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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations facilitate the ratification of the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children 1996 (Cm 7727) (“the Convention”) by the United Kingdom. They also facilitate the application of Council Regulation (EC) 2201/2003 of 27 November 2003 concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and the Matters of Parental Responsibility, repealing Regulation (EC) 1347/2000 (“the Council Regulation”). Except where indicated, they extend to England and Wales and Northern Ireland.

*Regulation 3* empowers a court, which has stayed proceedings in order to request the authorities of another Contracting State to assume jurisdiction, to remove the stay if those authorities have not assumed jurisdiction within the appropriate time.

*Regulation 4* requires a local authority in England and Wales or Northern Ireland authority proposing to make an application for a care or supervision order relating to a child regarding whom the authorities of another Contracting State have jurisdiction under the Convention, to apply to the High Court to make a request under Article 9 for the transfer of jurisdiction from those authorities, rather than to make such a request itself.

*Regulations 5 and 6* provide for section 38 of the Children Act 1989 and Article 57 of the Children (Northern Ireland) Order 1995 respectively to have effect so as to enable a local authority or Northern Ireland authority to make an application for an interim care order or interim supervision order in reliance on Articles 11 or 12 of the Convention, or Article 20 of the Council Regulation, notwithstanding that the court has no jurisdiction under those instruments to hear an application for the full care order or supervision order.

*Regulation 7* ensures that the applicable law provisions of the Convention will also apply where the jurisdiction of the authority taking the relevant measure is based on the provisions of the Council Regulation, by providing for the reference to Chapter II of the Convention in Article 15(1) to be read as including a reference to Chapter II of the Council Regulation.

*Regulation 8* provides for the High Court to have jurisdiction to entertain applications under Articles 24 and 26 of the Convention (recognition and enforcement of parental responsibility measures), and in relation to declarations of the existence or extent of a person’s parental responsibility for a child under Article 16. However, recognition or non-recognition of a measure arising as an incidental question in other proceedings can be adjudicated by the court hearing that case.

*Regulation 9* identifies the bodies which will discharge the functions of a Central Authority for the Convention in England, Wales and Northern Ireland.

*Regulations 10, 11 and 12* make provision enabling Central Authorities to require specified bodies to provide information or reports in order to facilitate certain tasks of the Central Authority under the Convention and the Council Regulation. *Regulation 10* enables each Central Authority to require information regarding a child’s whereabouts for the purposes of Article 31(c) of the Convention. *Regulation 12* enables each Central Authority to require a report on the child’s situation for the purposes of Article 32(a) of the Convention. *Regulation 11* extends to England and Wales only, and enables the Central Authority for the Council Regulation to require information or reports for the purposes of Article 55(a)(i) requests under that Regulation. In all cases, there are exceptions to the

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

requirement to disclose information, in particular where disclosure would constitute a contempt of court or a criminal offence.

*Regulation 13* requires the court or a local authority or Northern Ireland authority contemplating placement of a child in another Contracting State or another Member State, to provide a report to, or consult, the authorities of the other state in accordance with the terms of the Convention or Council Regulation, as the case may be.

*Regulation 14* empowers any public authority in England and Wales or Northern Ireland to provide information in response to a request made under Article 34 of the Convention.

*Regulation 15*, which extends to Northern Ireland only, enables a court in Northern Ireland to authorise a disclosure of information relating to proceedings before a court sitting in private if satisfied that the disclosure is to be made for purposes of enabling the Central Authority in Northern Ireland to carry out its functions under the Convention. In the event of such authorisation, any such disclosure will not be in contempt of court.

*Regulation 16* permits certain bodies to charge a reasonable fee for services under Article 35(1) or (2) of the Convention (assistance in practical implementation of protective measures and provision of a report on a parent seeking contact to a child in proceedings in another Contracting State). It also provides for the bodies to which requests for Article 35(2) reports are to be made.

*Regulation 17 and the Schedule* make amendments to primary legislation which is consequential upon entry into force of the Convention for the United Kingdom.

An Impact Assessment has not been produced for this instrument since the annual impact on the costs of business, charities and voluntary bodies is considered to be minimal.