



# Adoption and Children Act 2002

## 2002 CHAPTER 38

### PART 1

#### ADOPTION

### CHAPTER 6

#### ADOPTIONS WITH A FOREIGN ELEMENT

#### *Miscellaneous*

#### **88 Modification of section 67 for Hague Convention adoptions**

- (1) If the High Court is satisfied, on an application under this section, that each of the following conditions is met in the case of a Convention adoption, it may direct that section 67(3) does not apply, or does not apply to any extent specified in the direction.
- (2) The conditions are—
  - (a) that under the law of the country in which the adoption was effected, the adoption is not a full adoption,
  - (b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption or that the United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention),
  - (c) that it would be more favourable to the adopted child for a direction to be given under subsection (1).
- (3) A full adoption is an adoption by virtue of which the child is to be treated in law as not being the child of any person other than the adopters or adopter.
- (4) In relation to a direction under this section and an application for it, sections 59 and 60 of the Family Law Act 1986 (c. 55) (declarations under Part 3 of that Act as to marital status) apply as they apply in relation to a direction under that Part and an application for such a direction.

*Status: Point in time view as at 30/12/2005.*

*Changes to legislation: Adoption and Children Act 2002, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 30 July 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)*

#### **Commencement Information**

- II** S. 88 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)

### **89 Annulment etc. of overseas or Hague Convention adoptions**

- (1) The High Court may, on an application under this subsection, by order annul a Convention adoption or Convention adoption order on the ground that the adoption is contrary to public policy.
- (2) The High Court may, on an application under this subsection—
  - (a) by order provide for an overseas adoption or a determination under section 91 to cease to be valid on the ground that the adoption or determination is contrary to public policy or that the authority which purported to authorise the adoption or make the determination was not competent to entertain the case, or
  - (b) decide the extent, if any, to which a determination under section 91 has been affected by a subsequent determination under that section.
- (3) The High Court may, in any proceedings in that court, decide that an overseas adoption or a determination under section 91 is to be treated, for the purposes of those proceedings, as invalid on either of the grounds mentioned in subsection (2)(a).
- (4) Subject to the preceding provisions, the validity of a Convention adoption, Convention adoption order or overseas adoption or a determination under section 91 cannot be called in question in proceedings in any court in England and Wales.

#### **Commencement Information**

- I2** S. 89 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)

### **90 Section 89: supplementary**

- (1) Any application for an order under section 89 or a decision under subsection (2)(b) or (3) of that section must be made in the prescribed manner and within any prescribed period.  
 “Prescribed” means prescribed by rules.
- (2) No application may be made under section 89(1) in respect of an adoption unless immediately before the application is made—
  - (a) the person adopted, or
  - (b) the adopters or adopter,
 habitually reside in England and Wales.
- (3) In deciding in pursuance of section 89 whether such an authority as is mentioned in section 91 was competent to entertain a particular case, a court is bound by any finding of fact made by the authority and stated by the authority to be so made for the purpose of determining whether the authority was competent to entertain the case.

*Status: Point in time view as at 30/12/2005.*

*Changes to legislation: Adoption and Children Act 2002, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 30 July 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)*

#### Commencement Information

- I3** [S. 90](#) 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)

## 91 Overseas determinations and orders

- (1) Subsection (2) applies where any authority of a Convention country (other than the United Kingdom) or of the Channel Islands, the Isle of Man or any British overseas territory has power under the law of that country or territory—
  - (a) to authorise, or review the authorisation of, an adoption order made in that country or territory, or
  - (b) to give or review a decision revoking or annulling such an order or a Convention adoption.
- (2) If the authority makes a determination in the exercise of that power, the determination is to have effect for the purpose of effecting, confirming or terminating the adoption in question or, as the case may be, confirming its termination.
- (3) Subsection (2) is subject to section 89 and to any subsequent determination having effect under that subsection.

#### Commencement Information

- I4** [S. 91](#) 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)

**Status:**

Point in time view as at 30/12/2005.

**Changes to legislation:**

Adoption and Children Act 2002, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 30 July 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.