



Children Act 1975

1975 CHAPTER 72

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

100 Courts

- (1) In this Act " authorised court", as respects an application for an order relating to a child, shall be construed as follows.
- (2) If the child is in England or Wales when the application is made, the following are authorised courts—
 - (a) the High Court;
 - (b) the county court within whose district the child is and, in the case of an application under section 14, any county court within whose district a parent or guardian of the child is ;
 - (c) any other county court prescribed by rules made under section 102 of the County Courts Act 1959 ;
 - (d) a magistrates' court within whose area the child is and, in the case of an application under section 14, a magistrates' court within whose area a parent or guardian of the child is.
- (3) If the child is in Scotland when the application is made, the following are authorised courts—
 - (a) the Court of Session ;
 - (b) the sheriff court of the sheriffdom within which the child is.
- (4) If, in the case of an application for an adoption order or an order under section 14, the child is not in Great Britain when the application is made, the following are authorised courts;—
 - (a) the High Court;

Status: This is the original version (as it was originally enacted).

- (b) the Court of Session.
- (5) In the case of a Convention adoption order paragraphs (b), (c) and (d) of subsection (2) or, as the case may be, paragraph (b) of subsection (3) do not apply.
- (6) In the case of an order under section 25, paragraph (d) of subsection (2) does not apply.
- (7) Subsection (2) applies in the case of an application for an order under section 34, 35 or 38 relating to a child who is subject to a custodianship order whether or not the child is in England or Wales and for the purposes of such an application the following are also authorised courts—
 - (a) the court which made the custodianship order and, where that court is a magistrates' court, any other magistrates' court acting for the same petty session area;
 - (b) the county court within whose district the applicant is;
 - (c) a magistrates' court within whose area the applicant is;
 - (d) where the application is made under section 35 and the child's mother or father or custodian is the petitioner or respondent in proceedings for a decree of divorce, nullity or judicial separation which are pending in a court in England or Wales, that court.
- (8) Subsection (2) does not apply in the case of an application under section 30 or 42 but for the purposes of such an application the following are authorised courts—
 - (a) if there is pending in respect of the child an application for an adoption order or an order under section 14 or a custodianship order, the court in which that application is pending;
 - (b) in any other case, the High Court, the county court within whose district the applicant lives and the magistrates' court within whose area the applicant lives.
- (9) Subsections (3) and (8) do not apply in the case of an application under section 30 in Scotland but for the purposes of such an application the following are authorised courts—
 - (a) if there is pending in respect of the child an application for—
 - (i) an adoption order ; or
 - (ii) an order under section 14,
 the court in which that application is pending ;
 - (b) in any other case—
 - (i) the Court of Session ;
 - (ii) the sheriff court of the sheriffdom within which the applicant resides.

101 Appeals etc.

- (1) Where any application has been made under this Act to a county court, the High Court may, at the instance of any party to the application, order the application to be removed to the High Court and there proceeded with on such terms as to costs as it thinks proper.
- (2) Subject to subsection (3), where on an application to a magistrates' court under this Act the court makes or refuses to make an order, an appeal shall lie to the High Court.
- (3) Where an application is made to a magistrates' court under this Act, and the court considers that the matter is one which would more conveniently be dealt with by the High Court, the magistrates' court shall refuse to make an order, and in that case no appeal shall lie to the High Court.

102 Evidence of agreement and consent

- (1) Any agreement or consent which is required by Part I, except section 24(6), or Part II to be given to the making of any order or application for an order may be given in writing, and, if the document Signifying the agreement or consent is—
 - (a) in the case of an adoption order or an application for an order under section 14, witnessed in accordance with rules, or
 - (b) in the case of an application made under Part II, witnessed in accordance with rules of court,it shall be admissible in evidence without further proof of the signature of the person by whom it was executed.
- (2) A document signifying such agreement or consent which purports to be witnessed in accordance with rules or, as the case may be, with rules of court shall be presumed to be so witnessed, and to have been executed and witnessed on the date and at the place specified in the document, unless the contrary is proved.
- (3) In the application of this section to Scotland—
 - (a) for " made under Part II" there is substituted " to which Part II applies ";
 - (b) for " admissible in evidence" there is substituted " sufficient evidence ";
 - (c) for " rules of court" there is substituted " act of sederunt ".

103 Panel for guardians ad litem and reporting officers

- (1) The Secretary of State may by regulations make provision for the establishment of a panel of persons from whom—
 - (a) guardians ad litem and reporting officers may in accordance with rules or rules of court be appointed for the purposes of—
 - (i) section 20 of this Act;
 - (ii) section 32B of the Children and Young Persons Act 1969;
 - (iii) section 4B of the Children Act 1948 ;
 - (b) persons may be appointed for the purposes of section 18A or 34A of the Social Work (Scotland) Act 1968.
- (2) Regulations under subsection (1) may provide for the expenses incurred by members of the panel to be defrayed by local authorities.
- (3) In relation to Scotland, the reference in subsection (1) to guardians ad litem shall be construed as a reference to curators ad litem.

104 Saving for powers of High Court

Nothing in this Act shall restrict or affect the jurisdiction of the High Court to appoint or remove guardians, or otherwise in respect of children.

105 Periodic review of Act

The Secretary of State shall, within three years of the first of the dates appointed by order by the Secretary of State under section 108(2) and, thereafter, every five years lay before Parliament a report on the operation of those sections of the Act which are in force at that time ; and the Secretary of State shall institute such research as is necessary to provide the information for these reports.

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

106 Regulations and orders

- (1) Where a power to make regulations or orders is exercisable by the Secretary of State by virtue of this Act, regulations or orders made in the exercise of that power shall be made by statutory instrument and may—
 - (a) make different provision in relation to different cases or classes of case, and
 - (b) exclude certain cases or classes of case.
- (2) A statutory instrument containing regulations made by the Secretary of State under section 103 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred on the Secretary of State by this Act to make orders includes a power to vary or revoke an order so made.

107 Interpretation

- (1) In this Act, unless the context otherwise requires—
 - " adoption order " means an order under section 8(1);
 - " adoption society " has the same meaning as in the 1958 Act;
 - " approved adoption society " means an adoption society approved under Part I;
 - " area ", in relation to a magistrates' court, means the commission area (within the meaning of section 1 of the Administration of Justice Act 1973) for which the court is appointed;
 - " authorised court " shall be construed in accordance with section 100;
 - " British adoption order " means an adoption order, or any provision for the adoption of a child effected under the law of Northern Ireland or any British territory outside the United Kingdom ;
 - " British territory " means, for the purposes of any provision of this Act, any of the following countries, that is to say, the United Kingdom, the Channel Islands, the Isle of Man and a colony, being a country designated for the purposes of that provision by order of the Secretary of State or, if no country is so designated, any of those countries ;
 - " child ", except where used to express a relationship, means a person who has not attained the age of 18 ;
 - " the Convention " means the Convention relating to the adoption of children concluded at The Hague on 15th November 1965 and signed on behalf of the United Kingdom on that date ;
 - " Convention adoption order " means an adoption order made as mentioned in section 24(1);
 - " Convention country " means any country outside British territory, being a country for the time being designated by an order of the Secretary of State as a country in which, in his opinion, the Convention is in force;
 - " guardian " means—
 - (a) a person appointed by deed or will in accordance with the provisions of the Guardianship of Infants Acts 1886 and 1925 or the Guardianship of Minors Act 1971 or by a court of competent jurisdiction to be the guardian of the child, and
 - (b) in relation to the adoption of an illegitimate child, includes the father where he has custody of the child by virtue of an order under section 9

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

of the Guardianship of Minors Act 1971, or under section 2 of the Illegitimate Children (Scotland) Act 1930;

" home " shall be construed in accordance with section 87(3);

" local authority " means in relation to England and Wales the council of a county (other than a metropolitan county), a metropolitan district, a London borough or the Common Council of the City of London ;

" notice " means a notice in writing;

" relative " has the same meaning as in the 1958 Act;

" rules " means, in England and Wales, rules made under section 9(3) of the 1958 Act or made by virtue of section 9(4) of the 1958 Act under section 15 of the Justices of the Peace Act 1949 ;

" the 1958 Act " means the Adoption Act 1958 ;

" United Kingdom national " means, for the purposes of any provision of this Act, a citizen of the United Kingdom and Colonies satisfying such conditions, if any, as the Secretary of State may by order specify for the purposes of that provision ;

" voluntary organisation " means a body, other than a public or local authority, the activities of which are not carried on for profit.

(2) In this Act, in relation to Scotland, unless the context otherwise requires—

" actual custody " means care and possession ;

" legal custody " means custody ;

" local authority " means a regional or islands council; and

" rules " means rules made by act of sederunt.

(3) Except so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(4) In this Act, except where otherwise indicated—

(a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered, and

(b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and

(c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered.

108 Amendments, repeals, commencement and transitory provisions

(1) Subject to the following provisions of this section—

(a) the enactments specified in Schedule 3 shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential on the preceding provisions of this Act), and

(b) the enactments specified in Schedule 4 are repealed to the extent shown in column 3 of that Schedule.

(2) This Act, except the provisions specified in subsections (3) and (4), shall come into force on such date as the Secretary of State may by order appoint and different dates may be appointed for, or for different purposes of, different provisions.

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

- (3) Sections 71, 72 and 82, this section, section 109 and paragraph 57 of Schedule 3 shall come into force on the passing of this Act.
- (4) The following provisions of this Act shall come into force on 1st January 1976—
- (a) sections 3, 8(9) and (10), 13, 59, 83 to 91, 94, 98, 99, 100 and 103 to 107 ;
 - (b) Schedules 1 and 2 ;
 - (c) in Schedule 3, paragraphs 1, 2, 3, 4, 6, 8, 9, 13(6) 15, 17, 18, 19, 20, 21(1) (2) and (4), 22 to 25, 27(b), 29, 33, 34 (b), 35, 36 (b), 38, 39 (c) (d) and (e), 40, 43, 48, 49, 51 (a), 52 (f) (ii) and (g) (ii), 54, 55, 58 to 63, 65 to 70, 75 (3), 77, 78, 81 and 83 ;
 - (d) Parts I, II and III of Schedule 4.
- (5) Until the date appointed under subsection (2) for sections 4 to 7, in this Act and in the 1958 Act " adoption agency" means a local authority or a registered adoption society within the meaning of the 1958 Act.
- (6) Until the date so appointed for section 12, section 5(1) of the 1958 Act shall, in relation to an application made after 31st December 1975 for an adoption order, have effect with the addition at the end of paragraph (b) of the following words "or
- (c) has seriously ill-treated the child and that (whether because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of that person is unlikely."
- (7) Until the date so appointed for section 18, section 21A of the Children and Young Persons Act 1969 shall have effect as if for references to section 25 there were substituted references to section 53 of the 1958 Act.
- (8) An order under subsection (2) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or any provision of this Act then in force or any provision of the 1958 Act as appear to him to be necessary or expedient in consequence of the partial operation of this Act.

109 Short title and extent

- (1) This Act may be cited as the Children Act 1975.
- (2) This Act, except—
- (a) section 68;
 - (b) paragraphs 10, 11 and 63 of Schedule 3 ; and
 - (c) Schedule 4 in so far as it repeals—
 - (i) the words " or adoption " in section 9(5) of the Adoption Act 1968, and
 - (ii) the references in that Act to section 19 of the Adoption Act 1958, does not extend to Northern Ireland.
- (3) Subsection (1) of section 68 extends to the Channel Islands.