Draft Regulations laid before Parliament under paragraph 4(2)(d) of Schedule 6 to the Private International Law (Implementation of Agreements) Act 2020, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2022 No.

PRIVATE INTERNATIONAL LAW

The Civil Jurisdiction and Judgments (2005 Hague Convention and 2007 Hague Convention) (Amendment) Regulations 2022

Made - - - -	***
Coming into force - -	***

The Secretary of State in exercise of powers conferred by section 2(1), (9) and (12) of the Private International Law (Implementation of Agreements) Act 2020(**a**) ("the Act"), and with the consent of the Scottish Ministers and the Department of Justice for Northern Ireland, makes the following Regulations.

In accordance with paragraph 2 of Schedule 6 to the Act the Secretary of State has consulted such persons as the Secretary of State thinks appropriate.

In accordance with paragraph 4(2)(d) of Schedule 6 to the Act a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Civil Jurisdiction and Judgments (2005 Hague Convention and 2007 Hague Convention) (Amendment) Regulations 2022.

(2) These Regulations come into force on the day after the day on which they are made.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Amendments to the Civil Jurisdiction and Judgments Act 1982

2.—(1) The Civil Jurisdiction and Judgments Act 1982(**b**) is amended as follows.

(2) In section 3D (the 2005 Hague Convention to have the force of law)—

(**a**) 2020 c. 24. The powers conferred by section 2 of the Act are exercisable by an appropriate national authority. The "appropriate national authority" is defined in section 2(12) of the Act and means in relation to England and Wales, the Secretary of State. In relation to Scotland and Northern Ireland, it can also be the Secretary of State when acting with the consent of the Scottish Ministers and a Northern Ireland department.

(**b**) 1982 c. 27. Relevant amendments were made by section 1 of the Private International Law (Implementation of Agreements) Act 2020 (c. 24).

(a) in subsection (2), for the words from "any reservations or" to the end substitute "the declarations made by the United Kingdom on 28th September 2020 under Article 21 of the Convention, concerning insurance contracts";

(b) for subsection (3) substitute—

"(3) For convenience of reference there are set out in Schedules 3F and 3FA respectively—

(a) the English text of the 2005 Hague Convention;

(b) the declarations referred to in subsection (2).".

(3) In section 3E (the 2007 Hague Convention to have the force of law) —

(a) for subsection (2) substitute—

"(2) For the purposes of this Act the 2007 Hague Convention is to be read together with the following reservations and declarations made by the United Kingdom on 28th September 2020—

(a) the declaration under Article 2(3) of the Convention, concerning spousal support;

(b) the reservation under Article 44(3) of the Convention, concerning the use of French;

(c) the declaration under Article 11(1)(g) of the Convention, concerning application contents;

(d) the unilateral declaration concerning the application of the Convention.";

(b) for subsection (3) substitute—

"(3) For convenience of reference there are set out in Schedules 3G and 3GA respectively—

(a) the English text of the 2007 Hague Convention;

(b) the reservations and declarations referred to in subsection (2).".

(4) After Schedule 3F, insert new Schedule 3FA which is set out in Schedule 1 to these Regulations.

(5) After Schedule 3G, insert new Schedule 3GA which is set out in Schedule 2 to these Regulations.

Name
Address — Parliamentary Under Secretary of State
Date — Ministry of Justice

SCHEDULE 1

Regulation 2(4)

SCHEDULE TO BE INSERTED AS SCHEDULE 3FA TO THE CIVIL JURISDICTION AND JUDGMENTS ACT 1982

"SCHEDULE 3FA

Section 3D(3)(b)

DECLARATIONS MADE BY THE UNITED KINGDOM IN RELATION TO THE 2005 HAGUE CONVENTION

DECLARATIONS CONCERNING INSURANCE CONTRACTS

The United Kingdom of Great Britain and Northern Ireland declares, in accordance with Article 21 of the Convention, that it will not apply the Convention to insurance contracts, except as provided for in paragraph 1 below:

1. The United Kingdom of Great Britain and Northern Ireland will apply the Convention to insurance contracts in the following cases:

(a) where the contract is a reinsurance contract;

(b) where the choice of court agreement is entered into after the dispute has arisen;

(c) where, without prejudice to Article 1(2) of the Convention, the choice of court agreement is concluded between a policyholder and an insurer, both of whom are, at the time of the conclusion of the contract of insurance, domiciled or habitually resident in the same Contracting State, and that agreement has the effect of conferring jurisdiction on the courts of that State, even if the harmful event were to occur abroad, provided that such an agreement is not contrary to the law of that State;

(d) where the choice of court agreement relates to a contract of insurance which covers one or more of the following risks considered to be large risks:

(i) any loss or damage arising from perils which relate to their use for commercial purposes, of, or to:

(a) seagoing ships, installations situated offshore or on the high seas or river, canal and lake vessels;

(b) aircraft;

(c) railway rolling stock;

(ii) any loss of or damage to goods in transit or baggage other than passengers' baggage, irrespective of the form of transport;

(iii) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, arising out of the use or operation of:

(a) ships, installations or vessels as referred to in point (i)(a);

(b) aircraft, in so far as the law of the Contracting State in which such aircraft are registered does not prohibit choice of court agreements regarding the insurance of such risks;

(c) railway rolling stock;

(iv) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, for loss or damage caused by goods in transit or baggage as referred to in point (ii);

(v) any financial loss connected with the use or operation of ships, installations, vessels, aircraft or railway rolling stock as referred to in point (i), in particular loss of freight or charter-hire;

(vi) any risk or interest connected with any of the risks referred to in points (i) to (v);

(vii) any credit risk or suretyship risk where the policy holder is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risk relates to such activity;

(viii) any other risks where the policy holder carries on a business of a size which exceeds the limits of at least two of the following criteria:

(a) a balance-sheet total of EUR 6,2 million;

(b) a net turnover of EUR 12,8 million;

(c) an average number of 250 employees during the financial year.

2. The United Kingdom of Great Britain and Northern Ireland declares that it may, at a later stage in the light of the experience acquired in the application of the Convention, reassess the need to maintain its declaration under Article 21 of the Convention."

SCHEDULE 2

Regulation 2(5)

SCHEDULE TO BE INSERTED AS SCHEDULE 3GA TO THE CIVIL JURISDICTION AND JUDGMENTS ACT 1982

"SCHEDULE 3GA

Section 3E(3)(b)

RESERVATIONS AND DECLARATIONS MADE BY THE UNITED KINGDOM IN RELATION TO THE 2007 HAGUE CONVENTION

PART 1

DECLARATION CONCERNING SPOUSAL SUPPORT

1. Declaration referred to in Article 2(3) of the Convention:

The United Kingdom of Great Britain and Northern Ireland declares that it will extend the application of Chapters II and III of the Convention to spousal support.

PART 2

RESERVATION CONCERNING USE OF FRENCH

2. Reservation made in accordance with Article 62 of the Convention, at the time of ratification by the United Kingdom of Great Britain and Northern Ireland of the Convention:

The United Kingdom of Great Britain and Northern Ireland makes the following reservation provided for in Article 44(3) of the Convention:

The United Kingdom of Great Britain and Northern Ireland objects to the use of French in communications between Central Authorities.

PART 3

DECLARATION CONCERNING APPLICATION CONTENTS

3. Declaration made in accordance with Article 63 of the Convention, at the time of ratification by the United Kingdom of Great Britain and Northern Ireland of the Convention:

The United Kingdom of Great Britain and Northern Ireland makes the following declaration referred to in Article 11(1)(g) of the Convention:

The United Kingdom of Great Britain and Northern Ireland declares that an application to it under Article 10 of the Convention, other than an application under Article 10(1)(a) and (2)(a) of the Convention, shall include the information or documents specified below:

Application under Article 10(1)(b) of the Convention:

England and Wales

Original and/or certified copy of decision; Certificate of enforceability; Statement of Arrears; Document stating that the debtor appeared at the original hearing and if not, document attesting that debtor had been notified and served of those proceedings or that he was notified of the original decision and was given opportunity to defend or appeal; Statement as to whereabouts of debtor - residential and employment; Statement as to identification of debtor; Photograph of debtor, if available; Document indicating the extent that the applicant has benefited from free legal aid; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Certified copy of Marriage Certificate if applicable. Certified copy order or other instrument evidencing the dissolution of the marriage or other relationship, if applicable.

Scotland

Original and/or certified copy of decision; Certificate of enforceability; Statement of Arrears; Document stating that the debtor appeared at the original hearing and if not, document attesting that debtor had been notified of those proceedings or that he was notified of the original decision and was given opportunity to appeal; Statement as to whereabouts of debtor; Statement as to identification of debtor; Photograph of debtor, if available; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable.

Northern Ireland

Original and/or certified copy of decision; Certificate of enforceability; Statement of Arrears; Document stating that the debtor appeared at the original hearing and if not, document attesting that debtor had been notified of those proceedings or that he was notified of the original decision and was given opportunity to appeal; Statement as to whereabouts of debtor - residential and employment; Statement as to identification of debtor; Photograph of debtor, if available; Document indicating the extent that the applicant has benefited from free legal aid; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Certified copy of Marriage Certificate if applicable.

Application under Article 10(1)(c) of the Convention:

England and Wales

Documents relevant to financial situation - income/outgoings/assets; Statement as to whereabouts of defendant - residential and employment; Statement as to identification of defendant; Photograph of defendant, if available; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable;

Certified copy of Marriage Certificate if applicable; Certified copy order or other instrument evidencing the dissolution of the marriage or other relationship, if applicable. Copy of any relevant court orders; Legal aid application; Document proving parentage if applicable; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

Scotland

Documents relevant to financial situation - income/outgoings/assets; Statement as to whereabouts of defendant; Statement as to identification of defendant; Photograph of defendant, if available; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Certified copy of Marriage Certificate if applicable; Legal aid application; Document proving parentage if applicable.

Northern Ireland

Documents relevant to financial situation - income/outgoings/assets; Statement as to whereabouts of defendant - residential and employment; Statement as to identification of defendant; Photograph of defendant, if available; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Certified copy of Marriage Certificate if applicable; Certified copy of Decree Nisi (interim divorce certificate) if applicable; Copy of any relevant court orders; Legal aid application; Document proving parentage if applicable; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

Application under Article 10(1)(d) of the Convention:

England and Wales

Certified copy of decision relevant to Article 20 or Article 22(b) or (e) together with documents relevant to the making of that decision; Document indicating the extent that the applicant has benefited from free legal aid; Documents relevant to financial situation - income/outgoings/assets; Statement as to whereabouts - residential and employment of defendant; Statement as to identification of defendant; Photograph of defendant, if available; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Certified copy of Marriage Certificate if applicable; Certified copy of order or other instrument evidencing the dissolution of the marriage or other relationship, if applicable. Copy of any relevant court orders; Document proving parentage if applicable; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

Scotland

As for applications under Article 10(1)(c) above.

Northern Ireland

Certified copy of decision relevant to Article 20 or 22(b) or (e) together with documents relevant to the making of that decision; Document indicating the extent that the applicant has benefited from free legal aid; Documents relevant to financial situation - income/outgoings/assets; Statement as to whereabouts - residential and employment of defendant; Statement as to identification of defendant; Photograph of defendant, if available; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Certified copy of Marriage Certificate if applicable; Certified copy of Decree Nisi (interim divorce certificate) if applicable; Copy of any relevant court orders; Document proving parentage if applicable; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

Application under Article 10(1)(e) of the Convention:

England and Wales

Copy of decision to be modified; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Legal aid application; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Documents relevant to marital status of applicant/defendant, if applicable; Copy of any relevant court orders; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant. Written statement that both parties appeared in the proceedings and if only the applicant appeared the original or certified copy of the document establishing proof of service of the notice of the proceedings on the other party.

Scotland

Copy of decision to be modified; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Legal aid application; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation.

Northern Ireland

Copy of decision to be modified; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Legal aid application; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Documents relevant to marital status of applicant/defendant, if applicable; Copy of any relevant court orders; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

Application under Article 10(1)(f) of the Convention:

England and Wales

Original and/or certified copy of decision to be modified; Document stating that the debtor appeared at the original hearing and if not, document attesting that debtor had been notified of those proceedings or that he was notified of the original decision and was given opportunity to appeal; Document indicating the extent that the applicant has benefited from free legal aid; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Certificate of enforceability; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Certified copy of Marriage Certificate if applicable; Certified copy of order or other instrument evidencing the dissolution of the marriage or other relationship, if applicable; Documents relevant to marital status of applicant/defendant, if applicable; Copy of any relevant court orders; Statement as to whereabouts of debtor - residential and employment; Statement as to identification of debtor; Photograph of debtor, if available; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant. Written statement that both parties appeared in the proceedings and if only the applicant appeared the original or certified copy of the document establishing proof of service of the notice of the proceedings on the other party.

Scotland

Original and/or certified copy of decision to be modified; Document attesting that debtor had been notified of those proceedings or that he was notified of the original decision and was given opportunity to appeal; Document indicating the extent that the applicant has benefited from free legal aid; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Certificate of enforceability; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Documents relevant to marital status of applicant/defendant, if applicable; Statement as to

whereabouts of debtor; Statement as to identification of debtor; Photograph of debtor, if available.

Northern Ireland

Original and/or certified copy of decision to be modified; Document stating that the debtor appeared at the original hearing and if not, document attesting that debtor had been notified of those proceedings or that he was notified of the original decision and was given opportunity to appeal; Document indicating the extent that the applicant has benefited from free legal aid; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Certificate of enforceability; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Certified copy of Marriage Certificate if applicable; Certified copy of Decree Nisi (interim divorce certificate) if applicable; Documents relevant to marital status of applicant/defendant, if applicable; Copy of any relevant court orders; Statement as to whereabouts of debtor - residential and employment; Statement as to identification of debtor; Photograph of debtor, if available; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

Application under Article 10(2)(b) of the Convention:

England and Wales

Copy of decision to be modified; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Legal aid application; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Documents relevant to marital status of applicant/defendant, if applicable; Copy of any relevant court orders; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

Scotland

Copy of decision to be modified; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Legal aid application; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation.

Northern Ireland

Copy of decision to be modified; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Legal aid application; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Documents relevant to marital status of applicant/defendant, if applicable; Copy of any relevant court orders; Any other specified documents under Articles 16(3), 25(1) (a), (b) and (d) and (3)(b) and 30(3) if relevant.

Application under Article 10(2)(c) of the Convention:

England and Wales

Original and/or certified copy of decision to be modified; Certificate of enforceability; Document indicating the extent that the applicant has benefited from free legal aid; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Certified copy of Marriage Certificate if applicable; Certified copy order or other instrument evidencing the dissolution of the marriage or other relationship if applicable; Documents relevant to marital status of applicant/defendant, if applicable; Copy of any relevant court orders; Statement as to whereabouts of creditor - residential and employment;

Statement as to identification of creditor; Photograph of creditor, if available; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

Scotland

Original and/or certified copy of decision to be modified; Document indicating the extent that the applicant has benefited from free legal aid; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Certificate from school/college if applicable; Documents relevant to change in applicant's financial situation; Statement as to whereabouts of creditor; Statement as to identification of creditor; Photograph of creditor, if available.

Northern Ireland

Original and/or certified copy of decision to be modified; Certificate of enforceability; Document indicating the extent that the applicant has benefited from free legal aid; Documents relevant to financial situation of applicant/defendant - income/outgoings/assets; Certified copy of Birth or Adoption Certificate of child(ren) if applicable; Certificate from school/college if applicable; Documents relevant to change in child(ren)'s situation; Certified copy of Marriage Certificate if applicable; Certified copy of Decree Nisi (interim divorce certificate) if applicable; Documents relevant to marital status of applicant/defendant, if applicable; Copy of any relevant court orders; Statement as to whereabouts of creditor - residential and employment; Statement as to identification of creditor; Photograph of creditor, if available; Any other specified documents under Articles 16(3), 25(1)(a), (b) and (d) and (3)(b) and 30(3) if relevant.

General:

For applications under Article 10, including Articles 10(1)(a) and 10(2)(a), the England and Wales Central Authority would be grateful to receive three copies of each document, accompanied by translations into English (if necessary).

For applications under Article 10, including Articles 10(1)(a) and 10(2)(a), the Northern Ireland Central Authority and the Central Authority for Scotland would be grateful to receive three copies of each document, accompanied by translations into English.

PART 4

UNILATERAL DECLARATION CONCERNING THE APPLICATION OF THE CONVENTION

4. Unilateral declaration made at the time of ratification by the United Kingdom of Great Britain and Northern Ireland of the Convention:

The United Kingdom of Great Britain and Northern Ireland makes the following unilateral declaration:

The United Kingdom of Great Britain and Northern Ireland wishes to underline the great importance it attaches to the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. The United Kingdom of Great Britain and Northern Ireland recognises that extending the application of the Convention to all maintenance obligations arising from a family relationship, parentage, marriage or affinity is likely to increase considerably its effectiveness, allowing all maintenance creditors to benefit from the system of administrative cooperation established by the Convention.

It is in this spirit that the United Kingdom of Great Britain and Northern Ireland intends to extend the application of Chapters II and III of the Convention to spousal support when the

United Kingdom of Great Britain and Northern Ireland becomes a Contracting State to the Convention.

Furthermore, the United Kingdom of Great Britain and Northern Ireland undertakes, within seven years, in the light of experience acquired and possible declarations of extension made by other Contracting States, to examine the possibility of extending the application of the Convention as a whole to all maintenance obligations arising from a family relationship, parentage, marriage or affinity."

EXPLANATORY NOTE

(This note is not part of the Regulations)

The United Kingdom has participated in the Convention on Choice of Court Agreements concluded on 30th June 2005 at The Hague ("the 2005 Hague Convention"), and the Convention on the International Recovery of Child Support and other forms of Family Maintenance concluded on 23 November 2007 at The Hague ("the 2007 Hague Convention"), since 2015 and 2014 respectively by virtue of the United Kingdom's membership of the EU. In September 2020 the United Kingdom took the necessary steps to join the two Conventions as an independent party as part of its preparation for leaving the EU. This included depositing the necessary instruments of accession and ratification with the depositary. Parliamentary scrutiny of these Conventions prior to accession and ratification took place under the Constitutional Reform and Governance Act 2010 (c. 25) during November and December 2018, which included the text of the declarations and reservation the United Kingdom intended to make. The Private International Law (Implementation of Agreements) Act 2020 (c. 24) implemented the Conventions in the United Kingdom by amending the Civil Jurisdiction and Judgments Act 1982 (c. 27). The Government indicated during the passage of the 2020 Act that it intended to use the power in section 2 of the Act to amend the Civil Jurisdiction and Judgments Act 1982 to ensure the text of the reservations and declarations were available for reference purposes.

These Regulations make those amendments to the Civil Jurisdiction and Judgments Act 1982 so that the United Kingdom's reservations and declarations to the 2005 Hague Convention and 2007 Hague Conventions appear as new Schedules to that Act.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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