

2012 No. 1770

JUDGMENTS

The International Recovery of Maintenance (Hague Convention 2007) (Rules of Court) Regulations 2012

<i>Made</i> - - - -	<i>4th July 2012</i>
<i>Laid before Parliament</i>	<i>9th July 2012</i>
<i>Coming into force</i> - -	<i>31st July 2012</i>

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to private international law(b), makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act;

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the International Recovery of Maintenance (Hague Convention 2007) (Rules of Court) Regulations 2012, and shall come into force on 31st July 2012.
- (2) Regulation 2 extends to England and Wales only.
- (3) Regulations 3 to 7 extend to England and Wales, Scotland and Northern Ireland.

Amendments to the Magistrates' Courts Act 1980

2. In section 65 of the Magistrates' Courts Act 1980(c) (meaning of family proceedings)—

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- (a) 1972 c.68. Section 2 was amended by section 27(1)(a) and (b) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
 - (b) The European Communities (Designation) (No.2) Order 2008 (S.I.2008/1792). Under section 57 of the Scotland Act 1998 (c.46), despite the transfer to the Scottish Ministers of the functions in relation to the implementation of obligations under Community law in respect of those devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by the Secretary of State as regards Scotland. Implementation of obligations under Community law in respect of devolved matters is itself a devolved matter in Northern Ireland. However, the designation of the Secretary of State under the European Communities (Designation) (No.2) Order 2008 in relation to private international law remains exercisable in relation to Northern Ireland. This is despite the designation of Northern Ireland Departments in relation to that matter by virtue of the European Communities (Designation) (No.5) Order 2010 (S.I.2010/2690) as that designation does not restrict the scope of other designations.
 - (c) 1980 c.43. Section 65 was amended by section 15(4) of, and Part 1 of Schedule 12 to, the Civil Jurisdiction and Judgments Act 1982 (c.27), section 44 of the Matrimonial and Family Proceedings Act 1984 (c.42), section 86 of, and paragraph 54 of Schedule 10 to, the Social Security Act 1986 (c.50), section 33 of, and Schedules 2 and 4 to, the Family Law Reform Act 1987 (c.42), sections 92 and 108(7) of, and paragraph 8 of Schedule 11 and Schedule 15 to, the Children Act 1989 (c.41), sections 116 and 125(7) of, and paragraph 40 of Schedule 16 and Schedule 20 to, the Courts and Legal Services Act 1990 (c.41), sections 3 and 4 of, and Schedule 1 and paragraph 60 of Schedule 2 to, the Social Security (Consequential Provisions) Act 1992 (c.6), section 66(1) of, and paragraph 49 of Schedule 8 to, the Family Law Act 1996 (c.27), section 119 of, and paragraph 42 of Schedule 8 to, the Crime and Disorder Act 1998 (c.37), sections 83(5) and 85 of, and paragraph 2(1) to (3) of Schedule 8 and Part 9 of Schedule 9 to, the Child Support, Pensions and Social Security Act 2000 (c.19), section 139(1) of, and paragraphs 36 and 37 of Schedule 3 to, the Adoption and Children Act 2002 (c.38), section 109(1) of, and paragraph 214 of Schedule 8 to, the Courts Act 2003, section 261(1) of, and paragraph 65 of Schedule 27 to, the Civil Partnership Act 2004, section 103(1) of, and paragraph 2 of Schedule 2 to, the Childcare Act 2006 (c.21), section 166 of, and Part 5 of Schedule 15 to, the Health and Social Care Act 2008 (c.14), section 56 of, and paragraph 20 of Part 1 of Schedule 6 to, the Human Fertilisation and Embryology Act 2008 (c.22), section 72 of, and paragraphs 1 and 2 of Schedule

- (a) in subsection (1), after paragraph (t) insert—
 - “(u) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007(a);”;
- (b) in subsection (2)(a)—
 - (i) after “any of the enactments” insert “or instruments”;
 - (ii) for “and (ra)” substitute “, (ra) and (u)”;
- (c) in subsection (2)(b), after “any of those enactments” insert “or instruments”.

Amendments to the Civil Jurisdiction and Judgments Act 1982

- 3. The Civil Jurisdiction and Judgments Act 1982(b) is amended as follows.
- 4. In section 1(c)(interpretation of references to the Conventions and Contracting States)—
 - (a) in subsection (1) after the definition of “the 1996 Accession Convention” insert—
 - ““the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007;”;
 - (b) in subsection (3) before the definition of “Contracting State” insert—
 - ““2007 Hague Convention State”, in any provision, in the application of that provision in relation to the 2007 Hague Convention, means a State bound by that Convention;”.
- 5. In section 48(d) (matters for which rules of court may provide)—
 - (a) in subsection (1), at the end insert “or the 2007 Hague Convention”;
 - (b) in subsection (2), in paragraph (a), for “ or the Regulation” substitute “, the Regulation or the 2007 Hague Convention,”;
 - (c) in subsection (3)—
 - (i) in the opening words, after “the Maintenance Regulation” insert “, the 2007 Hague Convention”;
 - (ii) in paragraph (a), for “or Maintenance Regulation State” in both places, substitute “, Maintenance Regulation State or 2007 Hague Convention State”;
 - (iii) in paragraph (b), for “or Maintenance Regulation States” substitute “, Maintenance Regulation States or 2007 Hague Convention States”;
 - (iv) in paragraph (e), for “ or Maintenance Regulation State” substitute “, Maintenance Regulation State or 2007 Hague Convention State,”;
 - (v) in paragraph (g), for “or Maintenance Regulation States” substitute “, Maintenance Regulation States or 2007 Hague Convention States”.
- 6. In section 50 (interpretation: general) after the definition of “enactment” insert—
 - ““the 2007 Hague Convention” has the meaning given by section 1(1);
 - “2007 Hague Convention State” has the meaning given by section 1(3);”.

1 to, the Children and Families (Wales) Measure 2010 (nawm 1), and by S.I. 1993/623, 1997/1898, 2001/3929, 2005/265, 2007/1655, 2010/1898, and 2011/1215, and was modified by S.I. 2010/985.

- (a) OJ No. L 192, 22.7.2011, p 51-70.
- (b) 1982 c.27.
- (c) Section 1 was amended by the Civil Jurisdiction and Judgments Act 1991 (c.12) section 2(5) and (6) and S.I. 1989/1346, 1990/2591, 2000/1824, 2009/3131.
- (d) Section 48 was amended by the Civil Jurisdiction and Judgments Act 1991 (c.12) section 3, and Schedule 2 paragraph 23, and S.I.2001/3929, and 2011/1215.

Maintenance Arrangements

7.—(1) Section 48 of the Civil Jurisdiction and Judgments Act 1982 (matters for which rules of court may provide) applies in relation to maintenance arrangements as if they were maintenance decisions to which the Convention applies.

(2) The reference in paragraph (1) to maintenance arrangements is to those maintenance arrangements which are to be recognised and enforceable in the same way as maintenance decisions by virtue of Article 30 of the Convention.

(3) In this regulation—

“the Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007;

“maintenance arrangement” has the meaning given in Article 3(e) of the Convention;

“maintenance decision” means a decision, or part of a decision, to which Chapter V of the Convention applies by virtue of Article 19(1) of the Convention.

Signed by authority of the Secretary of State for Justice

4th July 2012

McNally
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations facilitate conclusion of the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007 (“the Convention”) by the European Union, pursuant to Council Decision 2011/432/EU on the approval, on behalf of the European Union, of that Convention. The Convention contains rules on recognition and enforcement of maintenance decisions between Contracting Parties, and administrative co-operation to facilitate the recovery of such maintenance.

Regulations 2 to 6 extend the scope of existing powers to make rules of court necessary for the proper operation of the Convention. Regulation 7 applies the rule making powers in section 48 of the Civil Jurisdiction and Judgments Act 1982 (c.27) to permit procedural rules to be made for maintenance arrangements which are enforceable, by virtue of Article 30 of the Convention, in the same way as maintenance decisions.

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STATUTORY INSTRUMENTS

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£4.00

E3877 07/2012 123877T 19585

ISBN 978-0-11-152642-2



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