

SCHEDULES

SCHEDULE 12

MINOR AMENDMENTS

The Child Abduction Act 1984 (c. 37)

- 37 (1) Section 1 of the Child Abduction Act 1984 (offence of abduction by parent, etc.) shall be amended as follows.
- (2) For subsections (2) to (4) there shall be substituted—
- “(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
 - (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;
 - (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
 - (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—
- (a) he is a person in whose favour there is a residence order in force with respect to the child, and
 - (b) he takes or sends him out of the United Kingdom for a period of less than one month.
- (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.”

Status: This is the original version (as it was originally enacted).

- (3) In subsection (5) for the words from “but” to the end there shall be substituted—
- “(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; or
- (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.”
- (4) For subsection (7) there shall be substituted—
- “(7) For the purposes of this section—
- (a) “guardian of a child”, “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.”
- (5) In subsection (8) for the words from “or voluntary organisation” to “custodianship proceedings or” there shall be substituted “detained in a place of safety, remanded to a local authority accommodation or the subject of”.
- 38 (1) In section 2 of that Act (offence of abduction of child by other persons), in subsection (1) for the words from “Subject” to “above” there shall be substituted “Subject to subsection (3) below, a person, other than one mentioned in subsection (2) below.”
- (2) For subsection (2) of that section there shall be substituted—
- “(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.”
- 39 At the end of section 3 of that Act (construction of references to taking, sending and detaining) there shall be added “and

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- (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)."
- 40 (1) The Schedule to that Act (modifications of section 1 for children in certain cases) shall be amended as follows.
- (2) In paragraph 1(1) for the words "or voluntary organisation" there shall be substituted "within the meaning of the Children Act 1989".
- (3) For paragraph 2(1) there shall be substituted—
- “(1) This paragraph applies in the case of a child who is—
- (a) detained in a place of safety under section 16(3) of the Children and Young Persons Act 1969; or
- (b) remanded to local authority accommodation under section 23 of that Act.”
- (4) In paragraph 3(1)—
- (a) in paragraph (a) for the words “section 14 of the Children Act 1975” there shall be substituted “section 18 of the Adoption Act 1976”; and
- (b) in paragraph (d) for the words “section 25 of the Children Act 1975 or section 53 of the Adoption Act 1958” there shall be substituted “section 55 of the Adoption Act 1976”.
- (5) In paragraph 3(2)(a)—
- (a) in sub-paragraph (i), for the words from “order or,” to “Children Act 1975” there shall be substituted “section 18 order or, if the section 18 order has been varied under section 21 of that Act so as to give parental responsibility to another agency”, and
- (b) in sub-paragraph (ii), for the words “(c) or (e)” there shall be substituted “or (c)”.
- (6) At the end of paragraph 3 there shall be added—
- “(3) Sub-paragraph (2) above shall be construed as if the references to the court included, in any case where the court is a magistrates' court, a reference to any magistrates' court acting for the same area as that court”.
- (7) For paragraph 5 there shall be substituted—
- “5 In this Schedule—
- (a) “adoption agency” and “adoption order” have the same meaning as in the Adoption Act 1976; and
- (b) “area”, in relation to a magistrates' court, means the petty sessions area (within the meaning of the Justices of the Peace Act 1979) for which the court is appointed.”