



Child Abduction and Custody Act 1985

1985 CHAPTER 60

PART II

RECOGNITION AND ENFORCEMENT OF CUSTODY DECISIONS

12 The European Convention.

- (1) In this Part of this Act “the Convention” means the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children which was signed in Luxembourg on 20th May 1980.
- (2) Subject to the provisions of this Part of this Act, the provisions of that Convention set out in Schedule 2 to this Act (which include Articles 9 and 10 as they have effect in consequence of a reservation made by the United Kingdom under Article 17) shall have the force of law in the United Kingdom.

Modifications etc. (not altering text)

- C1 [S. 12](#) applied (with modifications) (1.3.1997) by [S.I. 1996/3156](#), art. 2, [Sch.](#)
[S. 12](#) applied (with modifications) (2.12.1997) by [S.I. 1997/2574](#) art. 2, [Sch.](#)

13 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.
- (3) Where the Convention applies, or applies only, to a particular territory or particular territories specified by a Contracting State under Article 24 or 25 of the Convention

Status: Point in time view as at 01/04/1997.

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references to that State in subsections (1) and (2) above shall be construed as references to that territory or those territories.

Subordinate Legislation Made

- P1** [S. 13](#): power exercised by [S.I. 1991/1461](#)
P2 [S. 13](#): for previous exercises of power, see Index to Government Orders.

Modifications etc. (not altering text)

- C2** [S. 13](#) applied (with modifications) (1.3.1997) by [S.I. 1996/3156, art. 2, Sch.](#)
[S. 13](#) applied (with modifications) (2.12.1997) by [S.I. 1997/2574 art. 2, Sch.](#)

14 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.

Modifications etc. (not altering text)

- C3** [S. 14](#) applied (with modifications) (1.3.1997) by [S.I. 1996/3156, art. 2, Sch.](#)
[S. 14](#) applied (with modifications) (2.12.1997) by [S.I. 1997/2574 art. 2, Sch.](#)

15 Recognition of decisions.

- (1) Articles 7 and 12 of the Convention shall have effect in accordance with this section.
- (2) A decision to which either of those Articles applies which was made in a Contracting State other than the United Kingdom shall be recognised in each part of the United Kingdom as if made by a court having jurisdiction to make it in that part but—
- (a) the appropriate court in any part of the United Kingdom may, on the application of any person appearing to it to have an interest in the matter, declare on any of the grounds specified in Article 9 or 10 of the Convention that the decision is not to be recognised in any part of the United Kingdom; and
 - (b) the decision shall not be enforceable in any part of the United Kingdom unless registered in the appropriate court under section 16 below.
- (3) The references in Article 9(1)(c) of the Convention to the removal of the child are to his improper removal within the meaning of the Convention.

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Modifications etc. (not altering text)

- C4 S. 15 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
S. 15 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

16 Registration of decisions.

- (1) A person on whom any rights are conferred by a decision relating to custody made by an authority in a Contracting State other than the United Kingdom may make an application for the registration of the decision in an appropriate court in the United Kingdom.
- (2) The Central Authority in the United Kingdom shall assist such a person in making such an application if a request for such assistance is made by him or on his behalf by the Central Authority of the Contracting State in question.
- (3) An application under subsection (1) above or a request under subsection (2) above shall be treated as a request for enforcement for the purposes of Articles 10 and 13 of the Convention.
- (4) The High Court or Court of Session shall refuse to register a decision if—
 - (a) the court is of the opinion that on any of the grounds specified in Article 9 or 10 of the Convention the decision should not be recognised in any part of the United Kingdom;
 - (b) the court is of the opinion that the decision is not enforceable in the Contracting State where it was made and is not a decision to which Article 12 of the Convention applies; or
 - (c) an application in respect of the child under Part I of this Act is pending.
- (5) Where the Lord Chancellor is requested to assist in making an application under this section to the Court of Session he shall transmit the request to the Secretary of State and the Secretary of State shall transmit to the Lord Chancellor any such request to assist in making an application to the High Court.
- (6) In this section “decision relating to custody” has the same meaning as in the Convention.

Modifications etc. (not altering text)

- C5 S. 16 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
S. 16 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

17 Variation and revocation of registered decisions.

- (1) Where a decision which has been registered under section 16 above is varied or revoked by an authority in the Contracting State in which it was made, the person on whose behalf the application for registration of the decision was made shall notify the court in which the decision is registered of the variation or revocation.
- (2) Where a court is notified under subsection (1) above of the revocation of a decision, it shall—
 - (a) cancel the registration, and

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- (b) notify such persons as may be prescribed by rules of court of the cancellation.
- (3) Where a court is notified under subsection (1) above of the variation of a decision, it shall—
- (a) notify such persons as may be prescribed by rules of court of the variation; and
- (b) subject to any conditions which may be so prescribed, vary the registration.
- (4) The court in which a decision is registered under section 16 above may also, on the application of any person appearing to the court to have an interest in the matter, cancel or vary the registration if it is satisfied that the decision has been revoked or, as the case may be, varied by an authority in the Contracting State in which it was made.

Modifications etc. (not altering text)

- C6 [S. 17](#) applied (with modifications) (1.3.1997) by [S.I. 1996/3156, art. 2, Sch.](#)
[S. 17](#) applied (with modifications) (2.12.1997) by [S.I. 1997/2574 art. 2, Sch.](#)

18 Enforcement of decisions.

Where a decision relating to custody has been registered under section 16 above, the court in which it is registered shall have the same powers for the purpose of enforcing the decision as if it had been made by that court; and proceedings for or with respect to enforcement may be taken accordingly.

Modifications etc. (not altering text)

- C7 [S. 18](#) applied (with modifications) (1.3.1997) by [S.I. 1996/3156, art. 2, Sch.](#)
[S. 18](#) applied (with modifications) (2.12.1997) by [S.I. 1997/2574 art. 2, Sch.](#)

19 Interim powers.

Where an application has been made to a court for the registration of a decision under section 16 above or for the enforcement of such a decision, 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 or, in the case of an application for registration, to the determination of any subsequent application for the enforcement of the decision.

Modifications etc. (not altering text)

- C8 [S. 19](#) applied (with modifications) (1.3.1997) by [S.I. 1996/3156, art. 2, Sch.](#)
[S. 19](#) applied (with modifications) (2.12.1997) by [S.I. 1997/2574 art. 2, Sch.](#)

20 Suspension of court's powers.

- (1) Where it appears to any court in which such proceedings as are mentioned in subsection (2) below are pending in respect of a child that—

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- (a) an application has been made for the registration of a decision in respect of the child under section 16 above (other than a decision mentioned in subsection (3) below) or that such a decision is registered; and
- (b) the decision was made in proceedings commenced before the proceedings which are pending,

the powers of the court with respect to the child in those proceedings shall be restricted as mentioned in subsection (2) below unless, in the case of an application for registration, the application is refused.

(2) Where subsection (1) above applies the court shall not—

- (a) in the case of custody proceedings, make, vary or revoke any custody order, or [^{F1}a supervision order under section 31 of the Children Act 1989] or [^{F2}Article 50 of the Children (Northern Ireland) Order 1995][^{F3}or];
- [^{F4}(aa) in the case of proceedings under section 29 of the Family Law Act 1986 for the enforcement of a custody order within the meaning of Chapter V of Part I of that Act, enforce that order;]
- ^{F5}(b)
- [^{F5}(c)
- [^{F6}(d) in the case of proceedings for, or for the variation or discharge of, a parental responsibilities order under section 86 of the Children (Scotland) Act 1995, make, vary or discharge any such order;]
- (e)

[^{F7}(2A) Where it appears to the Secretary of State—

- (a) that an application has been made for the registration of a decision in respect of a child under section 16 above (other than a decision mentioned in subsection (3) below); or
- (b) that such a decision is registered,

the Secretary of State shall not make, vary or revoke any custody order in respect of the child unless, in the case of an application for registration, the application is refused.]

- (3) The decision referred to in subsection (1) [^{F8}or (2A)] above is a decision which is only a decision relating to custody within the meaning of section 16 of this Act by virtue of being a decision relating to rights of access.
- (4) Paragraph (b) of Article 10(2) of the Convention shall be construed as referring to custody proceedings within the meaning of this Act.
- (5) This section shall apply to a children's hearing [^{F9}(as defined in section 93(1) of the Children (Scotland) Act 1995)] as it does to a court.

Textual Amendments

- F1** Words in s. 20(2)(a) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 57(1), **Sch. 14 para. 1(1)**; S.I. 1991/828, **art. 3(2)**
- F2** Words in s. 20(2)(a) substituted (18.7.1996) by S.I. 1995/756, **art. 11(2)**; S.R. 1996/297, **art. 3**
- F3** Word in s. 20(2)(a) added (4.11.1996) by S.I. 1995/756, **art. 11(3)**; S.R. 1996/297, **art. 3**
- F4** S. 20(2)(aa) inserted by Family Law Act 1986 (c. 55, SIF 49:3), s. 68(1), **Sch. 1 para. 29**
- F5** S. 20(2)(b)(c) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 14 para. 27(4), **Sch. 15**; S.I. 1991/828, **art. 3(2)**
- F6** S. 20(2)(d) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4**, para. 37(3)(a) (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**

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- F7** S. 20(2A) inserted by Family Law Act 1986 (c. 55, SIF 49:9, 10), s. 67(2)
F8 Words inserted by Family Law Act 1986 (c. 55, SIF 49:9, 10), s. 67(3)
F9 Words in s. 20(5) substituted (1.4.1997) by 1995 c. 36, s. 105(4), Sch. 4, para. 37(3)(b) (with s. 103(1)); S.I. 1996/3201, art. 3(7)

Modifications etc. (not altering text)

- C9** S. 20 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
 S. 20 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

21 Reports.

Where the Lord Chancellor or the Secretary of State is requested to make enquiries about a child under Article 15(1)(b) 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 relating to the child concerned 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 any such request shall be duly complied with.

Modifications etc. (not altering text)

- C10** S. 21 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
 S. 21 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

22 Proof of documents and evidence.

- (1) In any proceedings under this Part of this Act a decision of an authority outside the United Kingdom may be proved by a duly authenticated copy of the decision; 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) In any proceedings under this Part of this Act any such document as is mentioned in Article 13 of the Convention, or a certified copy of any such document, shall be sufficient evidence of anything stated in it.

Modifications etc. (not altering text)

- C11** S. 22 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
 S. 22 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

23 Decisions of United Kingdom courts.

- (1) Where a person on whom any rights are conferred by a decision relating to custody made by a court in the United Kingdom makes an application to the Lord Chancellor

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or the Secretary of State under Article 4 of the Convention with a view to securing its recognition or enforcement in another Contracting State, the Lord Chancellor or the Secretary of State may require the court which made the decision to furnish him with all or any of the documents referred to in Article 13(1)(b), (c) and (d) of the Convention.

- (2) Where in any custody proceedings a court in the United Kingdom makes a decision relating to a child who has been removed from the United Kingdom, the court may also, on an application made by any person for the purposes of Article 12 of the Convention, declare the removal to have been unlawful if it is satisfied that the applicant has an interest in the matter and that the child has been taken from or sent or kept out of the United Kingdom without the consent of the person (or, if more than one, all the persons) having the right to determine the child's place of residence under the law of the part of the United Kingdom in which the child was habitually resident.
- (3) In this section “decision relating to custody” has the same meaning as in the Convention.

Modifications etc. (not altering text)

- C12 S. 23 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
S. 23 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

24 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 to a court under any provision of this Part of this Act 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 directions requiring the disclosure of information about any child who is the subject of proceedings under this Part of this Act and for safeguarding its welfare.

Modifications etc. (not altering text)

- C13 S. 24 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
S. 24 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

[^{F10}24A Power to order disclosure of child's whereabouts.

- (1) Where—
 - (a) in proceedings for the return of a child under Part I of this Act; or
 - (b) on an application for the recognition, registration or enforcement of a decision in respect of a child under Part II of this Act,

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there is not available to the court adequate information as to where the child is, the court may order any person who it has reason to believe may have relevant information to disclose it to the court.

- (2) A person shall not be excused from complying with an order under subsection (1) above by reason that to do so may incriminate him or his spouse of an offence; but a statement or admission made in compliance with such an order shall not be admissible in evidence against either of them in proceedings for any offence other than perjury.]

Textual Amendments

F10 S. 24A inserted by Family Law Act 1986 (c. 55, SIF 49:9, 10), s. 67(4)

Modifications etc. (not altering text)

C14 S. 24A applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
S. 24A applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

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