

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 6

Adoptions With a Foreign Element

Section 68 - Annulment and recognition

246. By virtue of subsection (1), the Court of Session can, on an application under this subsection, annul a Convention adoption or a Convention adoption order on the ground that the adoption or order is contrary to public policy.
247. By virtue of subsection (2), the Court of Session can, on an application under this subsection, order that an overseas adoption or a determination (defined as a “relevant determination” in terms of section 70 of the Act) is to cease to be valid in Great Britain on the ground that the adoption or determination is contrary to public policy or that the authority which authorised the adoption or made the determination was not competent to do so. The Court of Session may also decide the extent to which a determination has been affected by a subsequent determination.
248. By virtue of subsection (3), the Court of Session may, in proceedings in that court, decide that an overseas adoption or determination is for the purposes of those proceedings to be treated as invalid in Great Britain on the grounds that the adoption or determination is contrary to public policy or the authority which authorised the adoption or made the determination was incompetent.
249. By virtue of subsection (4), an order or decision by the High Court on an application under section 89(2) of the Adoption and Children Act 2002 (annulment etc. of overseas or Hague Convention adoptions) is to be recognised and have effect as if it were an order or decision of the Court of Session on an application under subsection (2).
250. By virtue of subsection (5), the validity of a Convention adoption, a Convention adoption order, an overseas adoption or a determination may not be called into question in any proceedings in any court in Scotland, except by virtue of this section.