

ADOPTION (INTERCOUNTRY ASPECTS) ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Miscellaneous and supplemental – sections 14 to 18

Section 14. Restriction on bringing children into the United Kingdom for adoption

65. Section 14 inserts an additional section after section 56 of the 1976 Act and section 50 of the 1978 Act (restriction on removal of children for adoption outside Great Britain).
66. The new section 56A or 50A makes it a criminal offence for a person habitually resident in the British Islands to bring to the United Kingdom for the purposes of adoption a child who is habitually resident outside those islands unless they comply requirements to be prescribed by regulations.
67. These requirements may apply either prior to the child's arrival or within a period to be prescribed and following a child's arrival; for example, if adopters fail to notify their local authority or the child's arrival within a specified period. The offence does not apply to a parent, guardian or relative of the child.
68. Under the general law, proceedings for an offence may only be brought within six months from the date the offence was committed. However, the new subsection (4) provides that proceedings for an offence under section 56A or section 50A may be brought within a period of six months from the date on which sufficient evidence in the opinion of the prosecutor to warrant the proceedings came to his knowledge. But, proceedings may not be brought more than three years after the offence was committed.
69. The purpose of this amendment is to deter those who bring children to the UK for the purposes of adoption without authority and who fail to make the presence of the child known to the statutory authorities until at least six months have expired (after which under the 1976 Act they would not have been liable to prosecution). The importance of declaring the presence of the child to a local authority is that the child automatically becomes a 'protected child' under section 32 the 1976 and 1978 Acts, placing a responsibility of the local authority to make regular visits to be satisfied about the child's safety and welfare.