

THE SPECIAL RESTRICTIONS ON ADOPTIONS FROM NIGERIA (SCOTLAND) ORDER 2021

CRWIA – Stage 3

February 2021



Scottish Government
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CRWIA title: THE SPECIAL RESTRICTIONS ON ADOPTIONS FROM NIGERIA (SCOTLAND) ORDER 2021 Date of publication: 20-01-21	
Executive summary	<p>The Special Restrictions on Adoptions from Nigeria (Scotland) Order 2021 provides that special restrictions are to apply for the time being in relation to the bringing of children from Nigeria into Scotland in the cases mentioned by section 62 of the Adoption and Children (Scotland) Act 2007 Act. This amounts to a restriction of intercountry adoptions from Nigeria as it prevents the Scottish Government from taking any step which it might otherwise have taken in processing such cases, unless it is satisfied that a case should be treated as an exception.</p>
Background	<p>The reason for making the Order is in response to significant child safeguarding concerns about integrity, practices and procedures in the Nigerian intercountry adoption system.</p> <p>This decision is based on evidence received through international partners, including Central Adoption Authorities and diplomatic missions. There is a pattern of evidence that there are weak safeguards and unreliable documentation within the Nigerian intercountry adoption system which create significant safeguarding risks such as child trafficking and corruption.</p> <p>The information received by the Scottish Government indicates that there are adoption practices and procedures taking place in the Nigerian intercountry adoption system that cause significant risks to the welfare and safeguarding of prospective adoptive children in Nigeria. As such, restrictions are deemed appropriate on the basis that it would be contrary to public policy to further the bringing of these children into the UK. The special restriction requires that any adoption from Nigeria will need to satisfy an exceptions criteria. This is a significant safeguarding measure to improve protection of children adopted from Nigeria and will help ensure adoptions are in the best interests of the child. The special restriction is a child safeguarding measure which will increase Scottish authorities' oversight of adoptions of children from Nigeria and be a deterrent to using intercountry adoption as a potential route for child trafficking.</p> <p>Putting in place this suspension means that future applications to adopt from Nigeria will not be permitted unless the Scottish Ministers are satisfied that a particular case ought to be treated as an exception.</p>

	<p>Legislative Background</p> <p>Section 62 of the Act makes provision regarding the restriction of intercountry adoptions from a country or territory outside the British Islands (the “relevant country”) where the Scottish Ministers have reason to believe that, because of practices taking place in the relevant country in connection with the adoption of children, it would be contrary to public policy to further the bringing of children into the United Kingdom by British residents for the purposes of adoption or within 12 months of an adoption in the relevant country.</p> <p>Section 62(3) of the Act allows the Scottish Ministers to declare by order that special restrictions are to apply for the time being to any relevant country. Scottish Ministers are able to apply restrictions to the bringing of children who are adopted under the law of that country into the United Kingdom from outwith the British Islands, or who are brought into the United Kingdom for the purposes of adoption. The provisions in section 62 apply equally to adoptions from countries in which the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (“the Hague Convention”) is in force and those countries in which it is not.</p> <p>Section 64 of the Act makes provision for the special restrictions mentioned in section 62. These restrictions are that, in those relevant cases, the Scottish Ministers should take no further action in connection with furthering the bringing of a child from outwith the British Islands into the United Kingdom who was adopted under the law of the relevant country or is to be brought into the United Kingdom for the purposes of adoption. However, Scottish Ministers will not be prevented from taking steps to further a relevant intercountry adoption in cases where the adopters/prospective adopters satisfy the Scottish Ministers that they should take those steps despite the special restrictions.</p>
<p>Scope of the CRWIA, identifying the children and young people affected by the policy, and summarising the evidence base</p>	<p>The CRWIA considers whether the implementation of this SSI impacts on the rights and wellbeing of children and young people in Scotland.</p> <p>The Scottish Government are of the view that the provisions will advance the realisation of children's rights and wellbeing in Scotland.</p> <p>The CRWIA should be read in conjunction with the other impact assessments conducted for introduction of this provision. The Equality Impact Assessment considers the potential impact of the provision on each of the protected characteristics.</p> <p>All children who are subject to the Nigerian intercountry adoption process will be impacted by the implementation of this SSI. The</p>

	<p>purpose of this SSI is to increase safeguards to protect children from exploitation and unethical practice. Restrictions are deemed appropriate on the basis that it would be contrary to public policy to further the bringing of these children into the UK. The special restriction requires that any adoption from Nigeria will need to satisfy an exceptions criteria. The special restriction is a child safeguarding measure which will increase Scottish authorities' oversight of adoptions of children from Nigeria and be a deterrent to using intercountry adoption as a potential route for child trafficking.</p> <p>Putting in place this suspension means that future applications to adopt from Nigeria will not be permitted unless the Scottish Ministers are satisfied that a particular case ought to be treated as an exception.</p> <p>In effect, any advantage that may have been gained from any illegal, unethical means will be eradicated by the introduction of more robust safeguards and quality of evidence required before an intercountry adoption in Nigeria can be progressed.</p>
<p>Children and young people's views and experiences</p>	<p>Due to the sensitive nature of this SSI, it has not been possible to consult children directly with regards to their views. However, through the implementation of this SSI, the Scottish Government is upholding it's legislative duty to ensure that the welfare of the child is of paramount importance and thereby acting to prevent practice where children may be exploited and subjected to unethical practice. Any adoption of a child from Nigeria in Scotland has to follow the Scottish statutory process, therefore the views of the child are considered as a part of this process.</p> <p>In addition, respect for the child's views is an integral part of this process and Regulation 4 of in "The Adoptions with a Foreign Element (Special Restrictions on Adoptions from Abroad) (Scotland) Regulations 2008 (legislation.gov.uk)", stipulates that Scottish Ministers must take into account, the circumstances of a prospective adoptive child, including the child's needs and the capacity of carers to meet their needs. An assessment of the child's needs will take into consideration the child's views and opinions in relation to the decisions that are made about them.</p>
<p>Key Findings, including an assessment of the impact on children's rights, and how the measure will contribute to</p>	<p>It is intended that the impacts of the SSI will lead to improved outcomes for children who may otherwise have been subjected to unethical practices. This implementation of the SSI will safeguard the affected children from being targeted for adoption via exploitative practices. It aims to act as a deterrent to child trafficking whilst making adoption processes and procedures more robust and in line with the current high standards held to secure adoption in Scotland. This allows for compliance with UNCRC requirements, Article 3 (best interest of the child): the best</p>

<p>children's wellbeing</p>	<p>interests of the child must be a top priority in all decisions and actions that affect children; and Article 12 (respect for the views of the child): Children have the right to an opinion, and for it to be listened to and taken seriously.</p> <p>Within Scotland, it ensures that there is consistency between the adoption processes and procedures in Scotland and Nigeria to safeguard children and ensure actions are taken to promote their wellbeing.</p>			
<p>Monitoring and review</p>	<p>The Scottish Government - working closely with the UK Government -will keep the special restriction under review and we have been made aware that the UK government stands ready to cooperate with the Nigerian authorities. The special restriction will remain in place until we are satisfied that Nigeria's intercountry adoption practices and procedures meet acceptable international standards and satisfactorily address child safeguarding concerns.</p>			
<p>Bill - Clause</p>	<p>Aims of measure</p>	<p>Likely to impact on . . .</p>	<p>Compliance with UNCRC requirements</p>	<p>Contribution to local duties to safeguard, support and promote child wellbeing</p>
<p>The Special Restrictions on Adoptions from Nigeria (Scotland) Order 2021</p>	<p>The SSI aims to increase safeguards to protect the rights and wellbeing of children affected by the Nigerian inter-country adoption process. It aims to do this by exercising the right to implement an exceptions procedure which will result in Scottish Ministers having greater authority and thereby scrutiny over intercountry adoption cases from Nigeria. It</p>	<p>All children and prospective adoptive parents/carers affected by the Nigerian intercountry adoption process.</p>	<p>Article 3: (<i>best interests of the child</i>) The best interests of the child must be a top priority in all decisions and actions that affect children. Article 12: (<i>respect for the views of the child</i>) Children have the right to an opinion, and for it to be listened to and taken seriously</p>	<p>The SSI will have a positive impact on the following wellbeing indicators:</p> <ul style="list-style-type: none"> • Safe • Nurtured • Respected <p>The SSI should have a positive impact on wellbeing indicators. It sets out to protect children from exploitative and unethical practices and to introduce greater safeguards to promote their wellbeing.</p>

	<p>is anticipated that this will result in more robust safeguarding procedures and process that will promote the best interests of the child.</p>			
<p>CRWIA Declaration</p>				
<p>Authorisation</p>				
<p>Policy lead</p> <p>Dominic Brack</p>		<p>Date</p> <p>20 January 2021</p>		
<p>Deputy Director or equivalent</p> <p>Bill Scott-Watson</p>		<p>Date</p> <p>20 January 2021</p>		



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