A guide to intercountry adoption for UK residents
This leaflet provides an overview of the process for intercountry adoption where children are brought into the UK. It should not be taken as a comprehensive guide to the relevant legislation. Anyone considering intercountry adoption should seek advice from their local authority adoption team or from a voluntary adoption agency that is registered to work on intercountry adoption; they should also take independent legal advice.

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1. What is intercountry adoption?

An intercountry adoption is an adoption of a child who is habitually resident in one country by an individual or couple who are habitually resident in another country.

The principles of intercountry adoption which are enshrined in the relevant international conventions to which the UK is a signatory are as follows:

- children who cannot live with their birth parents should be given the opportunity to live as part of a permanent family in their country of birth wherever possible;
- intercountry adoption may be considered as an alternative means of providing a permanent family for a child who cannot be cared for in a suitable manner in his or her own country;
- intercountry adoption should only take place where it is in the best interests of the child and with respect for his or her fundamental rights;
- safeguards and standards equivalent to those which apply in domestic adoption should be applied in intercountry adoption to protect the welfare of the child;
- intercountry adoption should only take place after the birth mother has given her informed consent to adoption after the birth of the child; and
- profit should not be made from the process
2. What does UK law require?

Adoption legislation governing the bringing of children into the UK applies to all prospective adopters habitually resident\(^1\) in the British Islands, irrespective of their nationality.

Briefly, UK law will require:

- assessment by an adoption agency of the prospective adopters' suitability to adopt a child;
- the issue of a certificate;
- the prospective adopters, and others, to take various steps – these will depend on the circumstances of a particular case (a general overview is set in section 7).

Prospective adopters who fail to comply with the relevant requirements commit an offence.

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\(^1\) Whether an individual is habitually resident in a country is a question of the facts and circumstances in each case; an individual may be habitually resident in more than one country at the same time. The Department for Education (DfE) does not determine the question of an individual's habitual residence, nor can it give advice on this matter. Ultimately, it would be for the Court to determine. Prospective adopters should take legal advice on their status.
3. Types of intercountry adoption

There are three main types of intercountry adoptions: ‘Hague Convention’, ‘Designated List’ and ‘Other’. Briefly:

1) Hague Convention adoptions are intercountry adoptions to the UK from a country in which the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption ("the Hague Convention") is in force, and which are processed and certified in accordance with the Hague Convention. The purpose of the Hague Convention is to establish safeguards to protect the best interests of children and to produce a system of co-operation between countries to prevent child trafficking. The UK implemented the Hague Convention on 1 June 2003.

Hague Convention adoptions made overseas are recognised in UK law, and there is no need to readopt the child in the UK. Hague Convention adoptions also result in British citizenship for the child if, at the time of the adoption, the prospective adopters are habitually in the British Islands and at least one of the prospective adopters is a British citizen. Detailed information on the process for Hague Convention adoptions is available on the frequently asked questions section of the DfE website:

http://www.education.gov.uk/childrenandyoungpeople/families/intercountryadoption

Where the UK has objected to a country’s accession to the Hague Convention, the Hague Convention is not then ‘in force’ between the two countries. Relevant information is available on the Hague Conference (www.hcch.net) website.

2) Designated List adoptions. Adoptions in countries listed in the Adoption (Designation of Overseas Adoptions) Order 1973 (commonly known as ‘the designated list’) are recognised in UK law and there is therefore no need to readopt the child in the UK for the adoption to be recognised here. However, a separate application will need to be made for British citizenship for the child. Decisions on the granting of citizenship are at the discretion of the Home Secretary. The countries on the designated list can be found on the frequently asked questions section of the DfE website.

3) ‘Other’. An overseas adoption is not recognised in the UK if it is not a Hague Convention adoption or made in a country on the designated list. The adopter(s) will need to apply for an adoption order in the UK. An adoption order made in a UK court confers British citizenship on the child if the adopters, or one of them, is a British citizen.
4. Prospective adopters in England and Wales

Section 83 of the Adoption and Children Act 2002 applies where anyone habitually resident in the British Islands:

1) 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, or

2) at any time brings, or causes another to bring, into the United Kingdom a child adopted under an external adoption\(^2\) effected within the period of twelve months ending with that time.

There are regulations setting out the procedural steps which must be followed. As an overview, prospective adopters must, before the child enters the UK:

- be assessed by an adoption agency (i.e. by a local authority or by a voluntary adoption agency registered in respect of intercountry adoption to carry out an assessment of their suitability to adopt a child);
- be notified that the Secretary of State has issued a certificate to the relevant foreign authority;
- give their adoption agency details of, and reports on, the child they intend to adopt, and meet with the agency to discuss them;
- visit the child in the child's country; and
- confirm to the adoption agency that they have visited the child and wish to proceed with the adoption, and notify the adoption agency of the child's expected date of entry to the UK.

Within two weeks of the child's entry to the UK, the adopters will need to give formal notice to their local authority of their intention to apply for an adoption order unless their adoption overseas is recognised in the UK.

Bringing a child into the UK where section 83 applies and without complying with the relevant requirements is an offence.

An adoption must comply with the relevant procedures even if the adoption is by a couple and only one of them is habitually resident in the British Islands.

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\(^2\) An external adoption means an adoption of a child taking place under the law of any country or territory outside the British Islands — whether or not the adoption is a full adoption.
To apply for an adoption order in England and Wales you must be at least 21 years of age and:

1) you (or if a couple, one of you) must be domiciled in the British Islands (i.e. England, Wales, Scotland, Northern Ireland, the Channel Islands or the Isle of Man) or

2) you (if a couple, both of you) must have been habitually resident in the British Islands for at least one year.

Adoption agencies will consider these issues when counselling prospective adopters and advising them of the process, and in assessing their suitability to adopt a child.

Section 83 does not apply to Hague Convention adoptions. Instead, a similar, but more complex set, of procedural requirements applies. Failure to comply with these requirements will mean that the adoption cannot be a Hague Convention adoption, and section 83 will then apply.

Detailed information on the process for Hague Convention adoptions is available on the frequently asked questions section of the DfE website. [http://www.education.gov.uk/childrenandyoungpeople/families/intercountryadoption](http://www.education.gov.uk/childrenandyoungpeople/families/intercountryadoption)

If you intend to adopt in accordance with the Hague Convention you (if a couple, both of you) must be at least 21 years of age and have been habitually resident in the British Islands for at least one year. The adoption agency must not assess you unless you meet these criteria.

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3 Except that Section 50(2) of the Adoption and Children Act 2002 provides that: An adoption order may be made on the application of a couple where (a) one of the couple is the mother or the father of the person to be adopted and has attained the age of 18 years, and (b) the other has attained the age of 21 years.
5. Prospective adopters in Scotland and Northern Ireland

Similar provisions and restrictions as those described in section 4 for England and Wales apply in relation to the bringing of children into the UK for (or after) adoption in another country in Scotland and Northern Ireland.

There is also separate legislation for Hague Convention adoptions in Scotland and Northern Ireland. Further information is available from the Scottish Government and the Department of Health, Social Services & Public Safety (Northern Ireland):

Adoption and Permanence Branch of the Scottish Government,
Education Department,
Looked After Children and Youthwork Division,
Victoria Quay,
Edinburgh EH6 6QQ.

Department of Health, Social Services and Public Safety
Castle Buildings,
Stormont
Belfast BT4 3SJ
6. The role of the DfE and other bodies

The Department for Education (DfE) is the central Government Department responsible for adoption policy and legislation. The DfE also has a role in the processing of intercountry adoption cases.

The DfE is responsible for the legal framework and provides information on procedures in general terms. Prospective adopters must seek their own legal advice on matters such as:

1) whether they are habitually resident in any part of the British Islands;

2) whether they are required to comply with the relevant legislation; and

3) whether their proposed actions will satisfy the requirements of the relevant legislation.

The DfE issues Certificates of Eligibility in respect of all non-Hague Convention adoption applications made by prospective adopters habitually resident in the UK.

For adoptions effected under the Hague Convention, the DfE only processes applications for England. The Devolved Administrations in Wales, Scotland, Northern Ireland and the Isle of Man Government are Central Authorities under the Hague Convention and process casework for applicants in their respective countries.
7. A brief overview of the process

In most cases, the procedure for intercountry adoptions in England and Wales may be summarised as follows:

- Prospective adopters are assessed as suitable to adopt by a UK adoption agency. The assessment, which is often referred to as a ‘home study’, involves in-depth interviews with a social worker, medical checks and police checks.

- When the assessment process is complete, a prospective adopter’s application will be considered by the agency’s adoption panel, which will make a recommendation on whether the applicant(s) are suitable to adopt. An approval decision will then be made by a senior manager in the agency, known as the agency decision maker.

- The application is then passed to DfE or the Welsh Assembly Government which checks that the paperwork is in order and complies with the relevant legislation. The Certificate of Eligibility is printed.

- The application, including the Certificate, is then notarised and legalised depending on the requirements of the country where the child to be adopted is living.

- The DfE, or (for Welsh Hague Convention cases) the Welsh Assembly Government, then sends the Certificate and supporting documents to the relevant foreign authority.

- The relevant authorities in the other country will match the prospective adopters with a child. In a Hague Convention case, documents on the child must be sent to DfE or to the Welsh Assembly Government by the relevant foreign authority, and are forwarded via the adoption agency to the prospective adopters. In non-Hague cases, matching information on the child might be sent directly to the prospective adopters by the adoption agency abroad, or it may be sent to the DfE.

- The adoption agency and the prospective adopters then meet to discuss the match. Following that discussion, if the prospective adopters wish to pursue the match they will travel to visit the child in the relevant country and then notify their adoption agency that they wish to proceed with the adoption.

- Depending on the country in question, the prospective adopters will either obtain an adoption order in the relevant country or bring the child back to the UK and adopt the child here; in either case the child will need entry clearance (i.e. immigration clearance) to enter the UK. Unless there has been an overseas adoption which is recognised in the UK, on return with the child to the UK the adopters will need to give formal notice to their local authority of their intention to apply for an adoption order.

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4 Following a Hague Convention adoption in the child’s country of origin, the child may be able to obtain a British passport, in which case separate entry clearance would not be required.
8. Further information

The DfE intercountry adoption website has a list of frequently asked questions. It also provides contact details for voluntary organisations that also provide advice and support to those considering intercountry adoption:

http://www.education.gov.uk/childrenandyoungpeople/families/intercountryadoption

General information on adoption can also be found on the Directgov website at:

http://www.direct.gov.uk


Detailed information on procedures and requirements and the relevant legislation can be found in the Adoption Guidance - Adoption and Children Act 2002.

Information on relevant immigration requirements and citizenship is available in the Home Office publication Intercountry Adoption and the Immigration Rules which is available at:
