject to subsections (4) and (5) below, a person connected with a child under the age of sixteen years commits an offence if he takes or sends the child out of the United Kingdom—

- (a) without the appropriate consent if there is in respect of the child—
 - (i) an order of a court in the United Kingdom awarding custody of the child to any person ; or
 - (ii) an order of a court in England, Wales or Northern Ireland making the child a ward of court ;
- (b) if there is in respect of the child an order of a court in the United Kingdom prohibiting the removal of the child from the United Kingdom or any part of it.

(2) A person is connected with a child for the purposes of this section if—

- (a) he is a parent or guardian of the child ; or
- (b) there is in force an order of a court in the United Kingdom awarding custody of the child to him (whether solely or jointly with any other person) ; or
- (c) in the case of an illegitimate child, there are reasonable grounds for believing that he is the father of the child.

(3) In this section, the “ appropriate consent ” means—

- (a) in relation to a child to whom subsection (1)(a)(i) above applies—
 - (i) the consent of each person
 - (a) who is a parent or guardian of the child ; or
 - (b) to whom custody of the child has been awarded (whether solely or jointly with any other person) by an order of a court in the United Kingdom ; or
 - (ii) the leave of that court ;

(b) in relation to a child to whom subsection (1)(a)(ii) above applies, the leave of the court which made the child a ward of court;

Provided that, in relation to a child to whom more than one order referred to in subsection (1)(a) above applies, the appropriate consent may be that of any court which has granted an order as referred to in the said subsection (1)(a); and where one of these orders is an order referred to in the said subsection (1)(a)(ii) no other person as referred to in paragraph (a)(i) above shall be entitled to give the appropriate consent.

(4) In relation to a child to whom subsection (1)(a)(i) above applies, a person does not commit an offence by doing anything without the appropriate consent if—

(a) he does it in the belief that each person referred to in subsection (3)(a)(i) above—

(i) has consented; or

(ii) would consent if he was aware of all the relevant circumstances; or

(b) he has taken all reasonable steps to communicate with such other person but has been unable to communicate with him.

(5) In proceedings against any person for an offence under this section it shall be a defence for that person to show that at the time of the alleged offence he had no reason to believe that there was in existence an order referred to in subsection (1) above.

(6) For the purposes of this section—

(a) a person shall be regarded as taking a child if he causes or induces the child to accompany him or any other person, or causes the child to be taken; and

(b) a person shall be regarded as sending a child if he causes the child to be sent.

(7) In this section “guardian” means a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child.

7. A constable may arrest without warrant any person whom he reasonably suspects of committing or having committed an offence under this Part of this Act. Power of arrest.

8. A person guilty of an offence under this Part of this Act shall be liable— Penalties and prosecutions.

(a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding

PART II
1982 c. 48.

the statutory maximum as defined in section 74(2) of the Criminal Justice Act 1982, or both ; or

- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

Proof and
admissibility
of certain
documents.

9.—(1) For the purposes of this Part of this Act, a document duly authenticated which purports to be—

- (a) an order or other document issued by a court of the United Kingdom (other than a Scottish court) shall be sufficient evidence of any matter to which it relates ;
(b) a copy of such an order or other document shall be deemed without further proof to be a true copy unless the contrary is shown, and shall be sufficient evidence of any matter to which it relates.

(2) A document is duly authenticated for the purposes of—

- (a) subsection (1)(a) above if it purports to bear the seal of that court ;
(b) subsection (1)(b) above if it purports to be certified by any person in his capacity as a judge, magistrate or officer of that court to be a true copy.

Evidence.

10. In any proceedings in relation to an offence under this Part of this Act it shall be presumed, unless the contrary is shown, that the child named in the order referred to in section 6(1) above, or in any copy thereof, is the child in relation to whom the proceedings have been taken.

PART III

SUPPLEMENTARY

Consequential
amendments
and repeals.
1952 c. 67.

11.—(1) At the end of paragraph 1(b) of the Schedule to the Visiting Forces Act 1952 (definition of “offence against the person”), there shall be inserted, appropriately numbered—

“() the Child Abduction Act 1984.”.

1968 c. 27.

(2) After paragraph 2 of Schedule 1 to the Firearms Act 1968 there shall be inserted—

“2A. Offences under Part I of the Child Abduction Act 1984 (abduction of children).”.

(3) The reference to abduction in section 1(1) of the Internationally Protected Persons Act 1978 shall be construed as not including an offence under section 1 above or any corresponding provision in force in Northern Ireland or Part II of this Act. PART III
1978 c. 17.

(4) In section 4(1)(a) of the Suppression of Terrorism Act 1978, after “ 11,”, there shall be inserted “ 11B,”; and in Schedule 1 to that Act, after paragraph 11A, there shall be inserted—

“ 11B. An offence under section 2 of the Child Abduction Act 1984 (abduction of child by person other than parent etc.) or any corresponding provision in force in Northern Ireland.”.

(5) The following provisions are hereby repealed—

(a) section 56 of the Offences against the Person Act 1861 ; 1861 c. 100.

(b) in Schedule 1 to the Extradition Act 1870, the words “ Child stealing ” ; 1870 c. 52.

(c) in paragraph 2 of Schedule 1 to the Firearms Act 1968, the words “ section 56 (child-stealing and abduction) ” . 1968 c. 27.

12. An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it operates only so as to make for Northern Ireland provision corresponding to Part I of this Act— Enactment of
corresponding
provision for
Northern
Ireland.
1974 c. 28.

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament) ; but

(b) shall be subject to annulment in pursuance of a resolution of either House.

13.—(1) This Act may be cited as the Child Abduction Act 1984. Short title,
commence-
ment and
extent.

(2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

(3) Part I of this Act extends to England and Wales only, Part II extends to Scotland only and in Part III section 11(1) and (5)(a) and section 12 do not extend to Scotland and section 11(1), (2) and (5)(a) and (c) does not extend to Northern Ireland.

Section 1(8).

SCHEDULE

MODIFICATIONS OF SECTION 1 FOR CHILDREN IN CERTAIN
CASES*Children in care of local authorities and voluntary organisations*

1.—(1) This paragraph applies in the case of a child who is in the care of a local authority or voluntary organisation in England or Wales.

(2) Where this paragraph applies, section 1 of this Act shall have effect as if—

- (a) the reference in subsection (1) to the appropriate consent were a reference to the consent of the local authority or voluntary organisation in whose care the child is ; and
- (b) subsections (3) to (6) were omitted.

Children in places of safety

2.—(1) This paragraph applies in the case of a child who is committed to a place of safety in England or Wales in pursuance of—

1933 c. 12.

(a) section 40 of the Children and Young Persons Act 1933 ; or

1958 c. 5.

(b) section 43 of the Adoption Act 1958 ; or

(7 & 8 Eliz. 2)

(c) section 2(5) or (10), 16(3) or 28(1) or (4) of the Children and Young Persons Act 1969 ; or

1969 c. 54.

(d) section 12 of the Foster Children Act 1980.

1980 c. 6.

(2) Where this paragraph applies, section 1 of this Act shall have effect as if—

- (a) the reference in subsection (1) to the appropriate consent were a reference to the leave of any magistrates' court acting for the area in which the place of safety is ; and
- (b) subsections (3) to (6) were omitted.

Adoption and custodianship

3.—(1) This paragraph applies in the case of a child—

1975 c. 72.

- (a) who is the subject of an order under section 14 of the Children Act 1975 freeing him for adoption ; or
- (b) who is the subject of a pending application for such an order ; or
- (c) who is the subject of a pending application for an adoption order ; or
- (d) who is the subject of an order under section 25 of the Children Act 1975 or section 53 of the Adoption Act 1958 relating to adoption abroad or of a pending application for such an order ; or
- (e) who is the subject of a pending application for a custodianship order.

(2) Where this paragraph applies, section 1 of this Act shall have effect as if—

(a) the reference in subsection (1) to the appropriate consent were a reference—

(i) in a case within sub-paragraph (1)(a) above, to the consent of the adoption agency which made the application for the order or, if the parental rights and duties in respect of the child have been transferred from that agency to another agency by an order under section 23 of the Children Act 1975, to the consent of 1975 c. 72. that other agency ;

(ii) in a case within sub-paragraph (1)(b), (c) or (e) above, to the leave of the court to which the application was made ; and

(iii) in a case within sub-paragraph (1)(d) above, to the leave of the court which made the order or, as the case may be, to which the application was made ; and

(b) subsections (3) to (6) were omitted.

Cases within paragraphs 1 and 3

4. In the case of a child falling within both paragraph 1 and paragraph 3 above, the provisions of paragraph 3 shall apply to the exclusion of those in paragraph 1.

Interpretation

5.—(1) In this Schedule—

(a) subject to sub-paragraph (2) below, “adoption agency” has the same meaning as in section 1 of the Children Act 1975 ;

(b) “adoption order” means an order under section 8(1) of that Act ;

(c) “custodianship order” has the same meaning as in Part II of that Act ; and

(d) “local authority” and “voluntary organisation” have the same meanings as in section 87 of the Child Care Act 1980 c. 5 1980.

(2) Until the coming into force of section 1 of the Children Act 1975, for the words “adoption agency” in this Schedule there shall be substituted “approved adoption society or local authority” ; and in this Schedule “approved adoption society” means an adoption society approved under Part I of that Act.

(3) In paragraph 3(1) above references to an order or to an application for an order are references to an order made by, or to an application to, a court in England or Wales.

(4) Paragraph 3(2) above shall be construed as if the references to the court included, in any case where the court is a magistrates’ court, a reference to any magistrates’ court acting for the same petty sessions area as that court.

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