2022 CHAPTER 18

PART 1

Adoption

CHAPTER 6

Adoptions with a foreign element

PROSPECTIVE

Bringing children into and out of the United Kingdom

Restriction on bringing children in

82.—(1) This section applies where a person who is habitually resident in the United Kingdom, any of the Channel Islands or the Isle of Man (the "British resident")—

(a) brings, or causes another to bring, a child who is habitually resident outside the United Kingdom, any of the Channel Islands or the Isle of Man into the United Kingdom for the purpose of adoption by the British resident; or

(b) at any time brings, or causes another to bring, into the United Kingdom a child adopted by the British resident under an external adoption effected within the period of twelve months ending with that time.

The references to adoption, or to a child adopted, by the British resident include a reference to adoption, or to a child adopted, by the British resident and another person.

Status: *This version of this cross heading contains provisions that are prospective.*
Changes to legislation: *Adoption and Children Act (Northern Ireland) 2022, Cross Heading: Bringing children into and out of the United Kingdom is up to date with all changes known to be in force on or before 25 April 2024. 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*

(2) But this section does not apply if the child is intended to be adopted under a Convention adoption order.

(3) An external adoption means an adoption, other than a Convention adoption, of a child effected under the law of any country or territory outside the United Kingdom, the Channel Islands and the Isle of Man, whether or not the adoption is—

(a) an adoption within the meaning of Chapter 4; or

(b) a full adoption (within the meaning of section 91(3)).

(4) Regulations may require a person intending to bring, or to cause another to bring, a child into the United Kingdom in circumstances where this section applies—

(a) to apply to an adoption agency (including an adoption agency in Great Britain) in the prescribed manner for an assessment of the person's suitability to adopt the child; and

(b) to give the agency any information it may require for the purpose of the assessment.

(5) Regulations may require prescribed conditions to be met in respect of a child brought into the United Kingdom in circumstances where this section applies.

(6) In relation to a child brought into the United Kingdom for adoption in circumstances where this section applies, regulations may—

(a) provide for any provision of Chapter 3 to apply with modifications or not to apply;

(b) if notice of intention to adopt has been given, impose functions in respect of the child on the authority to which the notice was given.

(7) If a person ("P") brings, or causes another to bring, a child into the United Kingdom at any time in circumstances where this section applies, P is guilty of an offence if—

(a) P has not complied with any requirement imposed by virtue of subsection (4); or

(b) any condition required to be met by virtue of subsection (5) is not met,

before that time, or before any later time which may be prescribed.

(8) A person guilty of an offence under this section is liable—

(a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding twelve months, or a fine, or both.

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Commencement Information

I1 S. 82 not in operation at Royal Assent, see **s. 160(1)**

Giving parental responsibility prior to adoption abroad

83.—(1) The High Court may, on an application by persons who the court is satisfied intend to adopt a child under the law of a country or territory outside the United Kingdom, the Channel Islands and the Isle of Man, make an order giving parental responsibility for the child to them.

(2) An order under this section may not give parental responsibility to persons who the court is satisfied meet those requirements as to domicile, or habitual residence, in Northern Ireland which have to be met if an adoption order is to be made in favour of those persons.

(3) An order under this section may not be made unless any prescribed requirements are satisfied.

(4) An application for an order under this section may not be made unless at all times during the preceding ten weeks the child's home was with the applicant or, in the case of an application by two people, both of them.

(5) Section 43(2) to (4) have effect in relation to an order under this section as they have effect in relation to adoption orders.

(6) Regulations may provide for any provision of this Act which refers to adoption orders to apply, with or without modifications, to orders under this section.

Commencement Information

I2 S. 83 not in operation at Royal Assent, see **s. 160(1)**

Restriction on taking children out

84.—(1) A child who—

(a) is a Commonwealth citizen; or

(b) is habitually resident in the United Kingdom,

must not be removed from the United Kingdom to a place outside the United Kingdom, the Channel Islands and the Isle of Man for the purpose of adoption unless the condition in subsection (2) is met.

(2) The condition is that—

(a) the prospective adopters have parental responsibility for the child by virtue of an order under section 83; or

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(b) the child is removed under the authority of an order under section 84 of the Adoption and Children Act 2002 or section 59 of the Adoption and Children (Scotland) Act 2007.

(3) Removing a child from the United Kingdom includes arranging to do so; and the circumstances in which a person arranges to remove a child from the United Kingdom include those where the person—

(a) enters into an arrangement for the purpose of facilitating such a removal of the child;

(b) initiates or takes part in any negotiations of which the purpose is the conclusion of an arrangement within paragraph (a); or

(c) causes another person to take any step mentioned in paragraph (a) or (b).

An arrangement includes an agreement (whether or not enforceable).

(4) A person who removes a child from the United Kingdom in contravention of subsection (1) is guilty of an offence.

(5) A person is not guilty of an offence under subsection (4) of causing a person to take any step mentioned in paragraph (a) or (b) of subsection (3) unless it is proved that the person knew or had reason to suspect that the step taken would contravene subsection (1).

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.

(6) A person guilty of an offence under this section is liable—

(a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding twelve months, or a fine, or both.

(7) In any proceedings under this section—

(a) a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer is admissible, upon proof that the officer or the deponent cannot be found in the United Kingdom, as evidence of the matters stated in it; and

(b) it is not necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

Commencement Information

I3 S. 84 not in operation at Royal Assent, see **s. 160(1)**

Power to modify sections 82 and 84

85.—(1) Regulations may provide for section 82 not to apply if—

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(a) the adopters or (as the case may be) prospective adopters are natural parents, natural relatives or guardians of the child in question (or one of them is); or

(b) the British resident in question is a partner of a parent of the child,

and any prescribed conditions are met.

(2) Regulations may provide for section 84(1) to apply with modifications, or not to apply, if—

(a) the prospective adopters are parents, relatives or guardians of the child in question (or one of them is); or

(b) the prospective adopter is a partner of a parent of the child,

and any prescribed conditions are met.

Commencement Information

I4 S. 85 not in operation at Royal Assent, see **s. 160(1)**

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

– Act applied (with modifications) by S.I. 2018/412, Sch. 3 (as substituted) by 2022 c. 18 (N.I.) Sch. 3 para. 83