Adoption and Children Act 2002

2002 CHAPTER 38

PART 3

MISCELLANEOUS AND FINAL PROVISIONS

CHAPTER 1

MISCELLANEOUS

Other miscellaneous provisions

VALID FROM 30/12/2005

132 Amendment of Adoption (Scotland) Act 1978: contravention of sections 30 to 36 of this Act

After section 29 of the Adoption (Scotland) Act 1978 (c. 28) there is inserted—

"**29A Contravention of sections 30 to 36 of Adoption and Children Act 2002**

(1) A person who contravenes any of the enactments specified in subsection (2) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(2) Those enactments are—

(a) section 30(1), (2) and (3) (removal of child placed or who may be placed for adoption),

(b) sections 32(2)(b), 33(2) and 35(2) (return of child by prospective adopters),

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(c) section 34(1) (removal of child in contravention of placement order),

(d) section 36(1) (removal of child in non-agency case), and

(e) section 36(5) (return of child to parent or guardian),

of the Adoption and Children Act 2002."

PROSPECTIVE

[F1]133 Scottish restriction on bringing children into or out of United Kingdom

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Textual Amendments

F1 Ss. 132-134 repealed: (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **sch. 3**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2); and (E.W.N.I.) (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 2 Pt. 3**

PROSPECTIVE

[F1]134 Amendment of Adoption (Scotland) Act 1978: overseas adoptions

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Textual Amendments

F1 Ss. 132-134 repealed: (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **sch. 3**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2); and (E.W.N.I.) (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 2 Pt. 3**

VALID FROM 01/06/2003

135 Adoption and fostering: criminal records

(1) Part 5 of the Police Act 1997 (c. 50) (certificates of criminal records) is amended as follows.

(2) In section 113 (criminal record certificates), in subsection (3A), for "his suitability" there is substituted " the suitability of the applicant, or of a person living in the same household as the applicant, to be a foster parent or ".

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(3) In section 115 (enhanced criminal record certificates), in subsection (6A), for "his suitability" there is substituted " the suitability of the applicant, or of a person living in the same household as the applicant, to be a foster parent or ".

136 Payment of grants in connection with welfare services

(1) Section 93 of the Local Government Act 2000 (c. 22) (payment of grants for welfare services) is amended as follows.

(2) In subsection (1) (payment of grants by the Secretary of State), for the words from "in providing" to the end there is substituted—

"(a) in providing, or contributing to the provision of, such welfare services as may be determined by the Secretary of State, or

(b) in connection with any such welfare services."

(3) In subsection (2) (payment of grants by the Assembly), for the words from "in providing" to the end there is substituted—

"(a) in providing, or contributing to the provision of, such welfare services as may be determined by the Assembly, or

(b) in connection with any such welfare services."

(4) After subsection (6) there is inserted—

"(6A) Before making any determination under subsection (3) or (5) the Secretary of State must obtain the consent of the Treasury."

VALID FROM 30/12/2005

137 Extension of the Hague Convention to British overseas territories

(1) Her Majesty may by Order in Council provide for giving effect to the Convention in any British overseas territory.

(2) An Order in Council under subsection (1) in respect of any British overseas territory may, in particular, make any provision corresponding to provision which in relation to any part of Great Britain is made by the Adoption (Intercountry Aspects) Act 1999 (c. 18) or may be made by regulations under section 1 of that Act.

(3) The British Nationality Act 1981 (c. 61) is amended as follows.

(4) In section 1 (acquisition of British citizenship by birth or adoption)—

(a) in subsection (5), at the end of paragraph (b) there is inserted " effected under the law of a country or territory outside the United Kingdom ",

(b) at the end of subsection (5A)(b) there is inserted " or in a designated territory ",

(c) in subsection (8), the words following "section 50" are omitted.

(5) In section 15 (acquisition of British overseas territories citizenship)—

(a) after subsection (5) there is inserted—

"(5A) Where—

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(a) a minor who is not a British overseas territories citizen is adopted under a Convention adoption,

(b) on the date on which the adoption is effected—

(i) the adopter or, in the case of a joint adoption, one of the adopters is a British overseas territories citizen, and

(ii) the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in a designated territory, and

(c) the Convention adoption is effected under the law of a country or territory outside the designated territory,

the minor shall be a British overseas territories citizen as from that date.",

(b) in subsection (6), after "order" there is inserted " or a Convention adoption ".

(6) In section 50 (interpretation), in subsection (1)—

(a) after the definition of "company" there is inserted—

""Convention adoption" means an adoption effected under the law of a country or territory in which the Convention is in force, and certified in pursuance of Article 23(1) of the Convention",

(b) after the definition of "Crown service under the government of the United Kingdom" there is inserted—

""designated territory" means a qualifying territory, or the Sovereign Base Areas of Akrotiri and Dhekelia, which is designated by Her Majesty by Order in Council under subsection (14)".

(7) After subsection (13) of that section there is inserted—

"(14) For the purposes of the definition of "designated territory" in subsection (1), an Order in Council may—

(a) designate any qualifying territory, or the Sovereign Base Areas of Akrotiri and Dhekelia, if the Convention is in force there, and

(b) make different designations for the purposes of section 1 and section 15;

and, for the purposes of this subsection and the definition of "Convention adoption" in subsection (1), "the Convention" means the Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993.

An Order in Council under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament."

VALID FROM 30/12/2005

138 Proceedings in Great Britain

Proceedings for an offence by virtue of section 9, 59, 93, 94, 95 or 129—

(a) may not be brought more than six years after the commission of the offence but, subject to that,

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(b) may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

In relation to Scotland, “the prosecutor” is to be read as “the procurator fiscal”.

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