



# Child Abduction Act 1984

## 1984 CHAPTER 37

### PART I

#### OFFENCES UNDER LAW OF ENGLAND AND WALES

#### **1 Offence of abduction of child by parent, etc.**

(1) Subject to subsections (5) and (8) below, a person connected with a child under the age of sixteen commits an offence if he takes or sends the child out of the United Kingdom without the appropriate consent.

[<sup>F1</sup>(2) A person is connected with a child for the purposes of this section if—

- (a) he is a parent of the child; or
  - (b) in the case of a child whose parents were not married to [<sup>F2</sup>, or civil partners of,] each other at the time of his birth, there are reasonable grounds for believing that he is the father of the child; or
  - (c) he is a guardian of the child; or
  - [ he is a special guardian of the child; or]
- <sup>F3</sup>(ca)
- (d) he is a person [<sup>F4</sup>named in a child arrangements order as a person with whom the child is to live; or]
  - (e) he has custody of the child.

(3) In this section 'the appropriate consent', in relation to a child, means—

- (a) the consent of each of the following—
  - (i) The child's mother;
  - (ii) the child's father, if he has parental responsibility for him;
  - (iii) any guardian of the child;
  - [ any special guardian of the child;]
- <sup>F5</sup>(iiia)
- [<sup>F6</sup>(iv) any person named in a child arrangements order as a person with whom the child is to live;]
- (v) any person who has custody of the child; or

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- (b) the leave of the court granted under or by virtue of any provision of Part II of the Children Act 1989; or
  - (c) if any person has custody of the child, the leave of the court which awarded custody to him.
- (4) A person does not commit an offence under this section by taking or sending a child out of the United Kingdom without obtaining the appropriate consent if—
- [<sup>F7</sup>(a) he is a person [<sup>F8</sup>named in a child arrangements order as a person with whom the child is to live] and he takes or sends the child out of the United Kingdom for a period of less than one month; or]
  - [<sup>F7</sup>(b) he is a special guardian of the child and he takes or sends the child out of the United Kingdom for a period of less than three months.]
- (4A) Subsection (4) above does not apply if the person taking or sending the child out of the United Kingdom does so in breach of an order under Part II of the Children Act 1989.]
- (5) A person does not commit an offence under this section by doing anything without the consent of another person whose consent is required under the foregoing provisions if—
- (a) he does it in the belief that the other person—
    - (i) has consented; or
    - (ii) would consent if he was aware of all the relevant circumstances; or
  - (b) he has taken all reasonable steps to communicate with the other person but has been unable to communicate with him; or
  - (c) the other person has unreasonably refused to consent,
- [<sup>F9</sup>(5A) Subsection (5)(c) above does not apply if—
- (a) the person who refused to consent is a person—
    - [<sup>F10</sup>(i) named in a child arrangements order as a person with whom the child is to live;]
    - [<sup>F11</sup>(ia) who is a special guardian of the child; or]
    - (ii) who has custody of the child; or
  - (b) the person taking or sending the child out of the United Kingdom is, by so acting, in breach of an order made by a court in the United Kingdom.]
- (6) Where, in proceedings for an offence under this section, there is sufficient evidence to raise an issue as to the application of subsection (5) above, it shall be for the prosecution to prove that that subsection does not apply.
- [<sup>F12</sup>(7) For the purposes of this section—
- (a) “guardian of a child”, [<sup>F13</sup>“special guardian”, ][<sup>F14</sup>“child arrangements] order” and “parental responsibility” have the same meaning as in the Children Act 1989; and
  - (b) a person shall be treated as having custody of a child if there is in force an order of a court in the United Kingdom awarding him (whether solely or jointly with another person) custody, legal custody or care and control of the child.]
- (8) This section shall have effect subject to the provisions of the Schedule to this Act in relation to a child who is in the care of a local authority [<sup>F15</sup>detained in a place of safety, remanded [<sup>F16</sup>otherwise than on bail] or the subject of] proceedings or an order relating to adoption.

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### Textual Amendments

- F1** S. 1(2)-(4)(4A) substituted (14.10.1991) for s. 1(2)-(4) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 37(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F2** Words in s. 1(2)(b) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 9(a)**
- F3** S. 1(2)(ca) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(2)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F4** Words in s. 1(2)(d) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 47(2)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F5** S. 1(3)(a)(iiia) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(3)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F6** S. 1(3)(a)(iv) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 47(3)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F7** S. 1(4)(a)(b) substituted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(4)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F8** Words in s. 1(4)(a) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 47(4)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F9** S. 1(5A) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 37(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F10** S. 1(5A)(a)(i) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 47(5)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F11** S. 1(5A)(a)(ia) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(5)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F12** S. 1(7) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 37(4)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F13** Words in s. 1(7)(a) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(6)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F14** Words in s. 1(7)(a) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 47(6)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F15** Words in s. 1(8) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 37(5)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F16** Words in s. 1(8) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 19**; S.I. 2012/2906, art. 2(j)

## 2 Offence of abduction of child by other persons.

(1) [<sup>F17</sup>Subject to subsection (3) below, a person, other than one mentioned in subsection (2) below.] commits an offence if, without lawful authority or reasonable excuse, he takes or detains a child under the age of sixteen—

- (a) so as to remove him from the lawful control of any person having lawful control of the child; or
- (b) so as to keep him out of the lawful control of any person entitled to lawful control of the child.

[<sup>F18</sup>(2) The persons are—

- (a) where the father and mother of the child in question were married to [<sup>F19</sup>, or civil partners of,] each other at the time of his birth, the child's father and mother;
- (b) where the father and mother of the child in question were not married to [<sup>F20</sup>, or civil partners of,] each other at the time of his birth, the child's mother; and

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- (c) any other person mentioned in section 1(2)(c) to (e) above.
- (3) In proceedings against any person for an offence under this section, it shall be a defence for that person to prove—
- (a) where the father and mother of the child in question were not married to<sup>F21</sup>, or civil partners of,] each other at the time of his birth—
- (i) that he is the child’s father; or
- (ii) that, at the time of the alleged offence, he believed, on reasonable grounds, that he was the child’s father; or
- (b) that, at the time of the alleged offence, he believed that the child had attained the age of sixteen.]

#### Textual Amendments

- F17** Words in s. 2(1) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(4), [Sch. 12 para. 38\(1\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F18** S. 2(2)(3) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(4), [Sch. 12 para. 38\(2\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F19** Words in s. 2(2)(a) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 9\(b\)](#)
- F20** Words in s. 2(2)(b) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 9\(b\)](#)
- F21** Words in s. 2(3)(a) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 9\(b\)](#)

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

- C1** S. 2 excluded (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 51(7)(d), (with [Sch. 14 para 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

### 3 Construction of references to taking, sending and detaining.

For the purposes of this Part of this Act—

- (a) a person shall be regarded as taking a child if he causes or induces the child to accompany him or any other person or causes the child to be taken;
- (b) a person shall be regarded as sending a child if he causes the child to be sent;<sup>F22</sup>
- (c) a person shall be regarded as detaining a child if he causes the child to be detained or induces the child to remain with him or any other person. [<sup>F23</sup>and
- (d) references to a child’s parents and to a child whose parents were (or were not) married to<sup>F24</sup>, or civil partners of,] each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987 (which extends their meaning).]

#### Textual Amendments

- F22** Word in s. 3(b) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(7), [Sch.15](#) (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F23** S. 3(d) and the word “and” immediately preceding it added (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(4), [Sch. 12 para.39](#) (with [Sch. 14 para. 14\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

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**F24** Words in s. 3(d) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 9\(c\)](#)

#### **4 Penalties and prosecutions.**

- (1) A person guilty of an offence under this Part of this Act shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, <sup>F25</sup> . . . or to both such imprisonment and fine;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years.
- (2) No prosecution for an offence under section 1 above shall be instituted except by or with the consent of the Director of Public Prosecutions.

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#### **Textual Amendments**

**F25** Words in s. 4(1)(a) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt.XIV](#)

#### **5 Restriction on prosecutions for offence of kidnapping.**

Except by or with the consent of the Director of Public Prosecutions no prosecution shall be instituted for an offence of kidnapping if it was committed—

- (a) against a child under the age of sixteen; and
- (b) by a person connected with the child, within the meaning of section 1 above.

**Changes to legislation:**

There are currently no known outstanding effects for the Child Abduction Act 1984, Part I.