
EXPLANATORY NOTE

(This note is not part of the Order)

These regulations implement in relation to Scotland 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 Convention”).

The Convention was proposed by the Hague Conference both to replace the 1961 Hague Protection of Minors Convention and to reinforce the operation of the 1980 Hague Child Abduction Convention. The Convention establishes uniform rules on jurisdiction, choice of law and the recognition and enforcement of judgments in relation to measures for the protection of children and their property. These include custody and access orders and certain public law orders relating to the care of children outside the family. The intention is to avoid having to re-litigate decisions in the jurisdiction of recognition and enforcement and to avoid conflicting decisions in international cases.

The Convention emphasises cooperation, both between central authorities processing applications and between competent authorities (such as courts) in Contracting States taking measures for the protection of children. For example, the Convention increases the effectiveness of any temporary measures ordered by a judge under the 1980 Convention returning a child to the country from which the child was wrongfully taken or retained, by making those orders enforceable until the authorities in the country to which the child is returned are able to put in place necessary measures of protection. This should provide better continuity of protection for children across international borders.

Although the effect of section 2(1) of the European Communities Act 1972 is that the Convention will apply directly, without further legislation, these regulations make amendments to existing provisions and new provisions deemed desirable to facilitate the working of the Convention in the Scottish legal system.

Changes to legislation:

There are currently no known outstanding effects for the The Parental Responsibility and Measures for the Protection of Children (International Obligations) (Scotland) Regulations 2010.