

LEGISLATIVE COUNCIL BRIEF

Adoption Ordinance (Chapter 290)

Intercountry Adoption (Contracting States) (Amendment) Order 2020

INTRODUCTION

The Secretary for Labour and Welfare (“The Secretary”) made the Intercountry Adoption (Contracting States) (Amendment) Order 2020 (“the Amendment Order”) at **Annex** on 19 May 2020 under Section 20D of the Adoption Ordinance (Cap. 290) (“the Ordinance”) to declare eight countries as the Contracting States to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (“the Convention”). They are the Republic of Benin (“Benin”), the Republic of Côte d’Ivoire (“Côte d’Ivoire”), the Republic of Ghana (“Ghana”), the Co-operative Republic of Guyana (“Guyana”), the Republic of Honduras (“Honduras”), the Kyrgyz Republic (“Kyrgyzstan”), the Republic of Namibia (“Namibia”) and the Republic of Zambia (“Zambia”).

JUSTIFICATIONS

2. The Convention sets out a framework for international cooperation in intercountry adoptions and provides safeguards to ensure that intercountry adoptions are made in the best interest of the child. It is currently in force in 102 States. From time to time, there are new States becoming parties to the Convention.

3. The following six States acceded to the Convention on the respective dates shown in the second column of the table below. According to Article 44 of the Convention, accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification of the accession issued by the depository of the Convention (which is the Ministry of Foreign Affairs of the Kingdom of the Netherlands). In accordance with Article 46(2)(a)¹ of the Convention, the Convention has entered into force for these six Contracting States since the respective commencement dates shown in the third column of the table below. Since the Central People's Government ("CPG") has not raised any objection to the accession of these six Contracting States, the Convention has entered into force between the People's Republic of China ("China") (including the Hong Kong Special Administrative Region ("HKSAR")) and these Contracting States on the same respective commencement dates.

Acceding State	Accession Date	Commencement Date
Côte d'Ivoire	11 June 2015	1 October 2015
Ghana	16 September 2016	1 January 2017
Guyana	5 February 2019	1 June 2019
Kyrgyzstan	25 July 2016	1 November 2016
Namibia	21 September 2015	1 January 2016
Zambia	11 June 2015	1 October 2015

4. Separately, Benin and Honduras ratified the Convention on 28 June 2018 and 6 March 2019 respectively. In accordance with Article 46(2)(a) of the Convention, the Convention has entered into force between China (including HKSAR) and Benin since 1 October 2018, and Honduras since 1 July 2019.

Note:

1 Under Article 46(2)(a) of the Convention, the Convention shall enter into force for a ratifying or acceding State on the first day of the month following the expiration of the three months after the deposit of its instrument of ratification or accession.

5. Pursuant to section 20D of the Ordinance, the Secretary may, by order published in the Gazette, declare that a State is a Contracting State to the Convention and specify the date of the coming into effect of the Convention between HKSAR and the State. Accordingly, the Secretary has made the Amendment Order to declare that the eight States referred to in paragraphs 3 and 4 above are Contracting States, and to specify the respective dates of the coming into effect of the Convention between HKSAR and these eight Contracting States.

THE AMENDMENT ORDER

6. The Amendment Order adds Benin, Côte d'Ivoire, Ghana, Guyana, Honduras, Kyrgyzstan, Namibia and Zambia to the Schedule to the Intercountry Adoption (Contracting States) Order (Cap. 290 sub. leg. C) ("the Order") so that the Convention applies to an adoption between HKSAR and any of these eight Contracting States in relation to an application made under the Convention.

LEGISLATIVE TIMEABLE

7. The legislative timetable will be –

Publication in the Gazette	22 May 2020
Tabling at the Legislative Council for negative vetting	27 May 2020

IMPLICATIONS OF THE AMENDMENT ORDER

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance and has no economic, productivity,

environmental, sustainability or gender implications.

9. Since the number of cases involving these Contracting States is expected to be very few, the additional workload, if any, on the Social Welfare Department will be absorbed from within their existing resources. The financial and civil service implications for the Judiciary will be ascertained in the light of operational experience and additional resources and, if required, will be sought in accordance with the established mechanism.

10. The proposal aims to add the eight Contracting States to the Order, allowing the Convention to apply to an adoption between HKSAR and any of these eight Contracting States in relation to an application made under the Convention, so as to provide safeguards to ensure that intercountry adoptions are made in the best interest of the child. When the adopted child grows up in a caring and nurturing environment provided by his/her adoptive parents, it fosters mutual care of family members towards one another. Overall speaking, the proposal would bring a positive impact on sustainable family solidarity.

PUBLIC CONSULTATION

11. Since this is a routine updating exercise, public consultation on the Amendment Order is considered unnecessary.

PUBLICITY

12. A press release will be issued on 22 May 2020. A spokesperson from the Labour and Welfare Bureau will be available to answer media enquiries.

BACKGROUND

13. The CPG signed the Convention in 2000 and ratified it on 16 September 2005. The Convention entered into force for China, including HKSAR, on 1 January 2006. The Order was first made in December 2005 and took effect in January 2006.

ENQUIRIES

14. Any enquiries on this brief should be addressed to Ms Jamie TSE, Assistant Secretary for Labour and Welfare (Welfare) 1B, at 2810 3933.

Labour and Welfare Bureau

20 May 2020

**Intercountry Adoption (Contracting States)
(Amendment) Order 2020**

(Made by the Secretary for Labour and Welfare under section 20D of the
Adoption Ordinance (Cap. 290))

1. **Intercountry Adoption (Contracting States) Order amended**
The Intercountry Adoption (Contracting States) Order (Cap. 290 sub.
leg. C) is amended as set out in section 2.

2. **Schedule amended (list of Contracting States)**
The Schedule, Part 1—
Add in alphabetical order

“Benin, The Republic of	1 October 2018
Côte d’Ivoire, The Republic of	1 October 2015
Ghana, The Republic of	1 January 2017
Guyana, The Co-operative Republic of	1 June 2019
Honduras, The Republic of	1 July 2019
Kyrgyz Republic, The	1 November 2016
Namibia, The Republic of	1 January 2016
Zambia, The Republic of	1 October 2015”.



Secretary for Labour and Welfare

19 May 2020

Explanatory Note

This Order amends Part 1 of the Schedule to the Intercountry Adoption (Contracting States) Order (Cap. 290 sub. leg. C) to add 8 Contracting States. The effect is that the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption applies to an adoption between Hong Kong and any of those Contracting States in relation to an application made under the Convention.