



Adoption (Intercountry Aspects) Act 1999

1999 CHAPTER 18

Convention adoptions

3 Convention adoption orders

For section 17 of the 1976 and 1978 Acts there shall be substituted—

“17 Convention adoption orders

An adoption order shall be made as a Convention adoption order if—

- (a) the application is for a Convention adoption order; and
- (b) such requirements as may be prescribed by regulations made by the Secretary of State are complied with.”

4 Effect of Convention adoptions in England and Wales

(1) In subsection (1) of section 38 of the 1976 Act (meaning of “adoption” for purposes of provisions relating to status of adopted children), after paragraph (c) there shall be inserted—

“(cc) which is a Convention adoption;”.

(2) In subsection (2) of section 39 of that Act (status conferred by adoption), for “subsection (3)” there shall be substituted “subsections (3) and (3A)”.

(3) After subsection (3) of that section there shall be inserted—

“(3A) Where, in the case of a Convention adoption, the High Court is satisfied, on an application under this subsection—

- (a) that under the law of the country in which the adoption was effected the adoption is not a full adoption;
- (b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption, or that the United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention); and

Status: This is the original version (as it was originally enacted).

- (c) that it would be more favourable to the adopted child for a direction to be given under this subsection,

the Court may direct that subsection (2) shall not apply, or shall not apply to such extent as may be specified in the direction.

In this subsection “full adoption” means an adoption by virtue of which the adopted child falls to be treated in law as if he were not the child of any person other than the adopters or adopter.

(3B) The following provisions of the Family Law Act 1986—

- (a) section 59 (provisions relating to the Attorney General); and
(b) section 60 (supplementary provision as to declarations),

shall apply in relation to, and to an application for, a direction under subsection (3A) as they apply in relation to, and to an application for, a declaration under Part III of that Act.”

5 Effect of Convention adoptions in Scotland

- (1) In subsection (1) of section 38 of the 1978 Act (meaning of “adoption order” for purposes of provisions relating to status of adopted children), after paragraph (c) there shall be inserted—

“(cc) a Convention adoption;”.

- (2) In subsection (1) of section 39 of that Act (status conferred by adoption), in subparagraph (ii) of each of paragraphs (a), (b) and (c), at the beginning there shall be inserted “subject to subsection (2A)”.

- (3) After subsection (2) of that section there shall be inserted—

“(2A) Where, in the case of a child adopted under a Convention adoption, the Court of Session is satisfied, on an application under this subsection—

- (a) that under the law of the country in which the adoption was effected the adoption is not a full adoption;
(b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption, or that the United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention); and
(c) that it would be more favourable to the child for a direction to be given under this subsection,

the Court may direct that sub-paragraph (ii) of, as the case may be, paragraph (a), (b) or (c) of subsection (1) shall not apply, or shall not apply to such extent as may be specified in the direction: and in this subsection “full adoption” means an adoption by virtue of which the child falls to be treated in law as if he were not the child of any person other than the adopters or adopter.”

6 Annulment of Convention adoptions etc

- (1) For subsection (1) of section 53 of the 1976 Act (annulment etc. of overseas adoptions) there shall be substituted—

“(1) The High Court may, on an application under this subsection, by order annul a Convention adoption or a Convention adoption order on the ground that the adoption or order is contrary to public policy.”;

and the same amendment shall be made to section 47 of the 1978 Act (corresponding provision for Scotland) except that for “the High Court” there shall substituted “the Court of Session”.

- (2) In subsection (5) of each of those sections, after “validity of” there shall be inserted “a Convention adoption, a Convention adoption order,”.
- (3) In subsection (4) of section 54 of the 1976 Act (provisions supplementary to sections 52(3) and 53), and in subsection (4) of section 48 of the 1978 Act (provisions supplementary to sections 46(2) and 47), the definitions of “notified provision” and “relevant time” shall cease to have effect.
- (4) For subsection (1) of section 59 of the 1976 Act (effect of determinations and orders made in Scotland and overseas in adoption proceedings) there shall be substituted—

“(1) Where—

- (a) an authority of a Convention country (other than the United Kingdom) having power under the law of that country—
 - (i) to authorise, or review the authorisation of, a Convention adoption; or
 - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order; or
- (b) an authority of any of the Channel Islands, the Isle of Man or any colony having power under the law of that territory—
 - (i) to authorise, or review the authorisation of, a Convention adoption or an adoption effected in that territory; or
 - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order,

makes a determination in the exercise of that power, then, subject to section 53 and any subsequent determination having effect under this subsection, the determination shall have effect in England and Wales for the purpose of effecting, confirming or terminating the adoption in question or confirming its termination as the case may be.”;

and the same amendment shall be made to section 53 of the 1978 Act (effect of determinations and orders made in England and Wales and overseas in adoption proceedings) except that for “section 53” there shall be substituted “section 47” and for “England and Wales” there shall be substituted “Scotland”.

7 Acquisition of British citizenship by Convention adoptions

- (1) For subsection (5) of section 1 of the British Nationality Act 1981 (acquisition by birth or adoption) there shall be substituted—

“(5) Where—

- (a) any court in the United Kingdom makes an order authorising the adoption of a minor who is not a British citizen; or
- (b) a minor who is not a British citizen is adopted under a Convention adoption,

that minor shall, if the requirements of subsection (5A) are met, be a British citizen as from the date on which the order is made or the Convention adoption is effected, as the case may be.

(5A) Those requirements are that on the date on which the order is made or the Convention adoption is effected (as the case may be)—

- (a) the adopter or, in the case of a joint adoption, one of the adopters is a British citizen; and
- (b) in a case within subsection (5)(b), the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in the United Kingdom.”

(2) In subsection (6) of that section, after “order” there shall be inserted “or a Convention adoption”.

(3) At the end of subsection (8) of that section there shall be inserted “and in this section “Convention adoption” has the same meaning as in the Adoption Act 1976 and the Adoption (Scotland) Act 1978”.

8 Meaning of “Convention adoption” and related expressions in 1976 and 1978 Acts

In subsection (1) of section 72 of the 1976 Act and section 65 of the 1978 Act (interpretation), for the definitions of “the Convention”, “Convention adoption order” and “Convention country” there shall be substituted—

““the Convention” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993;

“Convention adoption” means an adoption effected under the law of a Convention country outside the British Islands, and certified in pursuance of Article 23(1) of the Convention;

“Convention adoption order” means an adoption order made in accordance with section 17;

“Convention country” means any country or territory in which the Convention is in force.”