



Child Abduction and Custody Act 1985

1985 CHAPTER 60

PART I

INTERNATIONAL CHILD ABDUCTION

1 The Hague Convention

- (1) In this Part of this Act "the Convention" means the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25th October 1980.
- (2) Subject to the provisions of this Part of this Act, the provisions of that Convention set out in Schedule 1 to this Act shall have the force of law in the United Kingdom.

2 Contracting States

- (1) For the purposes of the Convention as it has effect under this Part of this Act the Contracting States other than the United Kingdom shall be those for the time being specified by an Order in Council under this section.
- (2) An Order in Council under this section shall specify the date of the coming into force of the Convention as between the United Kingdom and any State specified in the Order; and, except where the Order otherwise provides, the Convention shall apply as between the United Kingdom and that State only in relation to wrongful removals or retentions occurring on or after that date.
- (3) Where the Convention applies, or applies only, to a particular territory or particular territories specified in a declaration made by a Contracting State under Article 39 or 40 of the Convention references to that State in subsections (1) and (2) above shall be construed as references to that territory or those territories.

3 Central Authorities

- (1) Subject to subsection (2) below, the functions under the Convention of a Central Authority shall be discharged—
 - (a) in England and Wales and in Northern Ireland by the Lord Chancellor; and

(b) in Scotland by the Secretary of State.

- (2) Any application made under the Convention by or on behalf of a person outside the United Kingdom may be addressed to the Lord Chancellor as the Central Authority in the United Kingdom.
- (3) Where any such application relates to a function to be discharged under subsection (1) above by the Secretary of State it shall be transmitted by the Lord Chancellor to the Secretary of State and where such an application is addressed to the Secretary of State but relates to a function to be discharged under subsection (1) above by the Lord Chancellor the Secretary of State shall transmit it to the Lord Chancellor.

4 Judicial authorities

The courts having jurisdiction to entertain applications under the Convention shall be—

- (a) in England and Wales or in Northern Ireland the High Court; and
(b) in Scotland the Court of Session.

5 Interim powers

Where an application has been made to a court in the United Kingdom under the Convention, the court may, at any time before the application is determined, give such interim directions as it thinks fit for the purpose of securing the welfare of the child concerned or of preventing changes in the circumstances relevant to the determination of the application.

6 Reports

Where the Lord Chancellor or the Secretary of State is requested to provide information relating to a child under Article 7(d) of the Convention he may—

- (a) request a local authority or a probation officer to make a report to him in writing with respect to any matter which appears to him to be relevant;
(b) request the Department of Health and Social Services for Northern Ireland to arrange for a suitably qualified person to make such a report to him;
(c) request any court to which a written report relating to the child has been made to send him a copy of the report;

and such a request shall be duly complied with.

7 Proof of documents and evidence

- (1) For the purposes of Article 14 of the Convention a decision or determination of a judicial or administrative authority outside the United Kingdom may be proved by a duly authenticated copy of the decision or determination; and any document purporting to be such a copy shall be deemed to be a true copy unless the contrary is shown.
- (2) For the purposes of subsection (1) above a copy is duly authenticated if it bears the seal, or is signed by a judge or officer, of the authority in question.

- (3) For the purposes of Articles 14 and 30 of the Convention any such document as is mentioned in Article 8 of the Convention, or a certified copy of any such document, shall be sufficient evidence of anything stated in it.

8 Declarations by United Kingdom courts

The High Court or Court of Session may, on an application made for the purposes of Article 15 of the Convention by any person appearing to the court to have an interest in the matter, make a declaration or declarator that the removal of any child from, or his retention outside, the United Kingdom was wrongful within the meaning of Article 3 of the Convention.

9 Suspension of court's powers in cases of wrongful removal

The reference in Article 16 of the Convention to deciding on the merits of rights of custody shall be construed as a reference to—

- (a) making, varying or revoking a custody order, or any other order under section 1(2) of the Children and Young Persons Act 1969 or section 95(1), 97(2), 143(6) or 144 of the Children and Young Persons Act (Northern Ireland) 1968 (not being a custody order);
- (b) registering or enforcing a decision under Part II of this Act;
- (c) determining a complaint under section 3(5) or 5(4) of the Child Care Act 1980 or an appeal under section 6 or 67(2) or (3) of that Act;
- (d) determining a summary application under section 16(8), 16A(3) or 18(3) of the Social Work (Scotland) Act 1968;
- (e) making a parental rights order under section 104 of the Children and Young Persons Act (Northern Ireland) 1968 or discharging such an order, or giving directions in lieu of the discharge of such an order, under section 106(2) of that Act,

10 Rules of court

- (1) An authority having power to make rules of court may make such provision for giving effect to this Part of this Act as appears to that authority to be necessary or expedient.
- (2) Without prejudice to the generality of subsection (1) above, rules of court may make provision—
 - (a) with respect to the procedure on applications for the return of a child and with respect to the documents and information to be furnished and the notices to be given in connection with any such application;
 - (b) for the transfer of any such application between the appropriate courts in the different parts of the United Kingdom;
 - (c) for the giving of notices by or to a court for the purposes of the provisions of Article 16 of the Convention and section 9 above and generally as respects proceedings to which those provisions apply;
 - (d) for enabling a person who wishes to make an application under the Convention in a Contracting State other than the United Kingdom to obtain from any court in the United Kingdom an authenticated copy of any decision of that court relating to the child to whom the application is to relate.

11 Cost of applications

The United Kingdom having made such a reservation as is mentioned in the third paragraph of Article 26 of the Convention, the costs mentioned in that paragraph shall not be borne by any Minister or other authority in the United Kingdom except so far as they fall to be so borne by virtue of the grant of legal aid or legal advice and assistance under Part I of the Legal Aid Act 1974, the Legal Aid (Scotland) Act 1967, Part I of the Legal Advice and Assistance Act 1972 or the Legal Aid Advice and Assistance (Northern Ireland) Order 1981.