



# Adoption and Children Act 2002

## 2002 CHAPTER 38

### PART 3

#### MISCELLANEOUS AND FINAL PROVISIONS

#### CHAPTER 1

#### MISCELLANEOUS

#### *Advertisements in the United Kingdom*

#### **123 Restriction on advertisements etc.**

- (1) A person must not—
  - (a) publish or distribute an advertisement or information to which this section applies, or
  - (b) cause such an advertisement or information to be published or distributed.
- (2) This section applies to an advertisement indicating that—
  - (a) the parent or guardian of a child wants the child to be adopted,
  - (b) a person wants to adopt a child,
  - (c) a person other than an adoption agency is willing to take any step mentioned in paragraphs (a) to (e), (g) and (h) and (so far as relating to those paragraphs) (i) of section 92(2),
  - (d) a person other than an adoption agency is willing to receive a child handed over to him with a view to the child's adoption by him or another, or
  - (e) a person is willing to remove a child from the United Kingdom for the purposes of adoption.
- (3) This section applies to—
  - (a) information about how to do anything which, if done, would constitute an offence under section 85 or 93,<sup>F1</sup> ... Article 11 or 58 of the Adoption (Northern

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*Changes to legislation: Adoption and Children Act 2002, Cross Heading: Advertisements in the United Kingdom is up to date with all changes known to be in force on or before 25 July 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22) [<sup>F2</sup>or section 60 or 75 of the Adoption and Children (Scotland) Act 2007 (asp 4)] [<sup>F3</sup>or section 60 or 75 of the Adoption and Children (Scotland) Act 2007 (asp 4)] (whether or not the information includes a warning that doing the thing in question may constitute an offence),

(b) information about a particular child as a child available for adoption.

(4) For the purposes of this section and section 124—

(a) publishing or distributing an advertisement or information means publishing it or distributing it to the public and includes doing so by electronic means (for example, by means of the internet),

(b) the public includes selected members of the public as well as the public generally or any section of the public.

(5) Subsection (1) does not apply to publication or distribution by or on behalf of an adoption agency.

(6) The Secretary of State may by order make any amendments of this section which he considers necessary or expedient in consequence of any developments in technology relating to publishing or distributing advertisements or other information by electronic or electro-magnetic means.

(7) References to an adoption agency in this section 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.

“Prescribed” means prescribed by regulations made by the Secretary of State.

(8) Before exercising the power conferred by subsection (6) or (7), the Secretary of State must consult the Scottish Ministers, the Department of Health, Social Services and Public Safety and the Assembly.

(9) In this section—

(a) “adoption agency” includes a Scottish or Northern Irish adoption agency,

(b) 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.

#### **Textual Amendments**

- F1** Words in s. 123(3) repealed: (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), [sch. 3](#); [S.S.I. 2009/267](#), arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by [S.S.I. 2012/99](#), art. 2); and (E.W.N.I.) repealed (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), art. 1(2), [Sch. 2 Pt. 3](#)
- F2** Words in s. 123(3)(a) inserted (E.W.N.I.) (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), art. 1(2), [Sch. 2 para. 5](#)
- F3** Words in s. 123(3)(a) inserted (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), [sch. 2 para. 12](#); [S.S.I. 2009/267](#), arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by [S.S.I. 2012/99](#), art. 2)

#### **Modifications etc. (not altering text)**

- C1** S. 123 modified (E.W.) (30.12.2005) by [The Electronic Commerce Directive \(Adoption and Children Act 2002\) Regulations 2005 \(S.I. 2005/3222\)](#), regs. 1(1), [3-5](#)

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#### Commencement Information

- I1** S. 123 in force at 30.12.2005 by [S.I. 2005/2213](#), **art. 2(1)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

### 124 Offence of breaching restriction under section 123

- (1) A person who contravenes section 123(1) is guilty of an offence.
- (2) A person is not guilty of an offence under this section unless it is proved that he knew or had reason to suspect that section 123 applied to the advertisement or information.  
  
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.
- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

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#### Modifications etc. (not altering text)

- C2** S. 124 modified (E.W.) (30.12.2005) by [The Electronic Commerce Directive \(Adoption and Children Act 2002\) Regulations 2005 \(S.I. 2005/3222\)](#), regs. 1(1), **3-5**
- C3** S. 124(2) excluded (30.12.2005) by [The Electronic Commerce Directive \(Adoption and Children Act 2002\) Regulations 2005 \(S.I. 2005/3222\)](#), regs. 1(1), **11**
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#### Commencement Information

- I2** S. 124 in force at 30.12.2005 by [S.I. 2005/2213](#), **art. 2(1)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

**Changes to legislation:**

Adoption and Children Act 2002, Cross Heading: Advertisements in the United Kingdom is up to date with all changes known to be in force on or before 25 July 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4A inserted by [2014 c. 6 s. 5](#)
- s. 141(7) inserted by [2010 c. 26 Sch. 3 para. 13](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22, s. 17\(4\)](#) ; [S.I. 2013/2200 art. 2\(a\)](#))