

CHILDREN AND ADOPTION ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 2 - Adoptions With A Foreign Element

Section 12 - Imposition of extra conditions in certain cases

59. When special restrictions are declared in relation to a country, regulations under section 12 will allow the Secretary of State to specify in the restricted list a step in relation to that country. The step is likely to be the latest point at which the appropriate authority is involved in the processing of intercountry adoption applications. The step might be, for example, forwarding a matching report from the foreign authority to the prospective adopter.
60. Where a step has been specified in relation to a country, the regulations may also provide one or more conditions that must be met in relation to adoptions from that country. These conditions would be in addition to any conditions already set out in existing legislation on restrictions on bringing children into the UK for adoption. A condition could be, for example, that the adopters have received written notification from the Secretary of State that their adoption can proceed.
61. If a child is brought into the UK without any such condition or conditions having been met, the person who brings the child into the UK (or causes another person to bring the child in) is guilty of an offence. In that case, they are liable to a prison term of up to twelve months in England and Wales, six months in Northern Ireland, and/or a fine.
62. If the step specified in the regulations has already been taken before the country was added to the restricted list, no offence would be committed.
63. *Subsection (6)* lowers the maximum prison sentence that can be imposed in England and Wales to six months for the period until the coming into force of section 154(1) of the Criminal Justice Act 2003, which will raise the maximum prison term that can be imposed by magistrates' courts to 12 months.