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STATUTORY INSTRUMENTS

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**2018 No. 1125**

The International Recovery of Maintenance (Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance 2007) (EU Exit) Regulations 2018

PART 2

The rights etc deriving from the 2007 Hague Convention

**Rights etc deriving from the 2007 Hague Convention**

3.—(1) The section 4 rights have effect in the United Kingdom on and after exit day—

- (a) subject to and in accordance with regulations 4 to 7; and
- (b) subject to paragraph (2).

(2) If a declaration made by the EU relating to Article 2(3) regarding the extension of Chapters II and III of the 2007 Hague Convention to spousal support has effect immediately before exit day, the section 4 rights are to continue to apply on and after exit day on the basis that Chapters II and III are so extended.

(3) In these Regulations, the section 4 rights are the rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

- (a) are derived from the 2007 Hague Convention, and
- (b) continue to be recognised in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018.

(4) The Articles of, and the declarations under, the 2007 Hague Convention from which the section 4 rights are derived are—

- (a) Articles 2, 3, 5 to 15, 17, 18, 19 to 23, 25 to 34, 36, 37 to 40, 42 to 46, 48 to 53, and 56;
- (b) any declaration referred to in paragraph (2).

**Payments falling due under maintenance obligations towards a person under 21 years of age before the 2007 Hague Convention again enters into force for the United Kingdom**

4.—(1) This regulation applies in relation to payments under maintenance obligations arising from a parent-child relationship towards a person under the age of 21 years, where such payments fall due before the 2007 Hague Convention again enters into force for the United Kingdom.

(2) Subject to paragraph (3), at any time before the 2007 Hague Convention again enters into force for the United Kingdom, a creditor in relation to an obligation mentioned in paragraph (1) may seek enforcement of any payment falling due under that obligation as if the United Kingdom remained without interruption a State bound by the 2007 Hague Convention, and the section 4 rights have effect accordingly.

(3) Where, before exit day, a maintenance obligation mentioned in paragraph (1) was governed by the rules of the EU, such that the rules of the 2007 Hague Convention did not apply by virtue

of Article 51(4), paragraph (2) shall not apply to any payment falling due under that maintenance obligation before exit day.

(4) In this regulation, “creditor” has the meaning given by Article 3 (and, where the context so requires, as extended by Article 36).

#### **Maintenance obligations and requests before exit day**

5.—(1) This regulation applies in relation to maintenance obligations and requests, other than those to which regulation 4 applies, where —

- (a) payments fall due;
- (b) an application, or request for specific measures, is received by the relevant Central Authority in the United Kingdom; or
- (c) a direct request is received by the relevant competent authority in the United Kingdom,

after the 2007 Hague Convention entered into force for the United Kingdom by virtue of being a member State, but before exit day.

(2) The section 4 rights have effect as if—

- (a) the United Kingdom were a State bound by the 2007 Hague Convention on and after exit day, and
- (b) Article 51(4) operated as it would have operated if the United Kingdom had also continued to be a member State.

(3) Notwithstanding the effect that Articles 48 to 50 and 51(1) to (3) would produce if the United Kingdom were a State bound by the 2007 Hague Convention, the section 4 rights do not have effect as regards the maintenance obligation or request if and to the extent that their having effect would conflict with a treaty obligation of the United Kingdom.

#### **Maintenance obligations and requests before the 2007 Hague Convention again enters into force for the United Kingdom**

6.—(1) This regulation applies in relation to maintenance obligations and requests, other than those to which regulation 4 applies, where—

- (a) payments fall due;
- (b) an application, or request for specific measures, is received by the relevant Central Authority in the United Kingdom; or
- (c) a direct request is received by the relevant competent authority in the United Kingdom,

on or after exit day, but before the 2007 Hague Convention again enters into force for the United Kingdom.

(2) The section 4 rights have effect as if—

- (a) the United Kingdom were a State bound by the 2007 Hague Convention on and after exit day, and
- (b) Article 51(4) operated accordingly (and not as if the United Kingdom were also a member State).

(3) Notwithstanding the effect that Articles 48 to 50 and 51(1) to (3) would produce if the United Kingdom were a State bound by the 2007 Hague Convention, the section 4 rights do not have effect as regards the maintenance obligation or request if and to the extent that their having effect would conflict with a treaty obligation of the United Kingdom.

**Requests and maintenance obligations after the 2007 Hague Convention again enters into force for the United Kingdom**

7.—(1) This regulation applies if the 2007 Hague Convention again enters into force for the United Kingdom on or after exit day.

(2) The section 4 rights are to have effect in relation to requests and maintenance obligations consistent with the application of the 2007 Hague Convention by the United Kingdom upon that new entry into force, and in accordance with Article 56.

(3) Paragraph (2) is not to be read as requiring Article 51(4) to operate as if the United Kingdom were a member State after that entry into force.