



# Adoption Act 1976

## 1976 CHAPTER 36

### PART VI **E+W**

#### MISCELLANEOUS AND SUPPLEMENTAL

#### 55 Adoption of children abroad. **E+W**

- (1) Where on an application made in relation to a child by a person who is not domiciled in England and Wales or Scotland [<sup>F1</sup>or Northern Ireland] an authorised court is satisfied that he intends to adopt the child under the law of or within the country in which the applicant is domiciled, the court may, subject to the following provisions of this section, make an order [<sup>F2</sup>giving him parental responsibility for the child].
- (2) The provisions of Part II relating to adoption orders, except sections 12(1), 14(2), 15(2), 17 to 21 and 25, shall apply in relation to orders under this section as they apply in relation to adoption orders subject to the modification that in section 13(1) for “19” and “13” there are substituted “32” and “26” respectively.
- (3) Sections 50 and 51 and paragraphs 1 and 2(1) of Schedule 1 shall apply in relation to an order under this section as they apply in relation to an adoption order except that any entry in the Registers of Births, or the Adopted Children Register which is required to be marked in consequence of the making of an order under this section shall, in lieu of being marked with the word “Adopted” or “Re-adopted” (with or without the addition of the [<sup>F3</sup>words “(Scotland)” or “(Northern Ireland)”], be marked with the words “Proposed foreign adoption” or “Proposed foreign re-adoption”, as the case may require.

<sup>F4</sup>(4) .....

#### Textual Amendments

**F1** Words in s. 55(1) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.22(1)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

**F2** Words in s. 55(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.22(1)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

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- F3** Words in s. 55(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.22(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F4** S. 55(4) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

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

- C1** S. 55 amended (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **ss. 12(3)(b)**, 108 (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

**56 Restriction on removal of children for adoption outside Great Britain. E+W**

- (1) Except under the authority of an order under section 55, [<sup>F5</sup>section 49 of the <sup>M1</sup>Adoption (Scotland) Act 1978 or Article 57 of the <sup>M2</sup>Adoption (Northern Ireland) Order 1987] it shall not be lawful for any person to take or send a child who is a British subject or a citizen of the Republic of Ireland out of Great Britain to any place outside the [<sup>F6</sup>United Kingdom, the Channel Islands and the Isle of Man] with a view to the adoption of the child by any person <sup>F7</sup>...; and any person who takes or sends a child out of Great Britain to any place in contravention of this subsection, or makes or takes part in any arrangements for [<sup>F8</sup>placing a child with] any person for that purpose, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding [<sup>F9</sup>level 5 on the standard scale] or both.
- (2) In any proceedings under this section, a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer shall, upon proof that the officer or the deponent cannot be found in the United Kingdom, be admissible as evidence of the matters stated therein, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.
- (3) A person shall be deemed to take part in arrangements for [<sup>F10</sup>placing a child with] a person for the purpose referred to in subsection (1) if—
- (a) he facilitates the placing of the child [<sup>F11</sup>with] that person; or
  - (b) he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, and if he causes another person to do so.

**Textual Amendments**

- F5** Words in s. 56(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.23(2)(a)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F6** Words in s. 56(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.23(2)(b)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F7** Words in s. 56(1) repealed (1.6.2003) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 4 para. 11(a)** (with Sch. 4 paras. 2, Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(5)(c)(i)
- F8** Words in s. 56(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.23(1)(a)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F9** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**
- F10** Words in s. 56(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.23(1)(a)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F11** Words in s. 56(3)(a) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para.23(1)(b)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

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

- C2** S. 56 excluded (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 17, 23, 108, [Sch. 2 para. 19\(6\)](#) (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), [art. 3\(2\)](#)

**Marginal Citations**

- M1** [1978 c.28\(49:11\)](#).  
**M2** [S.I. 1987/2203 \(N.I. 22\)](#).

[<sup>F12</sup>**56A Restriction on bringing children into the United Kingdom** **E+W**]

- (1) This section applies where a person who is habitually resident in the British Islands (the “British resident”)—
- (a) brings, or causes another to bring, a child who is habitually resident outside the British Islands into the United Kingdom for the purpose of adoption by the British resident, or
  - (b) at any time brings, or causes another to bring, into the United Kingdom a child adopted by the British resident under an external adoption effected within the period of six months ending with that time.
- The references to adoption, or to a child adopted, by the British resident include a reference to adoption, or to a child adopted, by the British resident and another person.
- (2) But this section does not apply if the child is intended to be adopted under a Convention adoption order.
- (3) An external adoption means an adoption, other than a Convention adoption, of a child effected under the law of any country or territory outside the British Islands, whether or not the adoption is—
- (a) an adoption within the meaning of Part IV of this Act, or
  - (b) a full adoption (within the meaning of section 39(3A)).
- (4) Regulations may require a person intending to bring, or to cause another to bring, a child into the United Kingdom in circumstances where this section applies—
- (a) to apply to an adoption agency (including an adoption agency within the meaning of section 1 of the Adoption (Scotland) Act 1978 or Article 3 of the Adoption (Northern Ireland) Order 1987) in the prescribed manner for an assessment of his suitability to adopt the child, and
  - (b) to give the agency any information it may require for the purpose of the assessment.
- (5) Regulations may require prescribed conditions to be met in respect of a child brought into the United Kingdom in circumstances where this section applies.
- (6) In relation to a child brought into the United Kingdom for adoption in circumstances where this section applies, regulations may provide for any provision of Part II to apply with modifications or not to apply.
- (7) If a person brings, or causes another to bring, a child into the United Kingdom at any time in circumstances where this section applies, he is guilty of an offence if—
- (a) he has not complied with any requirement imposed by virtue of subsection (4), or

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- (b) any condition required to be met by virtue of subsection (5) is not met, before that time, or before any later time which may be prescribed.
- (8) 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.
- (9) Regulations may provide for the preceding provisions of this section not to apply if—
- (a) the adopters or (as the case may be) prospective adopters are natural parents, natural relatives or guardians of the child in question (or one of them is), or
  - (b) the British resident in question is a step-parent of the child,
- and any prescribed conditions are met.
- (10) On the occasion of the first exercise of the power to make regulations under subsection (9)—
- (a) the regulations shall not be made unless a draft of the regulations has been approved by a resolution of each House of Parliament, and
  - (b) accordingly section 67(2) does not apply to the statutory instrument containing the regulations.
- (11) In this section, “prescribed” means prescribed by regulations and “regulations” means regulations made by the Secretary of State, after consultation with the National Assembly for Wales. ]

#### Textual Amendments

**F12** S. 56A substituted (1.4.2003 for specified purposes, 1.6.2003 for specified purposes) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 4 para. 12** (with [Sch. 4 paras. 6-8](#)); [S.I. 2003/366](#), art. 2(3)(5)(c)(i)

#### 57 Prohibition on certain payments. **E+W**

- (1) Subject to the provisions of this section, it shall not be lawful to make or give to any person any payment or reward for or in consideration of—
- (a) the adoption by that person of a child;
  - (b) the grant by that person of any agreement or consent required in connection with the adoption of a child;
  - (c) the [<sup>F13</sup>handing over of a child by that person] with a view to the adoption of the child; or
  - (d) the making by that person of any arrangements for the adoption of a child.
- (2) Any person who makes or gives, or agrees or offers to make or give, any payment or reward prohibited by this section, or who receives or agrees to receive or attempts to obtain any such payment or reward, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding [<sup>F14</sup>level 5 on the standard scale] or to both; <sup>F15</sup> . . .
- (3) This section does not apply to any payment made to an adoption agency by a parent or guardian of a child or by a person who adopts or proposes to adopt a child, being a

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payment in respect of expenses reasonably incurred by the agency in connection with the adoption of the child, or to any payment or reward authorised by the court to which an application for an adoption order in respect of a child is made.

[<sup>F16</sup>(3A) This section does not apply to—

- (a) any payment made by an adoption agency to a person who has applied or proposes to apply to a court for an adoption order or an order under section 55 (adoption of children abroad), being a payment of or towards any legal or medical expenses incurred or to be incurred by that person in connection with the application; or
- (b) any payment made by an adoption agency to another adoption agency in consideration of the placing of a child [<sup>F17</sup>with] any person with a view to the child’s adoption; or
- (c) any payment made by an adoption agency to a voluntary organisation for the time being approved for the purposes of this paragraph by the Secretary of State as a fee for the services of that organisation in putting that adoption agency into contact with another adoption agency with a view to the making of arrangements between the adoption agencies for the adoption of a child.

In paragraph (c) “voluntary organisation” means a body, other than a public or local authority, the activities of which are not carried on for profit.]

- <sup>F18</sup>(4) .....
- <sup>F18</sup>(5) .....
- <sup>F18</sup>(6) .....
- <sup>F19</sup>(7) .....
- <sup>F18</sup>(8) .....
- <sup>F18</sup>(9) .....
- <sup>F18</sup>(10) .....

#### Textual Amendments

- F13** Words in s. 57(1)(c) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.24\(1\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F14** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46
- F15** Words in s. 57(2) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, [Sch.15](#) (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F16** S. 57(3A) inserted by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), s. 65, [Sch. 12](#)
- F17** Word in s. 57(3A)(b) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.24\(2\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F18** S. 57(4)–(10) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, [Sch.15](#) (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F19** S. 57(7) repealed by [S.I. 1989/166, art.2](#) (and expressed to be repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, [Sch.15](#) (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, [art. 3\(2\)](#))

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

- C3** S. 57(1) excluded (10.3.2003 for E. for specified purposes, 6.10.2003 for E. in so far as not already in force, 7.2.2004 for W.) by **Adoption and Children Act 2002 (c. 38), s. 148(1), Sch. 4 para. 3(4)** (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(2)(a), (6)(a); S.I. 2004/252, art. 2(d)

#### [<sup>F20</sup>57A Permitted allowances. **E+W**

- (1) The Secretary of State may make regulations for the purpose of enabling adoption agencies to pay allowances to persons who have adopted, or intend to adopt, children in pursuance of arrangements made by the agencies.
- (2) Section 57(1) shall not apply to any payment made by an adoption agency in accordance with the regulations.
- (3) The regulations may, in particular, make provision as to—
  - (a) the procedure to be followed by any agency in determining whether a person should be paid an allowance;
  - (b) the circumstances in which an allowance may be paid;
  - (c) the factors to be taken into account in determining the amount of an allowance;
  - (d) the procedure for review, variation and termination of allowances; and
  - (e) the information about allowances to be supplied by any agency to any person who is intending to adopt a child.
- (4) Any scheme approved under section 57(4) shall be revoked as from the coming into force of this section.
- (5) Section 57(1) shall not apply in relation to any payment made—
  - (a) in accordance with a scheme revoked under subsection (4) or section 57(5) (b); and
  - (b) to a person to whom such payments were made before the revocation of the scheme.
- (6) Subsection (5) shall not apply where any person to whom any payments may lawfully be made by virtue of subsection (5) agrees to receive (instead of such payments) payments complying with regulations made under this section.]

#### Textual Amendments

- F20** S. 57A inserted (14.10.1991) by **Children Act 1989 (c. 41, SIF 20), ss. 88, 108, Sch. 10 para.25** (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2)

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

- C4** S. 57A: transfer of functions (W.) (1.7.1999) by s.I. 1999/672, art. 2, Sch. 1

#### 58 Restriction on advertisements. **E+W**

- (1) It shall not be lawful for any advertisement to be published indicating—
  - (a) that the parent or guardian of a child desires to cause a child to be adopted; or
  - (b) that a person desires to adopt a child; or



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- (c) that any person (not being an adoption agency) is willing to make arrangements for the adoption of a child.

[<sup>F21</sup>(1A) Publishing an advertisement includes doing so by electronic means (for example, by means of the internet).]

- (2) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section shall be guilty of an offence and liable on summary conviction [<sup>F22</sup>to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both].

#### Textual Amendments

**F21** S. 58(1A) inserted (1.6.2003) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 4 para. 14(a)** (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(5)(c)(iii)

**F22** Words in s. 58(2) substituted (1.6.2003) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 4 para. 14(b)** (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(5)(c)(iii)

#### [<sup>F23</sup>58A Information concerning adoption. **E+W**

- (1) Every local authority and every [<sup>F24</sup>appropriate voluntary organisation] shall transmit to the Secretary of State, at such times and in such form as he may direct, such particulars as he may require with respect—
- to their performance of all or any of their functions under the enactments mentioned in subsection (2) below; and
  - to the children and other persons in relation to whom they have exercised those functions.
- (2) The enactments referred to in subsection (1) above are—
- the <sup>M3</sup>Adoption Act 1958;
  - Part I of the <sup>M4</sup>Children Act 1975; and
  - this Act.
- (3) The [<sup>F25</sup>justices' chief executive for] each magistrates' court shall transmit to the Secretary of State, at such times and in such form as he may direct, such particulars as he may require with respect to the proceedings of the court under the enactments mentioned in subsection (2) above.
- (4) The Secretary of State shall publish from time to time abstracts of the particulars transmitted to him under subsections (1) and (3) above.]

#### Textual Amendments

**F23** S. 58A inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 9, **Sch. 2 para. 35**

**F24** Words in s. 58A(1) substituted (30.1.2003 for W., 30.4.2003 in so far as not already in force) by Care Standards Act 2000 (c. 14), s. 122, **Sch. 4 para. 5(10)**; S.I. 2003/152, art. 2(1)(d); S.I. 2003/365, art. 3(5)(c)

**F25** Words in s. 58A(3) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 88** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

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

**C5** S. 58A: transfer of functions (W) (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)

#### Marginal Citations

**M3** [1958 c. 5 \(7 & 8 Eliz. 2\)](#).(49:11).

**M4** [1975 c. 72](#)(49:3).

## 59 Effect of determination and orders made in Scotland and overseas in adoption proceedings. **E+W**

[<sup>F26</sup>(1) Where—

- (a) an authority of a Convention country (other than the United Kingdom) having power under the law of that country—
  - (i) to authorise, or review the authorisation of, a Convention adoption; or
  - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order; or
- (b) an authority of any of the Channel Islands, the Isle of Man or any colony having power under the law of that territory—
  - (i) to authorise, or review the authorisation of, a Convention adoption or an adoption effected in that territory; or
  - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order,

makes a determination in the exercise of that power, then, subject to section 53 and any subsequent determination having effect under this subsection, the determination shall have effect in England and Wales for the purpose of effecting, confirming or terminating the adoption in question or confirming its termination as the case may be.]

[<sup>F27</sup>(2) Subsections (2) to (4) of section 12 shall apply in relation to an order freeing a child for adoption (other than an order under section 18) as if it were an adoption order; and, on the revocation in Scotland or Northern Ireland of an order freeing a child for adoption, subsections (3) and (3A) of section 20 shall apply as if the order had been revoked under that section.]

- (3) Sections 12(3) and (4) and 49 apply in relation to a child who is the subject of an order which is similar to an order under section 55 and is made (whether before or after this Act has effect) in Scotland, Northern Ireland, the Isle of Man or any of the Channel Islands, as they apply in relation to a child who is the subject of an adoption order.

#### Textual Amendments

**F26** S. 59(1) substituted (1.6.2003) by [Adoption \(Intercountry Aspects\) Act 1999 \(c. 18\)](#), [ss. 6\(4\)](#), [18\(3\)](#) (with [s. 17](#)); [S.I. 2003/189](#), [art. 2\(2\)\(d\)](#)

**F27** S. 59(2) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), [ss. 88](#), [108](#), [Sch. 10 para.26\(2\)](#) (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), [art. 3\(2\)](#)

## 60 Evidence of adoption in Scotland and Northern Ireland. **E+W**

Any document which is receivable as evidence of any matter—

- (a) in Scotland under [<sup>F28</sup>section 45(2) of the [Adoption \(Scotland\) Act 1978](#)]; or



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- (b) in Northern Ireland under [<sup>F29</sup>Article 63(1) of the Adoption (Northern Ireland) Order 1987],  
shall also be so receivable in England and Wales.

#### Textual Amendments

- F28** Words in s. 60(a) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.27](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F29** Words in s. 60(b) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.27](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

### 61 Evidence of agreement and consent. **E+W**

- (1) Any agreement or consent which is required by this Act to be given to the making of an order or application for an order <sup>F30</sup>... may be given in writing, and, if the document signifying the agreement or consent is witnessed in accordance with rules, it shall be admissible in evidence without further proof of the signature of the person by whom it was executed.
- (2) A document signifying such agreement or consent which purports to be witnessed in accordance with rules shall be presumed to be so witnessed, and to have been executed and witnessed on the date and at the place specified in the document, unless the contrary is proved.

#### Textual Amendments

- F30** Words in s. 61(1) repealed (1.6.2003) by [Adoption \(Intercountry Aspects\) Act 1999 \(c. 18\)](#), s. 18(3), [Sch. 3](#) (with s. 17); S.I. 2003/189, [art. 2\(2\)\(h\)\(i\)](#)

### 62 Courts. **E+W**

- (1) In this Act, “authorised court”, as respects an application for an order relating to a child, shall be construed as follows.
- (2) Subject to subsections (4) to (6), if the child is in England or Wales when the application is made, the following are authorised courts—
- (a) the High Court;
  - <sup>F31</sup>(b) .....
  - (c) any other county court prescribed by rules made under [<sup>F32</sup>section 75 of the <sup>M5</sup>County Courts Act 1984]
  - (d) a magistrates’ court within whose area the child is, and, in the case of an application for an order freeing the child for adoption, a magistrates’ court within whose area a parent or guardian of the child is.
- (3) If, in the case of an application for an adoption order or for an order freeing a child for adoption, the child is not in Great Britain when the application is made, the High Court is the authorised court.
- (4) In the case of an application for a Convention adoption order, [<sup>F33</sup>paragraph (d) of subsection (2) does not apply].

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- (5) Subsection (2) does not apply in the case of an application under section 29 but for the purposes of such an application the following are authorised courts—
  - (a) if there is pending in respect of the child an application for an adoption order or an order freeing him for adoption, the court in which that application is pending;
  - (b) if paragraph (a) does not apply and there is no application for an order under <sup>F34</sup>(i) section 12 or 18 of the <sup>M6</sup>Adoption (Scotland) Act 1978; or <sup>M7</sup>(ii) Article 12, 17 or 18 of the <sup>M7</sup>Adoption (Northern Ireland) Order 1987], the High Court, the county court within whose district the applicant lives and the magistrates’ court within whose area the applicant lives.
- (6) In the case of an order under section 55, paragraph (d) of subsection (2) does not apply.
- <sup>F35</sup>(7) Any court to which the proceedings on an application are transferred under any enactment is, as regards the transferred proceedings, an authorised court if it is not an authorised court under the preceding provisions of this section.]

**Textual Amendments**

**F31** S. 62(2)(b) repealed (3.1.1995) by S.I. 1994/3138, art. 6

**F32** Words in s. 62(2)(c) substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. V para. 58**

**F33** Words in s. 62(4) substituted (1.6.2003) by Adoption (Intercountry Aspects) Act 1999 (c. 18), s. 18(3), **Sch. 2 para. 3(5)** (with s. 17); S.I. 2003/189, art. 2(2)(h)

**F34** S. 62(5)(b)(i)(ii) substituted (14.10.1991) for words in s. 62(5)(b) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 28** (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2)

**F35** S. 62(7) inserted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), s. 46(1), **Sch. 1 para. 20(b)**

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**Marginal Citations**

**M5** 1984 c. 28(34).

**M6** 1978 c. 28(49:11).

**M7** S.I. 1987/2203 (N.I. 22).

**63 Appeals etc. E+W**

- (1) ..... <sup>F36</sup>
- (2) Subject to subsections (3) . . . <sup>F37</sup> where on an application to a magistrates’ court under this Act the court makes or refuses to make an order, an appeal shall lie to the High Court.
- (3) ..... <sup>F37</sup> where an application is made to a magistrates’ court under this Act, and the court considers that the matter is one which would more conveniently be dealt with by the High Court, the magistrates’ court shall refuse to make an order, and in that case no appeal shall lie to the High Court.
- (4) [<sup>F38</sup>No appeal shall lie to the High Court] against an order made under section 34.

*Status: Point in time view as at 06/10/2003.*

*Changes to legislation: Adoption Act 1976, Part VI is up to date with all changes known to be in force on or before 10 June 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)*

**Textual Amendments**

- F36** S. 63(1) repealed by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), s. 46(3), [Sch. 3](#)
- F37** Words repealed by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), s. 30, [Sch. 10 Pt. I](#)
- F38** Words substituted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), s. 9, [Sch. 2 para. 36](#)

**64 Proceedings to be in private. E+W**

Proceedings under <sup>F39</sup>this Act]

- (a) in the High Court, may be disposed of in chambers;
- (b) in a county court, shall be heard and determined in camera;
- (c) ..... <sup>F40</sup>

**Textual Amendments**

- F39** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22, SIF 49:3\)](#), ss. 73(2), 89(1), [Sch. 1](#)
- F40** S. 64(c) repealed by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22, SIF 49:3\)](#), s. 89, [Schs. 1, 3](#)

**65 <sup>F41</sup>Duties of officers of the Service] E+W**

- (1) For the purpose of any application for an adoption order or an order freeing a child for adoption or an order under section 20 or 55 rules shall provide for the appointment, in such cases as are prescribed <sup>F42</sup>of an officer of the Service]—
  - (a) <sup>F43</sup>[to act on behalf]of the child upon the hearing of the application, with the duty of safe-guarding the interests of the child in the prescribed manner;
  - (b) <sup>F44</sup> . . . for the purpose of witnessing agreements to adoption and performing such other duties as the rules may prescribe.
- (2) A person who is employed—
  - (a) in the case of an application for an adoption order, by the adoption agency by whom the child was placed; or
  - (b) in the case of an application for an order freeing a child for adoption, by the adoption agency by whom the application was made; or
  - (c) in the case of an application under section 20, by the adoption agency with the parental rights and duties relating to the child,shall not be appointed to act <sup>F45</sup>under subsection (1)] for the purposes of the application but, subject to that, the same person may if the court thinks fit <sup>F45</sup>act under both paragraphs (a) and (b) of subsection (1)].
- <sup>F46</sup>(3) Rules of court may make provision as to the assistance which an officer of the Service may be required by the court to give to it.
- (4) In this section “officer of the Service” has the same meaning as in the Criminal Justice and Court Services Act 2000.]

*Status: Point in time view as at 06/10/2003.*

*Changes to legislation: Adoption Act 1976, Part VI is up to date with all changes known to be in force on or before 10 June 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)*

#### Textual Amendments

- F41** S. 65 sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 para. 52(d)**; S.I. 2001/919, **art. 2(f)(ii)**
- F42** Words in s. 65(1) inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 52(a)(i)**; S.I. 2001/919, **art. 2(f)(ii)**
- F43** Words in s. 65(1)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 52(a)(ii)**; S.I. 2001/919, **art. 2(f)(ii)**
- F44** Words in s. 65(1)(b) repealed (1.4.2001) by 2000 c. 43, s. 74, 75, Sch. 7 Pt. II para. 52(a)(iii), **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)** Table
- F45** Words in s. 65(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 para. 52(b)(ii)**; S.I. 2001/919, **art. 2(f)(ii)**
- F46** S. 65(3)(4) inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 para. 52(c)**; S.I. 2001/919, **art. 2(f)(ii)**

<sup>F47</sup> **65A** ..... **E+W**

#### Textual Amendments

- F47** S. 65A repealed (1.4.2001) by 2000 c. 43, s. 74, 75, Sch. 7 Pt. II para. 53, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)** Table

#### 66 Rules of procedure. **E+W**

- (1) Rules in regard to any matter to be prescribed under this Act and dealing generally with all matters of procedure and incidental matters arising out of this Act and for carrying this Act into effect shall be made by the Lord Chancellor.
- (2) Subsection (1) does not apply in relation to proceedings before magistrates' courts, but the power to make rules conferred by [<sup>F48</sup>section 144 of the <sup>M8</sup>Magistrates' Courts Act 1980] shall include power to make provision as to any of the matters mentioned in that subsection.
- (3) In the case of—
  - (a) an application for an adoption order in relation to a child who is not free for adoption;
  - (b) an application for an order freeing a child for adoption.
 rules shall require every person who can be found and whose agreement or consent to the making of the order is required under this Act to be notified of a date and place where he will be heard on the application and of the fact that, unless he wishes or the court requires, he need not attend.
- (4) In the case of an application under section 55, rules shall require every parent and guardian of the child who can be found to be notified as aforesaid.
- (5) Rules made as respects magistrates' courts may provide for enabling any fact tending to establish the identity of a child with a child to whom a document relates to be proved by affidavit and for excluding or restricting in relation to any facts that may be so proved the power of a justice of the peace to compel the attendance of witnesses.
- (6) This section does not apply in relation to sections 9, 10, 11 and 32 to 37.

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#### Textual Amendments

**F48** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, [Sch. 7 para. 141](#)

#### Marginal Citations

**M8** [1980 c. 43\(82\)](#).

### 67 Orders, rules and regulations. **E+W**

- (1) Any power to make orders, rules or regulations conferred by this Act on the Secretary of State, the Lord Chancellor or the Registrar General shall be exercisable by statutory instrument.
- (2) A statutory instrument containing rules or regulations made under any provision of this Act, except section 3(1), shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under section 28(10) or 57(8) shall not be made unless a draft of the order has been approved by resolution of each House of Parliament.
- (4) An order made under any provision of this Act, except section 74, may be revoked or varied by a subsequent order under that provision.
- (5) Orders and regulations made under this Act may make different provision in relation to different cases or classes of cases and may exclude certain cases or classes of cases.
- (6) The Registrar General shall not make regulations under section 51 or paragraph 1(1)<sup>[F49]</sup> or 3] of Schedule 1 except with the approval of <sup>[F50]</sup>the Chancellor of the Exchequer].

#### Textual Amendments

**F49** Words in s. 67(6) inserted (1.6.2003) by [Adoption \(Intercountry Aspects\) Act 1999 \(c. 18\)](#), s. 18(3), [Sch. 2 para. 3\(6\)](#) (with s. 17); S.I. 2003/189, art. 2(2)(h)

**F50** Words in s. 67(6) substituted (1.4.1996) by S.I. 1996/273, art. 5, [Sch. 2](#)

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

**C6** Functions of the Secretary of State in s. 67(6) transferred to the Chancellor of the Exchequer (1.4.1996) by S.I. 1996/273, art. 3(1), [Sch. 1](#)

### 68 Offences by bodies corporate. **E+W**

Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of, any director, manager, member of the committee, secretary or other officer of the body, he as well as the body shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### 69 Services of notices etc. **E+W**

Any notice or information required to be given under this Act may be given by post.

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## <sup>F51</sup>70 Nationality. **E+W**

.....

### Textual Amendments

**F51** S. 70 repealed (1.6.2003) by Adoption (Intercountry Aspects) Act 1999 (c. 18), s. 18(3), Sch. 2 para. 3(7), 3 (with s. 17); S.I. 2003/189, art. 2(2)(h)(i)

## 71 Internal law of a country. **E+W**

- (1) In this Act “internal law” in relation to any country means the law applicable in a case where no question arises as to the law in force in any other country.
- (2) In any case where the internal law of a country falls to be ascertained for the purposes of this Act by any court and there are in force in that country two or more systems of internal law, the relevant system shall be ascertained in accordance with any rule in force throughout that country indicating which of the systems is relevant in the case in question or, if there is no such rule, shall be the system appearing to that court to be most closely connected with the case.

## 72 Interpretation. **E+W**

- (1) In this Act, unless the context otherwise requires—
  - “adoption agency” in sections 11, 13, 18 to 23 and 27 to 31 includes an adoption agency within the meaning of
  - <sup>F52</sup>(a) section 1 of the <sup>M9</sup> Adoption (Scotland) Act 1978; and
  - (b) Article 3 of the <sup>M10</sup> Adoption (Northern Ireland) Order 1987. ]
    - <sup>F53</sup> “adoption order” —
    - (a) means an order under section 12(1); and
    - (b) in sections 12(3) and (4), 18 to 20, 27, 28 and 30 to 32 and in the definition of “British adoption order” in this subsection includes an order under section 12 of the Adoption (Scotland) Act 1978 and Article 12 of the Adoption (Northern Ireland) Order 1987 (adoption orders in Scotland and Northern Ireland respectively); and
    - (c) in sections 27, 28 and 30 to 32 includes an order under section 55, section 49 of the Adoption (Scotland) Act 1978 and Article 57 of the Adoption (Northern Ireland) Order 1987 (orders in relation to children being adopted abroad).]
      - “adoption society” means a body of persons whose functions consist of or include the making of arrangements for the adoption of children;
      - <sup>F54</sup> “appropriate voluntary organisation” has the meaning assigned by section 1(5);]
        - “authorised court” shall be construed in accordance with section 62;
        - “body of persons” means any body of persons, whether incorporated or unincorporated;
        - <sup>F55</sup> “British adoption order” means—
        - (a) an adoption order as defined in this subsection, and
        - (b) an order under any provision for the adoption of a child effected under the law of any British territory outside the United Kingdom.]



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“British territory” means, for the purposes of any provision of this Act, any of the following countries, that is to say, Great Britain, Northern Ireland, the Channel Islands, the Isle of Man and a colony, being a country designated for the purposes of that provision by order of the Secretary of State or, if no country is so designated, any of those countries;

“child”, except where used to express a relationship, means a person who has not attained the age of 18 years;

[<sup>F56</sup> “ the Convention ” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993;

“ Convention adoption ” means an adoption effected under the law of a Convention country outside the British Islands, and certified in pursuance of Article 23(1) of the Convention;

“ Convention adoption order ” means an adoption order made in accordance with section 17;

“ Convention country ” means any country or territory in which the Convention is in force. ]

“existing”, in relation to an enactment or other instrument, means one passed or made at any time before 1st January 1976;

[<sup>F57</sup> “ guardian ” has the same meaning as in the Children Act 1989. ]

“internal law” has the meaning assigned by section 71;

“local authority” means the council of a county (other than a metropolitan county), a metropolitan district, a London borough or the Common Council of the City of London [<sup>F58</sup>but, in relation to Wales, means the council of a county or a county borough] . . .

“notice” means a notice in writing;

“order freeing a child for adoption” means an order under section 18; [<sup>F59</sup>and in [<sup>F60</sup>sections 27(2) and 59 includes an order under—

(a) section 18 of the Adoption (Scotland) Act 1978; and

(b) Article 17 or 18 of the Adoption (Northern Ireland) Order 1987]]

“overseas adoption” has the meaning assigned by subsection (2);

[<sup>F61</sup> “ parent ” means, in relation to a child, any parent who has parental responsibility for the child under the Children Act 1989; ]

[<sup>F61</sup> “ parental responsibility ” and “ parental responsibility agreement ” have the same meaning as in the Children Act 1989. ]

[<sup>F62</sup> “ ” . . .

“prescribed” means prescribed by rules;

[<sup>F63</sup> . . . [<sup>F63</sup> . . . [<sup>F63</sup> . . .

“relative” in relation to a child means a grandparent, brother, sister, uncle or aunt, whether of the full blood or half-blood or by affinity and includes, where the child is illegitimate, the father of the child and any person who would be a relative within the meaning of this definition if the child were the legitimate child of his mother and father;

“rules” means rules made under section 66(1) or made by virtue of section 66(2) under [<sup>F64</sup>section 144 of the <sup>M11</sup>Magistrates’ Courts Act 1980]

[<sup>F63</sup> . . . [<sup>F63</sup> . . . [<sup>F63</sup> . . . [<sup>F65F63</sup> . . .

“United Kingdom national” means, for the purposes of any provision of this Act, a citizen of the United Kingdom and colonies satisfying such conditions,

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if any, as the Secretary of State may by order specify for the purposes of that provision;

[<sup>F66</sup> “upbringing” has the same meaning as in the Children Act 1989.]

“voluntary organisation” means a body other than a public or local authority the activities of which are not carried on for profit.

[<sup>F67</sup>(1A) In this Act, in determining with what person, or where, a child has his home, any absence of the child at a hospital or boarding school and any other temporary absence shall be disregarded.

(1B) In this Act, references to a child who is in the care of or looked after by a local authority have the same meaning as in the Children Act 1989.]

(2) In this Act “overseas adoption” means an adoption of such a description as the Secretary of State may by order specify, being a description of adoptions of children appearing to him to be effected under the law of any country outside [<sup>F68</sup>the British Islands]; and an order under this subsection may contain provision as to the manner in which evidence of an overseas adoption may be given.

(3) For the purposes of this Act, a person shall be deemed to make arrangements for the adoption of a child if he enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected, or is intended to be effected, in Great Britain or elsewhere, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, and if he causes another person to do so.

[<sup>F69</sup>(3A) In this Act, in relation to the proposed adoption of a child resident outside the British Islands, references to arrangements for the adoption of a child include references to arrangements for an assessment for the purpose of indicating whether a person is suitable to adopt a child or not.]

(4) Except so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(5) In this Act, except where otherwise indicated—

- (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered, and
- (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and
- (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered.

#### Textual Amendments

**F52** Paras. (a)(b) in s. 72(1) substituted (14.10.1991) for words in the definition of adoption agency by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 30(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

**F53** Definition in s. 72(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 30(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

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- F54** Words in s. 72(1) substituted (30.1.2003 for W., 30.4.2003 in so far as not already in force) by Care Standards Act 2000 (c. 14), s. 122, **Sch. 4 para. 5(11)**; S.I. 2003/152, art. 2(1)(d); S.I. 2003/365, art. 3(5)(c)
- F55** Definition in s. 72(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 30(4)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F56** Words in s. 72(1) substituted (23.1.2003 for specified purposes, 1.6.2003 in so far as not already in force) by Adoption (Intercountry Aspects) Act 1999 (c. 18), **ss. 8, 18(3)** (with s. 17); S.I. 2003/189, art. 2(1)(b),(2)(e)
- F57** Definition in s. 72(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 30(5)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F58** Words in s. 72(1) inserted (1.4.1996) by 1994 c. 19, s. 22(4), **Sch. 10 para. 9** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.**
- F59** Words added by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 9, **Sch. 2 para. 37(b)**
- F60** Words in s. 72(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 30(6)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F61** Definitions in s. 72(1) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 30(7)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F62** Definition in s. 72(1) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with Sch. 14 para. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**
- F63** Words in s. 72(1) repealed (1.6.2003) by Adoption (Intercountry Aspects) Act 1999 (c. 18), s. 18(3), **Sch. 3** (with s. 17); S.I. 2003/189, art. 2(2)(h)(i)
- F64** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 142**
- F65** Words in s. 72(1) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**
- F66** Definition in s. 72(1) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 30(8)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F67** S. 72(1A)(1B) substituted (14.10.1991) for s. 72(1A) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 30(9)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F68** Words in s. 72(2) substituted (1.6.2003) by Adoption (Intercountry Aspects) Act 1999 (c. 18), s. 18(3), **Sch. 2 para. 3(8)** (with s. 17); S.I. 2003/189, art. 2(2)(h)
- F69** S. 72(3A) inserted (31.1.2000) by 1999 c. 18, s. 13; S.I. 2000/52, **art. 2**

#### Marginal Citations

- M9** 1978 c. 28(49:11).  
**M10** S.I. 1987/2203 (N.I. 22).  
**M11** 1980 c. 43(82).

### 73 Transitional provisions, amendments and repeals. **E+W**

(1) The transitional provisions contained in Schedule 2 shall have effect.

[<sup>F70X1</sup>(2) The enactments specified in Schedule 3 shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.]

<sup>X2</sup>(3) The enactments specified in Schedule 4 are hereby repealed to the extent specified in column 3 of that Schedule.

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#### Editorial Information

- X1** The text of s. 73(2) and Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- X2** The text of s. 73(3) and Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Textual Amendments

- F70** S. 73(2) repealed (S.) by [Adoption \(Scotland\) Act 1978 \(c. 28, SIF 49:11\)](#), s. 66, [Sch. 4](#)

### 74 Short title, commencement and extent. **E+W**

- (1) This Act may be cited as the Adoption Act 1976.
- (2) This Act shall come into force on such date as the Secretary of State may by order appoint and different dates may be appointed for different provisions.
- [<sup>F71</sup>(3) This Act extends to England and Wales only.]

#### Subordinate Legislation Made

- P1** Power of appointment conferred by s. 74(2) partly exercised: [S.I. 1983/1946, art. 2\(2\)](#) 1987/1242, art. 2(2), Sch. 2 (Act wholly in force 1.1.1988 as regards its unrepealed provisions except for ss. 72(2)(3) so far as relating to Sch. 3 paras. 7, 21 and to the repeals in Sch. 4 of paras. 6, 26 and 63 of Sch. 3 to the Children Act 1975)

#### Textual Amendments

- F71** S. 74(3) substituted for s. 74(3)(4) (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 88, 108, [Sch. 10 para.31](#) (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828, art. 3\(2\)](#)

**Status:**

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**Changes to legislation:**

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