



Child Abduction Act 1984

1984 CHAPTER 37

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 [^{F1}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 [^{F2}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 [^{F3}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

Changes to legislation: There are currently no known outstanding effects for the Child Abduction Act 1984, Section 6. (See end of Document for details)

(b) to whom custody of the child has been awarded [^{F4}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 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 ^{F5} . . . 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

F1 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.**

F2 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.**

F3 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)**

F4 Words in s. 6(3)(a)(i)(b) substituted (1.11.1996) by 1995 c. 36, s. 105(1), **Sch. 4 para. 34(e)**; S.I. 1996/2203, art. 3, **Sch.**

F5 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)).

Changes to legislation:

There are currently no known outstanding effects for the Child Abduction Act 1984, Section 6.