

## SCHEDULE

Regulation 17

### Consequential amendments

#### *Magistrates' Courts Act 1980*

1. In section 65(1) of the Magistrates' Courts Act 1980(1) (meaning of "family proceedings")—
  - (a) in the opening words after "enactments" insert "and other instruments",
  - (b) after paragraph (s) insert—
    - "(t) the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996;", and
  - (c) in sub-paragraphs (i) and (ii) after "enactments" insert "or instruments".

#### *Senior Courts Act 1981*

2. In paragraph 3 of Schedule 1 to the Senior Courts Act 1981(2) (matters assigned to the Family Division), after sub-paragraph (f)(v) insert—
  - "(vi) the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996;".

#### *Child Abduction and Custody Act 1985*

3. In section 9 of the Child Abduction and Custody Act 1985(3) (suspension of court's powers in cases of wrongful removal), after paragraph (b) insert—
  - "(ba) registering or enforcing a decision under the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996 ("the 1996 Convention"), except where provisions of the 1996 Convention are invoked in accordance with Article 50 of the 1996 Convention;".

#### *Family Law Act 1986*

4. The Family Law Act 1986 is amended as follows.
5. In section 2—
  - (a) in subsection (1)(a), after "the Council Regulation" insert "or the Hague Convention",
  - (b) in subsection (1)(b), for "the Council Regulation does not apply" substitute "neither the Council Regulation nor the Hague Convention applies",
  - (c) in subsection (3)(a), after "the Council Regulation" insert "or the Hague Convention", and
  - (d) in subsection (3)(b), for "the Council Regulation does not apply" substitute "neither the Council Regulation nor the Hague Convention applies".
- 6.—(1) In section 5(2) (power of court to refuse application or stay proceedings: England and Wales)—

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(1) 1980, c. 43.  
(2) 1981, c. 54.  
(3) 1985, c.60.

*Status: This is the original version (as it was originally made).*

- (a) after paragraph (a) leave out “or”,
  - (b) after paragraph (b) leave out “or”,
  - (c) after paragraph (c) insert “, or” and insert
    - “(d) that it should exercise its powers under Article 8 of the Hague Convention (request to authority in another Contracting State to assume jurisdiction),” and
  - (d) after “Article 15” in the words following paragraph (c), insert “of the Council Regulation or Article 8 of the Hague Convention”.
- (2) After section 5(3A) insert—
- “(3AA) The court may remove a stay granted in order for it to exercise its powers under Article 8 of the Hague Convention, and withdraw any request made by it to an authority in another Contracting State to assume jurisdiction, if—
- (a) the authority in the other Contracting State does not assume jurisdiction within the period for which the court granted the stay, or
  - (b) the parties do not, within the period specified by the court, request the authority in the other Contracting State to assume jurisdiction.”
- (3) In section 5(3B) for “or (3A)” substitute “, (3A) or (3AA)”.
- 7.** In section 19—
- (a) in subsection (1)(a), after “the Council Regulation” insert “or the Hague Convention”,
  - (b) in subsection (1)(b), for “the Council Regulation does not apply” substitute “neither the Council Regulation nor the Hague Convention applies”,
  - (c) in subsection (3)(a), after “the Council Regulation” insert “or the Hague Convention”, and
  - (d) in subsection (3)(b), for “the Council Regulation does not apply” substitute “neither the Council Regulation nor the Hague Convention applies”.
- 8.—(1)** In section 22(2) (power of court to refuse application or stay proceedings: Northern Ireland)—
- (a) after paragraph (a) leave out “or”,
  - (b) after paragraph (b) leave out “or”,
  - (c) after paragraph (c) insert “, or” and insert
    - “(d) that it should exercise its powers under Article 8 of the Hague Convention (request to authority in another Contracting State to assume jurisdiction),” and
  - (d) after “Article 15” in the words following paragraph (c), insert “of the Council Regulation or Article 8 of the Hague Convention”.
- (2) After section 22(3A) insert—
- “(3B) The court may remove a stay granted in order for it to exercise its powers under Article 8 of the Hague Convention, and withdraw any request made by it to an authority in another Contracting State to assume jurisdiction, if—
- (a) the authority in the other Contracting State does not assume jurisdiction within the period for which the court granted the stay, or
  - (b) the parties do not, within the period specified by the court, request the authority in the other Contracting State to assume jurisdiction.”
- 9.** In section 42(1) (interpretation), after the definition of “the Council Regulation” insert—

““the Hague Convention” means the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996.”

*Mental Capacity Act 2005*

**10.** In Schedule 3 to the Mental Capacity Act 2005(4)—

- (a) in paragraph 4 (adults with incapacity), after “means” insert (subject to sub-paragraph (2)), and
- (b) after the existing provision in paragraph 4 (which becomes sub-paragraph (1)), insert—
  - “(2) But “adult” does not include a child to whom either of the following applies—
  - (a) the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996;
  - (b) Council Regulation (EC) No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.”

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(4) 2005, c.9.