



Adoption (Intercountry Aspects) Act 1999

1999 CHAPTER 18

Convention adoptions

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 sub-paragraph (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.”