



# 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.
- (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 England or Wales awarding custody of the child to him, whether solely or jointly with any other person; or
  - (c) in the case of an illegitimate child, there are reasonable grounds for believing that he is the father of the child.
- (3) In this section " the appropriate consent", in relation to a child, means—
  - (a) the consent of each person—
    - (i) who is a parent or guardian of the child ; or
    - (ii) to whom custody of the child has been awarded (whether solely or jointly with any other person) by an order of a court in England or Wales; or
  - (b) if the child is the subject of such a custody order, the leave of the court which made the order; or
  - (c) the leave of the court granted on an application for a direction under section 7 of the Guardianship of Minors Act 1971 or section 1(3) of the Guardianship Act 1973.
- (4) In the case of a custody order made by a magistrates' court, subsection (3)(b) above shall be construed as if the reference to the court which made the order included a reference to any magistrates' court acting for the same petty sessions area as that court.

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*Status: This is the original version (as it was originally enacted).*

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- (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,
- but paragraph (c) of this subsection does not apply where what is done relates to a child who is the subject of a custody order made by a court in England or Wales, or where the person who does it acts in breach of any direction under section 7 of the Guardianship of Minors Act 1971 or section 1(3) of the Guardianship Act 1973.
- (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.
- (7) In this section—
- (a) " guardian " means a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child; and
  - (b) a reference to a custody order or an order awarding custody includes a reference to an order awarding legal custody and a reference to an order awarding care and control.
- (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 or voluntary organisation or who is committed to a place of safety or who is the subject of custodianship proceedings or proceedings or an order relating to adoption.

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

- (1) Subject to subsection (2) below, a person not falling within section 1(2)(a) or (b) above 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.
- (2) 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—
- (a) he believed that the child had attained the age of sixteen ; or
  - (b) in the case of an illegitimate child, he had reasonable grounds for believing himself to be the child's father.

## **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; and
- (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.

#### **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, as defined in section 74 of the Criminal Justice Act 1982, 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.

#### **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.