



# Child Abduction Act 1984

## 1984 CHAPTER 37

### PART I

#### OFFENCES UNDER LAW OF ENGLAND AND WALES

#### **1 Offence of abduction of child by parent, etc.**

(1) Subject to subsections (5) and (8) below, a person connected with a child under the age of sixteen commits an offence if he takes or sends the child out of the United Kingdom without the appropriate consent.

[<sup>F1</sup>(2) A person is connected with a child for the purposes of this section if—

- (a) he is a parent of the child; or
  - (b) in the case of a child whose parents were not married to each other at the time of his birth, there are reasonable grounds for believing that he is the father of the child; or
  - (c) he is a guardian of the child; or
  - [ he is a special guardian of the child; or]
- <sup>F2</sup>(ca)
- (d) he is a person in whose favour a residence order is in force with respect to the child; or
  - (e) he has custody of the child.

(3) In this section 'the appropriate consent', in relation to a child, means—

- (a) the consent of each of the following—
    - (i) The child's mother;
    - (ii) the child's father, if he has parental responsibility for him;
    - (iii) any guardian of the child;
    - [ any special guardian of the child;]
- <sup>F3</sup>(iiia)
- (iv) any person in whose favour a residence order is in force with respect to the child;
  - (v) any person who has custody of the child; or

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- (b) the leave of the court granted under or by virtue of any provision of Part II of the Children Act 1989; or
  - (c) if any person has custody of the child, the leave of the court which awarded custody to him.
- (4) A person does not commit an offence under this section by taking or sending a child out of the United Kingdom without obtaining the appropriate consent if—
- [<sup>F4</sup>(a) he is a person in whose favour there is a residence order in force with respect to the child, and he takes or sends the child out of the United Kingdom for a period of less than one month; or]
  - [<sup>F4</sup>(b) he is a special guardian of the child and he takes or sends the child out of the United Kingdom for a period of less than three months.]
- (4A) Subsection (4) above does not apply if the person taking or sending the child out of the United Kingdom does so in breach of an order under Part II of the Children Act 1989.]
- (5) A person does not commit an offence under this section by doing anything without the consent of another person whose consent is required under the foregoing provisions if—
- (a) he does it in the belief that the other person—
    - (i) has consented; or
    - (ii) would consent if he was aware of all the relevant circumstances; or
  - (b) he has taken all reasonable steps to communicate with the other person but has been unable to communicate with him; or
  - (c) the other person has unreasonably refused to consent,
- [<sup>F5</sup>(5A) Subsection (5)(c) above does not apply if—
- (a) the person who refused to consent is a person—
    - (i) in whose favour there is a residence order in force with respect to the child; <sup>F6</sup>...
    - [ who is a special guardian of the child; or]
    - <sup>F7</sup>(ia) (ii) who has custody of the child; or
  - (b) the person taking or sending the child out of the United Kingdom is, by so acting, in breach of an order made by a court in the United Kingdom.]
- (6) Where, in proceedings for an offence under this section, there is sufficient evidence to raise an issue as to the application of subsection (5) above, it shall be for the prosecution to prove that that subsection does not apply.
- [<sup>F8</sup>(7) For the purposes of this section—
- (a) “guardian of a child”, [<sup>F9</sup> “special guardian”,] “residence order” and “parental responsibility” have the same meaning as in the Children Act 1989; and
  - (b) a person shall be treated as having custody of a child if there is in force an order of a court in the United Kingdom awarding him (whether solely or jointly with another person) custody, legal custody or care and control of the child.]
- (8) This section shall have effect subject to the provisions of the Schedule to this Act in relation to a child who is in the care of a local authority [<sup>F10</sup>detained in a place of safety, remanded to a local authority accommodation or the subject of] proceedings or an order relating to adoption.

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### Textual Amendments

- F1** S. 1(2)-(4)(4A) substituted (14.10.1991) for s. 1(2)-(4) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 37(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F2** S. 1(2)(ca) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(2)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F3** S. 1(3)(a)(iiia) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(3)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F4** S. 1(4)(b) substituted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(4)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F5** S. 1(5A) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 37(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F6** Word in s. 1(5A)(a) repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), Sch. 3 para. 42(5), **Sch. 5** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F7** S. 1(5A)(a)(ia) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(5)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F8** S. 1(7) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 37(4)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F9** Words in s. 1(7)(a) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 42(6)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F10** Words in s. 1(8) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 37(5)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

## 2 Offence of abduction of child by other persons.

(1) [<sup>F11</sup>Subject to subsection (3) below, a person, other than one mentioned in subsection (2) below.] commits an offence if, without lawful authority or reasonable excuse, he takes or detains a child under the age of sixteen—

- (a) so as to remove him from the lawful control of any person having lawful control of the child; or
- (b) so as to keep him out of the lawful control of any person entitled to lawful control of the child.

[<sup>F12</sup>(2) The persons are—

- (a) where the father and mother of the child in question were married to each other at the time of his birth, the child's father and mother;
- (b) where the father and mother of the child in question were not married to each other at the time of his birth, the child's mother; and
- (c) any other person mentioned in section 1(2)(c) to (e) above.

(3) In proceedings against any person for an offence under this section, it shall be a defence for that person to prove—

- (a) where the father and mother of the child in question were not married to each other at the time of his birth—
  - (i) that he is the child's father; or
  - (ii) that, at the time of the alleged offence, he believed, on reasonable grounds, that he was the child's father; or
- (b) that, at the time of the alleged offence, he believed that the child had attained the age of sixteen.]

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#### Textual Amendments

- F11** Words in s. 2(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 38(1)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F12** S. 2(2)(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 38(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

#### Modifications etc. (not altering text)

- C1** S. 2 excluded (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **s. 51(7)(d)**, (with Sch. 14 para 1(1)); S.I. 1991/828, **art. 3(2)**

### 3 Construction of references to taking, sending and detaining.

For the purposes of this Part of this Act—

- (a) a person shall be regarded as taking a child if he causes or induces the child to accompany him or any other person or causes the child to be taken;
- (b) a person shall be regarded as sending a child if he causes the child to be sent;  
F13 . . .
- (c) a person shall be regarded as detaining a child if he causes the child to be detained or induces the child to remain with him or any other person. [<sup>F14</sup>and
- (d) references to a child's parents and to a child whose parents were (or were not) married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987 (which extends their meaning).]

#### Textual Amendments

- F13** Word in s. 3(b) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**
- F14** S. 3(d) and the word “and” immediately preceding it added (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para.39** (with Sch. 14 para. 14(1)); S.I. 1991/828, **art. 3(2)**

### 4 Penalties and prosecutions.

- (1) A person guilty of an offence under this Part of this Act shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, <sup>F15</sup> . . . or to both such imprisonment and fine;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years.
- (2) No prosecution for an offence under section 1 above shall be instituted except by or with the consent of the Director of Public Prosecutions.

#### Textual Amendments

- F15** Words in s. 4(1)(a) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.XIV**

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## **5 Restriction on prosecutions for offence of kidnapping.**

Except by or with the consent of the Director of Public Prosecutions no prosecution shall be instituted for an offence of kidnapping if it was committed—

- (a) against a child under the age of sixteen; and
- (b) by a person connected with the child, within the meaning of section 1 above.

## **PART II**

### **OFFENCE UNDER LAW OF SCOTLAND**

## **6 Offence in Scotland of parent, etc. taking or sending child out of United Kingdom.**

(1) Subject to subsections (4) and (5) below, a person connected with a child under the age of sixteen years commits an offence if he takes or sends the child out of the United Kingdom—

- (a) without the appropriate consent if there is in respect of the child—
  - (i) an order of a court in the United Kingdom awarding custody of the child to any person [<sup>F16</sup>or naming any person as the person with whom the child is to live]; or
  - (ii) an order of a court in England, Wales or Northern Ireland making the child a ward of court;
- (b) if there is in respect of the child an order of a court in the United Kingdom prohibiting the removal of the child from the United Kingdom or any part of it.

(2) A person is connected with a child for the purposes of this section if—

- (a) he is a parent or guardian of the child; or
- (b) there is in force an order of a court in the United Kingdom awarding custody of the child to him [<sup>F17</sup>or naming him as the person with whom the child is to live](whether solely or jointly with any other person); or
- (c) in the case of [<sup>F18</sup>a child whose parents are not and have never been married to one another], there are reasonable grounds for believing that he is the father of the child.

(3) In this section, the “appropriate consent” means—

- (a) in relation to a child to whom subsection (1)(a)(i) above applies—
  - (i) the consent of each person
    - (a) who is a parent or guardian of the child; or
    - (b) to whom custody of the child has been awarded [<sup>F19</sup>or who is named as the person with whom the child is to live (whether the award is made, or the person so named is named] solely or jointly with any other person) by an order of a court in the United Kingdom; or
  - (ii) the leave of that court;
- (b) in relation to a child to whom subsection (1)(a)(ii) above applies, the leave of the court which made the child a ward of court;

Provided that, in relation to a child to whom more than one order referred to in subsection (1)(a) above applies, the appropriate consent may be that of any court which

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has granted an order as referred to in the said subsection (1)(a); and where one of these orders is an order referred to in the said subsection (1)(a)(ii) no other person as referred to in paragraph (a)(i) above shall be entitled to give the appropriate consent.

- (4) In relation to a child to whom subsection (1)(a)(i) above applies, a person does not commit an offence by doing anything without the appropriate consent if—
- (a) he does it in the belief that each person referred to in subsection (3)(a)(i) above—
    - (i) has consented; or
    - (ii) would consent if he was aware of all the relevant circumstances; or
  - (b) he has taken all reasonable steps to communicate with such other person but has been unable to communicate with him.
- (5) In proceedings against any person for an offence under this section it shall be a defence for that person to show that at the time of the alleged offence he had no reason to believe that there was in existence an order referred to in subsection (1) above.
- (6) For the purposes of this section—
- (a) a person shall be regarded as taking a child if he causes or induces the child to accompany him or any other person, or causes the child to be taken; and
  - (b) a person shall be regarded as sending a child if he causes the child to be sent.
- (7) In this section “guardian” means <sup>F20</sup> . . . a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child.

#### Textual Amendments

- F16** Words in s. 6(1)(a)(i) inserted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 34(a)**; S.I. 1996/2203, art. 3, **Sch.**
- F17** Words in s. 6(2)(b) inserted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 34(b)**; S.I. 1996/2203, art. 3, **Sch.**
- F18** Words substituted by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(1), **Sch. 1 para. 20(a)**
- F19** Words in s. 6(3)(a)(i)(b) substituted (1.11.1996) by 1995 c. 36, s. 105(1), **Sch. 4 para. 34(c)**; S.I. 1996/2203, art. 3, **Sch.**
- F20** Words in s. 6(7) repealed by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49), s. 10(2), **Sch.2** (with s. 1(3)).

## 7 Power of arrest.

A constable may arrest without warrant any person whom he reasonably suspects of committing or having committed an offence under this Part of this Act.

## 8 Penalties and prosecutions.

A person guilty of an offence under this Part of this Act shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum <sup>F21</sup> . . ., or both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

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### Textual Amendments

**F21** Words in s. 8(a) repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. XIV

## 9 Proof and admissibility of certain documents.

- (1) For the purposes of this Part of this Act, a document duly authenticated which purports to be—
  - (a) an order or other document issued by a court of the United Kingdom (other than a Scottish court) shall be sufficient evidence of any matter to which it relates;
  - (b) a copy of such an order or other document shall be deemed without further proof to be a true copy unless the contrary is shown, and shall be sufficient evidence of any matter to which it relates.
- (2) A document is duly authenticated for the purposes of—
  - (a) subsection (1)(a) above if it purports to bear the seal of that court;
  - (b) subsection (1)(b) above if it purports to be certified by any person in his capacity as a judge, magistrate or officer of that court to be a true copy.

## 10 Evidence.

In any proceedings in relation to an offence under this Part of this Act it shall be presumed, unless the contrary is shown, that the child named in the order referred to in section 6(1) above, or in any copy thereof, is the child in relation to whom the proceedings have been taken.

## PART III

### SUPPLEMENTARY

## 11 Consequential amendments and repeals.

- (1) At the end of paragraph 1(b) of the Schedule to the <sup>M1</sup>Visiting Forces Act 1952 (definition of “offence against the person”), there shall be inserted, appropriately numbered—

“(0) the Child Abduction Act 1984.”.
- (2) After paragraph 2 of Schedule 1 to the <sup>M2</sup>Firearms Act 1968 there shall be inserted—

“2A Offences under Part I of the Child Abduction Act 1984 (abduction of children).”.
- (3) The reference to abduction in section 1(1) of the <sup>M3</sup>Internationally Protected Persons Act 1978 [<sup>F22</sup>and sections 63B(2) and 63C(2) of the Terrorism Act 2000] shall be construed as not including an offence under section 1 above or any corresponding provision in force in Northern Ireland or Part II of this Act.

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- (4) In section 4(1)(a) of the <sup>M4</sup>Suppression of Terrorism Act 1978, after “11,”, there shall be inserted “11B,”; and in Schedule 1 to that Act, after paragraph 11A, there shall be inserted—

An offence under section 2 of the Child Abduction Act 1984 (abduction of child by person other than parent etc.) or any corresponding provision in force in Northern Ireland.”.

- (5) The following provisions are hereby repealed—
- (a) section 56 of the Offences against the <sup>M5</sup>Person Act 1861;
  - (b) in Schedule 1 to the <sup>M6</sup>Extradition Act 1870, the words “Child stealing”;
  - (c) in paragraph 2 of schedule 1 to the <sup>M7</sup>Firearms Act 1968, the words “section 56 (child-stealing and abduction)”.

#### Textual Amendments

**F22** Words in s. 11(3) inserted (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), s. 94(1), [Sch. 5 para. 10](#); S.I. 2004/786, art. 3(1)(2)

#### Marginal Citations

**M1** 1952 c. 67.  
**M2** 1968 c. 27.  
**M3** 1978 c. 17.  
**M4** 1978 c. 26.  
**M5** 1861 c. 100.  
**M6** 1870 c. 52.  
**M7** 1968 c. 27.

## 12 Enactment of corresponding provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of schedule 1 to the <sup>M8</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it operates only so as to make for Northern Ireland provision corresponding to Part I of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House.

#### Marginal Citations

**M8** 1974 c. 28.

## 13 Short title, commencement and extent.

- (1) This Act may be cited as the Child Abduction Act 1984.
- (2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.



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- (3) Part I of this Act extends to England and Wales only, Part II extends to Scotland only and in Part III section 11(1) and (5)(a) and section 12 do not extend to Scotland and section 11(1), (2) and (5)(a) and (c) does not extend to Northern Ireland.

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**Changes to legislation:**

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