



# Adoption and Children (Scotland) Act 2007

2007 asp 4

## PART 1

### ADOPTION

#### CHAPTER 6

##### ADOPTIONS WITH A FOREIGN ELEMENT

##### *Adoptions from abroad: special restrictions*

#### **62 Declaration of special restrictions on adoptions from abroad**

- (1) This section applies if the Scottish Ministers have reason to believe that, because of practices taking place in a country or territory outwith the British Islands (the “relevant country”) in connection with the adoption of children, it would be contrary to public policy to further the bringing of children into the United Kingdom in the cases mentioned in subsection (2).
- (2) Those cases are—
  - (a) that a British resident wishes to bring, or cause another to bring, a child who is not a British resident into the United Kingdom for the purpose of adoption by the British resident and, in connection with the proposed adoption, there have been, or would have to be, proceedings in the relevant country or dealings with authorities or agencies there, or
  - (b) that a British resident wishes to bring, or cause another to bring, into the United Kingdom a child adopted by the British resident under an adoption effected, within the period of 12 months ending with the date of the bringing in, under the law of the relevant country.
- (3) The Scottish Ministers may by order declare, in relation to any relevant country, that special restrictions are to apply for the time being in relation to the bringing in of children in the cases mentioned in subsection (2).

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*Status: This is the original version (as it was originally enacted).*

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- (4) The Scottish Ministers must, as respects each relevant country in relation to which such a declaration has effect for the time being (a “restricted country”), publish reasons for making the declaration in relation to the country.
- (5) The Scottish Ministers must publish a list of restricted countries (“the restricted list”) and keep the list up to date.
- (6) The reasons and the restricted list are to be published in whatever way the Scottish Ministers think appropriate for bringing them to the attention of adoption agencies and members of the public.
- (7) In this section, “British resident” means a person habitually resident in the British Islands.
- (8) Any reference in this section to adoption by a British resident includes adoption by a British resident and another person.

### **63 Review**

- (1) The Scottish Ministers must keep under review, in relation to each restricted country, whether it should continue to be a restricted country.
- (2) If the Scottish Ministers determine, in relation to a restricted country, that there is no longer a reason to believe what is mentioned in subsection (1) of section 62, they must by order revoke the order containing the declaration made in relation to it under subsection (3) of that section.
- (3) In this section, “restricted country” has the same meaning as in section 62.

### **64 The special restrictions**

- (1) The special restrictions mentioned in subsection (3) of section 62 are that the Scottish Ministers are not to take any step which they might otherwise have taken in connection with furthering the bringing of a child into the United Kingdom in the cases mentioned in subsection (2) of that section (whether or not that step is provided for by virtue of any enactment).
- (2) Nothing in subsection (1) prevents the Scottish Ministers from taking those steps if, in any particular case, the prospective adopters or, as the case may be, the adopters satisfy the Scottish Ministers that they should take those steps despite the special restrictions.
- (3) The Scottish Ministers may make regulations providing for—
  - (a) the procedure to be followed by them in determining whether or not they are satisfied as mentioned in subsection (2),
  - (b) matters which they are to take into account when making such a determination (whether or not they also take other matters into account).

### **65 Imposition of extra conditions in certain cases**

- (1) The Scottish Ministers may make regulations providing—
  - (a) for them to specify in the restricted list, in relation to any restricted country, a step which is not otherwise provided for by virtue of any enactment but which, by virtue of the arrangements between the United Kingdom and that country,

the Scottish Ministers normally take in connection with the bringing in of a child where that country is concerned, and

- (b) that, if such a step has been so specified in relation to a restricted country, one or more conditions specified in the regulations are to be met in respect of a child brought into the United Kingdom in either of the cases mentioned in section 62(2) (reading the reference there to the “relevant country” as being to the restricted country in question).
- (2) Those conditions are in addition to any provided for by virtue of—
- (a) section 58, or
  - (b) any other enactment.
- (3) A person who brings, or causes another to bring, a child into the United Kingdom commits an offence if the person has not met any condition which the person is required to meet by virtue of subsection (1)(b).
- (4) Subsection (3) does not apply if the step specified in the restricted list in relation to any country had already been taken before the publication of the restricted list.
- (5) A person who commits an offence under subsection (3) is liable—
- (a) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both,
  - (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine or both.
- (6) In this section, “restricted country” and “restricted list” have the same meanings as in section 62.