



Adoption and Children Act 2002

2002 CHAPTER 38

PART 1

ADOPTION

CHAPTER 6

ADOPTIONS WITH A FOREIGN ELEMENT

Bringing children into and out of the United Kingdom

85 Restriction on taking children out

- (1) A child who—
 - (a) is a Commonwealth citizen, or
 - (b) is habitually resident in the United Kingdom,must not be removed from the United Kingdom to a place outside the British Islands for the purpose of adoption unless the condition in subsection (2) is met.
- (2) The condition is that—
 - (a) the prospective adopters have parental responsibility for the child by virtue of an order under section 84, or
 - (b) the child is removed under the authority of an order under [^{F1}section 59 of the [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#)] or Article 57 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)).
- (3) Removing a child from the United Kingdom includes arranging to do so; and the circumstances in which a person arranges to remove a child from the United Kingdom include those where he—
 - (a) enters into an arrangement for the purpose of facilitating such a removal of the child,

Changes to legislation: *Adoption and Children Act 2002, Section 85 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) initiates or takes part in any negotiations of which the purpose is the conclusion of an arrangement within paragraph (a), or
- (c) causes another person to take any step mentioned in paragraph (a) or (b).

An arrangement includes an agreement (whether or not enforceable).

- (4) A person who removes a child from the United Kingdom in contravention of subsection (1) is guilty of an offence.
- (5) A person is not guilty of an offence under subsection (4) of causing a person to take any step mentioned in paragraph (a) or (b) of subsection (3) unless it is proved that he knew or had reason to suspect that the step taken would contravene subsection (1).

But this subsection only applies if sufficient evidence is adduced to raise an issue as to whether the person had the knowledge or reason mentioned.

- (6) A person guilty of an offence under this section is liable—
 - (a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both,
 - (b) on conviction on indictment, to imprisonment for a term not exceeding twelve months, or a fine, or both.
- (7) In any proceedings under this section—
 - (a) a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer is admissible, upon proof that the officer or the deponent cannot be found in the United Kingdom, as evidence of the matters stated in it, and
 - (b) it is not necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

Textual Amendments

F1 Words in s. 85(2)(b) substituted (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), art. 1(2), **Sch. 1 para. 6(3)**

Modifications etc. (not altering text)

C1 S. 85 excluded (6.4.2016) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), **ss. 124(6), 199(2)** (with s. 124(9)); [S.I. 2016/412](#), art. 2 (with art. 4, Sch. 1, Sch. 2)

Commencement Information

I1 S. 85 in force at 30.12.2005 by [S.I. 2005/2213](#), **art. 2(f)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4A inserted by [2014 c. 6 s. 5](#)
- s. 141(7) inserted by [2010 c. 26 Sch. 3 para. 13](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22, s. 17\(4\)](#) ; [S.I. 2013/2200 art. 2\(a\)](#))