



# Adoption and Children (Scotland) Act 2007

2007 asp 4

## PART 1

### ADOPTION

#### CHAPTER 6

##### ADOPTIONS WITH A FOREIGN ELEMENT

###### *Restrictions on movement of children*

#### **60 Restriction on removal of children for adoption outwith Great Britain**

- (1) A person who takes or sends a protected child out of Great Britain to any place outwith the British Islands with a view to the adoption of the child by any person commits an offence.
- (2) A person who makes or takes part in any arrangements for transferring the care of a protected child to another person, knowing that the other person intends to take or send the child out of Great Britain in circumstances which would constitute an offence under subsection (1), commits an offence.
- (3) No offence is committed under subsection (1) if the child is taken or sent out of Great Britain under the authority of an order under—
  - (a) section 59,
  - (b) section 84 of the 2002 Act, or
  - (c) Article 57 of the Northern Ireland Order.
- (4) A person is deemed to take part in arrangements for transferring the care of a child to another person for the purpose mentioned in subsection (2) if the person—
  - (a) facilitates the placing of the child in the care of the other person,
  - (b) initiates or takes part in negotiations the purpose or effect of which is—
    - (i) the making of such arrangements, or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) the conclusion of an agreement to transfer the care of the child, for the purpose mentioned in that subsection, or
  - (c) causes any person to initiate or take part in any such negotiations.
- (5) The Scottish Ministers may by regulations provide for subsections (1) to (3) to apply with modifications, or not to apply, if—
  - (a) the prospective adopters are—
    - (i) parents,
    - (ii) relatives, or
    - (iii) guardians, of the child (or one of them is), or
  - (b) the prospective adopter is a step-parent of the child, and any conditions prescribed by the regulations are met.
- (6) On the occasion of the first exercise of the power to make regulations under subsection (5)—
  - (a) the regulations must not be made unless a draft of the regulations has been approved by a resolution of the Scottish Parliament, and
  - (b) accordingly section 117(4) does not apply to the statutory instrument containing the regulations.
- (7) In any proceedings under this section—
  - (a) a report by a British consular officer or a deposition made before, and authenticated under the signature of, such an officer is (if proved that the officer or deponent cannot be found in the United Kingdom) sufficient evidence of the matters stated in the report or deposition, and
  - (b) it is not necessary to prove the signature or official character of the person who bears to have signed the report or deposition.
- (8) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 5 on the standard scale or both.
- (9) In subsections (1) and (2), “protected child” means a child who is—
  - (a) habitually resident in the United Kingdom, or
  - (b) a Commonwealth citizen.