



# Adoption and Children Act 2002

## 2002 CHAPTER 38

### PART 1

#### ADOPTION

#### CHAPTER 7

#### MISCELLANEOUS

#### *Restrictions*

#### **92 Restriction on arranging adoptions etc.**

- (1) A person who is neither an adoption agency nor acting in pursuance of an order of the High Court must not take any of the steps mentioned in subsection (2).
- (2) The steps are—
  - (a) asking a person other than an adoption agency to provide a child for adoption,
  - (b) asking a person other than an adoption agency to provide prospective adopters for a child,
  - (c) offering to find a child for adoption,
  - (d) offering a child for adoption to a person other than an adoption agency,
  - (e) handing over a child to any person other than an adoption agency with a view to the child's adoption by that or another person,
  - (f) receiving a child handed over to him in contravention of paragraph (e),
  - (g) entering into an agreement with any person for the adoption of a child, or for the purpose of facilitating the adoption of a child, where no adoption agency is acting on behalf of the child in the adoption,
  - (h) initiating or taking part in negotiations of which the purpose is the conclusion of an agreement within paragraph (g),

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- (i) causing another person to take any of the steps mentioned in paragraphs (a) to (h).
- (3) Subsection (1) does not apply to a person taking any of the steps mentioned in paragraphs (d), (e), (g), (h) and (i) of subsection (2) if the following condition is met.
- (4) The condition is that—
  - (a) the prospective adopters are parents, relatives or guardians of the child (or one of them is), or
  - (b) the prospective adopter is the partner of a parent of the child.
- (5) References to an adoption agency in subsection (2) include a prescribed person outside the United Kingdom exercising functions corresponding to those of an adoption agency, if the functions are being exercised in prescribed circumstances in respect of the child in question.
- (6) The Secretary of State may, after consultation with the Assembly, by order make any amendments of subsections (1) to (4), and any consequential amendments of this Act, which he considers necessary or expedient.
- (7) In this section—
  - (a) “agreement” includes an arrangement (whether or not enforceable),
  - (b) “prescribed” means prescribed by regulations made by the Secretary of State after consultation with the Assembly.

#### Commencement Information

**II** [S. 92](#) in force at 7.12.2004 for specified purposes by [S.I. 2004/3203](#), [art. 2\(1\)\(m\)\(viii\)](#)

VALID FROM 30/12/2005

#### 93 Offence of breaching restrictions under section 92

- (1) If a person contravenes section 92(1), he is guilty of an offence; and, if that person is an adoption society, the person who manages the society is also guilty of the offence.
- (2) A person is not guilty of an offence under subsection (1) of taking the step mentioned in paragraph (f) of section 92(2) unless it is proved that he knew or had reason to suspect that the child was handed over to him in contravention of paragraph (e) of that subsection.
- (3) A person is not guilty of an offence under subsection (1) of causing a person to take any of the steps mentioned in paragraphs (a) to (h) of section 92(2) unless it is proved that he knew or had reason to suspect that the step taken would contravene the paragraph in question.
- (4) But subsections (2) and (3) only apply if sufficient evidence is adduced to raise an issue as to whether the person had the knowledge or reason mentioned.
- (5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding £10,000, or both.

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## 94 Restriction on reports

- (1) A person who is not within a prescribed description may not, in any prescribed circumstances, prepare a report for any person about the suitability of a child for adoption or of a person to adopt a child or about the adoption, or placement for adoption, of a child.

“Prescribed” means prescribed by regulations made by the Secretary of State after consultation with the Assembly.

- (2) If a person—
- (a) contravenes subsection (1), or
  - (b) causes a person to prepare a report, or submits to any person a report which has been prepared, in contravention of that subsection,
- he is guilty of an offence.
- (3) If a person who works for an adoption society—
- (a) contravenes subsection (1), or
  - (b) causes a person to prepare a report, or submits to any person a report which has been prepared, in contravention of that subsection,
- the person who manages the society is also guilty of the offence.
- (4) A person is not guilty of an offence under subsection (2)(b) unless it is proved that he knew or had reason to suspect that the report would be, or had been, prepared in contravention of subsection (1).

But this subsection only applies if sufficient evidence is adduced to raise an issue as to whether the person had the knowledge or reason mentioned.

- (5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

### Commencement Information

**I2** S. 94(1) in force at 7.12.2004 for specified purposes by S.I. 2004/3203, art. 2(1)(m)(ix)

VALID FROM 30/12/2005

## 95 Prohibition of certain payments

- (1) This section applies to any payment (other than an excepted payment) which is made for or in consideration of—
- (a) the adoption of a child,
  - (b) giving any consent required in connection with the adoption of a child,
  - (c) removing from the United Kingdom a child who is a Commonwealth citizen, or is habitually resident in the United Kingdom, to a place outside the British Islands for the purpose of adoption,
  - (d) a person (who is neither an adoption agency nor acting in pursuance of an order of the High Court) taking any step mentioned in section 92(2),

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- (e) preparing, causing to be prepared or submitting a report the preparation of which contravenes section 94(1).
- (2) In this section and section 96, removing a child from the United Kingdom has the same meaning as in section 85.
- (3) Any person who—
  - (a) makes any payment to which this section applies,
  - (b) agrees or offers to make any such payment, or
  - (c) receives or agrees to receive or attempts to obtain any such payment,
 is guilty of an offence.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding £10,000, or both.

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## 96 Excepted payments

- (1) A payment is an excepted payment if it is made by virtue of, or in accordance with provision made by or under, this Act, the Adoption (Scotland) Act 1978 (c. 28) or the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)).
- (2) A payment is an excepted payment if it is made to a registered adoption society by—
  - (a) a parent or guardian of a child, or
  - (b) a person who adopts or proposes to adopt a child,
 in respect of expenses reasonably incurred by the society in connection with the adoption or proposed adoption of the child.
- (3) A payment is an excepted payment if it is made in respect of any legal or medical expenses incurred or to be incurred by any person in connection with an application to a court which he has made or proposes to make for an adoption order, a placement order, or an order under section 26 or 84.
- (4) A payment made as mentioned in section 95(1)(c) is an excepted payment if—
  - (a) the condition in section 85(2) is met, and
  - (b) the payment is made in respect of the travel and accommodation expenses reasonably incurred in removing the child from the United Kingdom for the purpose of adoption.

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## 97 Sections 92 to 96: interpretation

In sections 92 to 96—

- (a) “adoption agency” includes a Scottish or Northern Irish adoption agency,
- (b) “payment” includes reward,

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- (c) references to adoption are to the adoption of persons, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the British Islands.

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