

TITLE: IMPACT ASSESSMENT FOR THE INTERNATIONAL RECOVERY OF MAINTENANCE (HAGUE CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE 2007) (EU EXIT) REGULATIONS 2018 IA No: MOJ016/2018 RPC Reference No: Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)			
	Date: 31/10/2018			
	Stage: Final			
	Source of intervention: EU Exit			
	Type of measure: Secondary Legislation			
Contact for enquiries: edward.tynan@justice.gov.uk				
Summary: Intervention and Options				RPC Opinion: N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out?	Business Impact Target Status
n/a	n/a	n/a	n/a	Out of Scope

What is the problem under consideration? Why is government intervention necessary?

The Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (the 2007 Hague Convention) is a multilateral treaty that provides for the recognition and enforcement of cross-border maintenance decisions between Contracting Parties, as well as administrative co-operation between central authorities in each Contracting Party and, in specified cases, free legal assistance to parties involved in cross-border maintenance disputes.

The UK is not a Contracting Party to the 2007 Hague Convention in its own right, but is currently bound to this Convention by virtue of EU party status. Upon its Exit from the EU, the UK will cease to participate in the 2007 Hague Convention. In preparation for EU exit, the UK will commence the process of re-joining the 2007 Hague Convention as an independent Contracting Party so that the Convention can enter into force in the UK as soon as is practicable after 29 March 2019. To ensure the UK is in a position to comply with its international legal obligations once this process is complete, amendments must be made to relevant retained EU domestic law under the European Union (Withdrawal) Act 2018 to allow the Convention to operate effectively between the UK and all current and future Contracting Parties. Government intervention is required to make these amendments.

What are the policy objectives and the intended effects?

The policy objective is to ensure the UK complies with its international legal obligations to implement the 2007 Hague Convention and enable the UK's post-Exit participation in this Convention as an independent Contracting Party. This directly supports the Government's own policy for ensuring continued participation in the 2007 Hague Convention on Exit as referred to in the 'Providing a cross-border civil judicial cooperation framework' position paper, published in August 2017. There is also an objective to provide a clear legal framework for cases that would have been governed by the 2007 Hague Convention but for its disapplication to the UK upon Exit from the EU.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

In the 'No Deal' scenario, the UK will re-join the 2007 Hague Convention as an independent Contracting Party. Two options are considered in this Impact Assessment:

- Option 0:** do nothing – make no amendments to existing domestic legislation in this area to account for the effects of the UK leaving the EU.
- Option 1:** align domestic legislation to comply with the international legal obligations set out in the 2007 Hague Convention.

The Government's preferred option is option 1 as this best meets the policy objectives.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: n/a				
Does implementation go beyond minimum EU requirements?			n/a	
Are any of these organisations in scope?			Micro Yes	Small Yes
			Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:	
			Non-traded:	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____ Lucy Frazer _____ Date: _____ 31/10/2018 _____

Summary: Analysis & Evidence

Policy Option 1

Description: align domestic legislation to comply with the international legal obligations set out in the 2007 Hague Convention.

FULL ECONOMIC ASSESSMENT

Price Base Year n/a	PV Base Year n/a	Time Period Years n/a	Net Benefit (Present Value (PV)) (£m)		
			Low: n/a	High: n/a	Best Estimate: n/a

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	n/a	n/a	n/a
High	n/a	n/a	n/a
Best Estimate	n/a	n/a	n/a

Description and scale of key monetised costs by ‘main affected groups’
None

Other key non-monetised costs by ‘main affected groups’
There will be negligible costs because there will be a workable international framework embedded in UK domestic legislation governing the recognition and enforcement of maintenance decisions from relevant 2007 Hague Convention Contracting Parties. However, stakeholders will need to ensure they are aware of how this international framework functions, how it has been implemented in UK domestic legislation, and how it should be used to govern their interactions on relevant maintenance decisions to and from 2007 Hague Convention Contracting Parties.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	n/a	n/a	n/a
High	n/a	n/a	n/a
Best Estimate	n/a	n/a	n/a

Description and scale of key monetised benefits by ‘main affected groups’
None

Other key non-monetised benefits by ‘main affected groups’
There will be a workable international framework, implemented in UK domestic legislation, governing the recognition and enforcement of maintenance decisions with relevant 2007 Hague Convention Contracting Parties. There will also be a clear legal framework for cases that would have been governed by the 2007 Hague Convention but for its disapplication to the UK upon Exit from the EU. This will ensure legal certainty and greater clarity that a maintenance decision can be recognised and enforced in the UK and vice versa in a relevant 2007 Hague Convention Contracting Party’s jurisdiction, where appropriate, thereby reducing the complexity of the recovery of maintenance obligations from debtors. This would reduce the financial hardship for the children of UK resident parents who themselves may be UK citizens.

Additionally, this option will reduce the length, complexity and cost of cross-border maintenance cases from a 2007 Hague Convention Contracting Party, as there will be no confusion over which maintenance decisions can be recognised and enforced, or how these cases should be handled, under the terms of this convention and relevant domestic legislation, where appropriate.

There will also be a reduction in risk of confusion over deciding legal aid entitlement for parties to maintenance disputes, as there should be no uncertainty over who is entitled to legal aid provision under the 2007 Hague Convention, as this should be clearly set out in the 2007 Hague Convention and relevant domestic legislation.

Key assumptions/sensitivities/risks None	Discount rate (%) n/a
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BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m
Costs: n/a	n/a
Benefits: n/a	
Net: n/a	

Evidence Base (for summary sheets)

A. Background

1. The Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (the 2007 Hague Convention) is a multilateral treaty that provides for the recognition and enforcement of cross-border maintenance decisions between Contracting Parties, as well as administrative co-operation between central authorities in each Contracting Party and, in specified cases, free legal assistance to parties involved in cross-border maintenance disputes.
2. The UK has been bound by the 2007 Hague Convention, by virtue of EU party status, since 1st August 2014. Upon its Exit from the EU, the UK will cease to participate in the 2007 Hague Convention. In preparation for EU Exit, the UK will re-join the 2007 Hague Convention as an independent Contracting Party. Domestic legislation must therefore be amended to allow the UK to comply with its international legal obligations to operate the 2007 Hague Convention with all current and future Contracting Parties. Legislative amendments are also necessary to provide a clear legal framework for cases that would have been governed by the 2007 Hague Convention but for its disapplication to the UK upon Exit from the EU.
3. As a matter of public international law, if a country is signed up to a Convention, then that country is obliged to make sure its laws comply with the Convention in question and enable proper application of that Convention. Therefore, government intervention is necessary to make sure amendments are made to the domestic legislation to be able to fully operate the 2007 Hague Convention with all current and future Contracting Parties. This would ensure that the UK is in a position to comply with its international legal obligations once this process is complete and the Convention enters into force for the UK as soon as is practicable.

B. Policy Rationale and Objectives

4. The conventional economic rationale for government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and for redistribution reasons (e.g. to reallocate goods and services to less well-off groups in society).
5. The main rationale for intervention for the options assessed in this Impact Assessment (IA) is efficiency: to reduce legal uncertainty regarding maintenance decisions relating to the 2007 Hague Convention Contracting Parties. This intervention will maintain gains in productive efficiency from fewer court system costs and other resources being used to achieve an equivalent outcome in terms of enforcing international maintenance obligations. In addition, a reduction in the time and resources required to pursue enforcement action may at the margin lead to more cases being fully enforced, or being enforced more quickly, benefiting those individuals involved.
6. The associated policy objectives are (1) to ensure the UK complies with its international legal obligations to implement the 2007 Hague Convention and enable the UK's post-exit participation in the Convention as an independent Contracting Party and (2) provide a clear legal framework for how transitional cases will be treated.

C. Affected Stakeholder Groups, Organisations and Sectors

7. The Convention will apply to the three UK legal jurisdictions: England and Wales, Scotland and Northern Ireland. The groups most likely to be affected by the options in this IA are as follows:

- UK courts
- UK central authorities:
 - England and Wales: Reciprocal Enforcement of Maintenance Orders Unit (REMO)
 - Scotland: Scottish Government (SG)
 - Northern Ireland: Reciprocal Enforcement of Maintenance Orders Unit Northern Ireland
- The providers of legal services
- UK individuals
- UK legal aid bodies

D. Description of Options Considered

8. In order to meet the policy objectives, the following options are assessed in this IA:
- **Option 0:** do nothing – make no amendments to existing domestic legislation in this area to account for the effects of the UK leaving the EU.
 - **Option 1:** align domestic legislation with the international legal obligations set out in the 2007 Hague Convention.
9. The Government’s preferred option is option 1 as this best meets the policy objectives.
10. The IA process requires that all options are assessed relative to a common baseline. The baseline for this IA is to “do nothing”. In practice this is not a feasible or realistic base case because the 2007 Hague Convention is binding on the UK and therefore must be implemented.

Option 0: Do nothing - make no amendments to existing domestic legislation in this area to account for the effects of the UK leaving the EU.

11. The UK will commence the process of re-joining the 2007 Hague Convention, therefore the UK is obligated, by international law, to make sure its laws comply with the 2007 Hague Convention. This requires amendments being made to domestic legislation. If the UK is not ready to implement the 2007 Hague Convention by the time that the Convention comes into force the UK will be in breach of its obligations in international law. Under this option, no amendments would be made to existing domestic legislation in this area.

Option 1: Align domestic legislation with the international legal obligations set out in the 2007 Hague Convention

12. The Government’s position is that the UK would fully implement the 2007 Hague Convention. Therefore, under this option, the UK would amend domestic legislation so as to comply with its obligations in international law.
13. Implementing the 2007 Hague Convention will ensure the UK participates in a fully-functional multilateral regime, which facilitates the cross-border recognition and enforcement of maintenance decisions with all current and future contracting parties to this Convention.

E. Cost and Benefit Analysis

14. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
15. Where possible, this IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in the United Kingdom with the aim of understanding what the overall impact on society might be from the options under consideration. These impacts are normally compared to

those of the 'do nothing' option. However, as was noted above, the 'do nothing' option is not feasible in this instance.

16. IAs place a strong focus on the monetisation of costs and benefits. There are often, however, important impacts that cannot sensibly be monetised. These might be impacts on certain groups of society or some data privacy impacts, both positive or negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are non-monetisable.
17. As noted above, the primary rationale for intervention in this instance is to promote legal certainty. However, in this case, there is no measure of legal certainty or way for quantifying its impact on wider economic interaction so all the costs and benefits in this IA are non-monetisable in nature.

Option 1: Align domestic legislation with the international legal obligations set out in the 2007 Hague Convention

Costs of Option 1

UK businesses, The providers of legal services, UK legal aid bodies, UK courts, UK central authorities

18. Under this option, there will be negligible costs to these stakeholders because there will be a clear international framework implemented in UK domestic legislation governing the recognition and enforcement of maintenance decisions from relevant the 2007 Hague Convention Contracting Parties.
19. However, stakeholders will need to ensure they are aware of how this international framework functions, how it has been implemented in UK domestic legislation, and how it should be used to govern their interactions with relevant maintenance decisions from the 2007 Hague Convention Contracting Parties.

Benefits of Option 1

UK individuals

20. Under this option, there will be a workable international framework implemented in UK domestic legislation governing the recognition and enforcement of maintenance decisions with relevant 2007 Hague Convention Contracting Parties. Individuals will benefit from legal certainty and greater clarity that a maintenance decision can be recognised and enforced in the UK and vice versa in a relevant 2007 Hague Convention Contracting Party's territory, where appropriate, thereby reducing the complexity of the recovery of maintenance obligations from debtors. In addition, this may reduce the financial hardship for the children of UK resident parents who themselves may be UK citizens.

The providers of legal services, UK courts

21. This option will reduce the length, complexity and cost of cases as there will be no confusion over which maintenance decisions can be recognised and enforced, or how these cases should be handled, under the terms of this Convention and relevant domestic legislation.

UK central authorities

22. This option will reduce uncertainty when handling relevant maintenance applications, as there will be no confusion over the applicable procedures and provisions for casework, under the terms of this Convention and relevant domestic legislation.

23. There will be clarity when deciding legal aid entitlement for parties to maintenance disputes, as the legal aid entitlement provisions will be clearly set out in relevant domestic legislation.

F. Wider Impacts

24. This instrument does not amend, repeal or revoke any part of the Equality Acts 2006 or 2010 or subordinate legislation made under those Acts.
25. Due regard has been taken on the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010. This Act does not extend to Northern Ireland, but as the 2007 Hague Convention and the accompanying domestic implementing legislation extends to Northern Ireland, an equivalent regard has been taken on the need to eliminate discrimination, harassment and victimisation in relation to Northern Ireland.

G. Implementation

26. The 2007 Hague Convention will enter into force in the UK as soon as is practicable following the UK's exit from the EU.

H. Monitoring and Evaluation

27. As this instrument is made under the EU (Withdrawal) Act 2018, no review is required.