

Status: Point in time view as at 26/04/2024.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982, CHAPTER III is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 3G

TEXT OF THE 2007 HAGUE CONVENTION

Textual Amendments

- F1** Sch. 3G inserted (31.12.2020) by Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 4 (with s. 3(1), Sch. 5 para. 8)

CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE

CHAPTER III

APPLICATIONS THROUGH CENTRAL AUTHORITIES

Article 9

Application through Central Authorities

An application under this Chapter shall be made through the Central Authority of the Contracting State in which the applicant resides to the Central Authority of the requested State. For the purpose of this provision, residence excludes mere presence.

Article 10

Available applications

- (1) The following categories of application shall be available to a creditor in a requesting State seeking to recover maintenance under this Convention—
 - (a) recognition or recognition and enforcement of a decision;
 - (b) enforcement of a decision made or recognised in the requested State;
 - (c) establishment of a decision in the requested State where there is no existing decision, including where necessary the establishment of parentage;
 - (d) establishment of a decision in the requested State where recognition and enforcement of a decision is not possible, or is refused, because of the lack of a basis for recognition and enforcement under Article 20, or on the grounds specified in Article 22 (b) or (e);
 - (e) modification of a decision made in the requested State;
 - (f) modification of a decision made in a State other than the requested State.
- (2) The following categories of application shall be available to a debtor in a requesting State against whom there is an existing maintenance decision—

Status: Point in time view as at 26/04/2024.

Changes to legislation: *Civil Jurisdiction and Judgments Act 1982, CHAPTER III is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) recognition of a decision, or an equivalent procedure leading to the suspension, or limiting the enforcement, of a previous decision in the requested State;
 - (b) modification of a decision made in the requested State;
 - (c) modification of a decision made in a State other than the requested State.
- (3) Save as otherwise provided in this Convention, the applications in paragraphs 1 and 2 shall be determined under the law of the requested State, and applications in paragraphs 1 (c) to (f) and 2 (b) and (c) shall be subject to the jurisdictional rules applicable in the requested State.

Article 11

Application contents

- (1) All applications under Article 10 shall as a minimum include—
- (a) a statement of the nature of the application or applications;
 - (b) the name and contact details, including the address and date of birth of the applicant;
 - (c) the name and, if known, address and date of birth of the respondent;
 - (d) the name and date of birth of any person for whom maintenance is sought;
 - (e) the grounds upon which the application is based;
 - (f) in an application by a creditor, information concerning where the maintenance payment should be sent or electronically transmitted;
 - (g) save in an application under Article 10(1) (a) and (2) (a), any information or document specified by declaration in accordance with Article 63 by the requested State;
 - (h) the name and contact details of the person or unit from the Central Authority of the requesting State responsible for processing the application.
- (2) As appropriate, and to the extent known, the application shall in addition in particular include—
- (a) the financial circumstances of the creditor;
 - (b) the financial circumstances of the debtor, including the name and address of the employer of the debtor and the nature and location of the assets of the debtor;
 - (c) any other information that may assist with the location of the respondent.
- (3) The application shall be accompanied by any necessary supporting information or documentation including documentation concerning the entitlement of the applicant to free legal assistance. In the case of applications under Article 10(1) (a) and (2) (a), the application shall be accompanied only by the documents listed in Article 25.
- (4) An application under Article 10 may be made in the form recommended and published by the Hague Conference on Private International Law.

Status: Point in time view as at 26/04/2024.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982, CHAPTER III is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Article 12

Transmission, receipt and processing of applications and cases through Central Authorities

- (1) The Central Authority of the requesting State shall assist the applicant in ensuring that the application is accompanied by all the information and documents known by it to be necessary for consideration of the application.
- (2) The Central Authority of the requesting State shall, when satisfied that the application complies with the requirements of the Convention, transmit the application on behalf of and with the consent of the applicant to the Central Authority of the requested State. The application shall be accompanied by the transmittal form set out in Annex 1. The Central Authority of the requesting State shall, when requested by the Central Authority of the requested State, provide a complete copy certified by the competent authority in the State of origin of any document specified under Articles 16(3), 25(1) (a), (b) and (d) and (3) (b) and 30(3).
- (3) The requested Central Authority shall, within six weeks from the date of receipt of the application, acknowledge receipt in the form set out in Annex 2, and inform the Central Authority of the requesting State what initial steps have been or will be taken to deal with the application, and may request any further necessary documents and information. Within the same six-week period, the requested Central Authority shall provide to the requesting Central Authority the name and contact details of the person or unit responsible for responding to inquiries regarding the progress of the application.
- (4) Within three months after the acknowledgement, the requested Central Authority shall inform the requesting Central Authority of the status of the application.
- (5) Requesting and requested Central Authorities shall keep each other informed of—
 - (a) the person or unit responsible for a particular case;
 - (b) the progress of the case,and shall provide timely responses to enquiries.
- (6) Central Authorities shall process a case as quickly as a proper consideration of the issues will allow.
- (7) Central Authorities shall employ the most rapid and efficient means of communication at their disposal.
- (8) A requested Central Authority may refuse to process an application only if it is manifest that the requirements of the Convention are not fulfilled. In such case, that Central Authority shall promptly inform the requesting Central Authority of its reasons for refusal.
- (9) The requested Central Authority may not reject an application solely on the basis that additional documents or information are needed. However, the requested Central Authority may ask the requesting Central Authority to provide these additional documents or information. If the requesting Central Authority does not do so within three months or a longer period specified by the requested Central Authority, the requested Central Authority may decide that it will no longer process the application. In this case, it shall inform the requesting Central Authority of this decision.

Status: Point in time view as at 26/04/2024.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982, CHAPTER III is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Article 13

Means of communication

Any application made through Central Authorities of the Contracting States in accordance with this Chapter, and any document or information appended thereto or provided by a Central Authority, may not be challenged by the respondent by reason only of the medium or means of communication employed between the Central Authorities concerned.

Article 14

Effective access to procedures

- (1) The requested State shall provide applicants with effective access to procedures, including enforcement and appeal procedures, arising from applications under this Chapter.
- (2) To provide such effective access, the requested State shall provide free legal assistance in accordance with Articles 14 to 17 unless paragraph 3 applies.
- (3) The requested State shall not be obliged to provide such free legal assistance if and to the extent that the procedures of that State enable the applicant to make the case without the need for such assistance, and the Central Authority provides such services as are necessary free of charge.
- (4) Entitlements to free legal assistance shall not be less than those available in equivalent domestic cases.
- (5) No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in proceedings under the Convention.

Article 15

Free legal assistance for child support applications

- (1) The requested State shall provide free legal assistance in respect of all applications by a creditor under this Chapter concerning maintenance obligations arising from a parent-child relationship towards a person under the age of 21 years.
- (2) Notwithstanding paragraph 1, the requested State may, in relation to applications other than those under Article 10(1) (a) and (b) and the cases covered by Article 20(4), refuse free legal assistance if it considers that, on the merits, the application or any appeal is manifestly unfounded.

Article 16

Declaration to permit use of child-centred means test

- (1) Notwithstanding Article 15(1), a State may declare, in accordance with Article 63, that it will provide free legal assistance in respect of applications other than under Article 10(1) (a) and (b) and the cases covered by Article 20(4), subject to a test based on an assessment of the means of the child.
- (2) A State shall, at the time of making such a declaration, provide information to the Permanent Bureau of the Hague Conference on Private International Law concerning the manner in which the assessment of the child's means will be carried out, including the financial criteria which would need to be met to satisfy the test.

Status: Point in time view as at 26/04/2024.

Changes to legislation: *Civil Jurisdiction and Judgments Act 1982, CHAPTER III is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) An application referred to in paragraph 1, addressed to a State which has made the declaration referred to in that paragraph, shall include a formal attestation by the applicant stating that the child's means meet the criteria referred to in paragraph 2. The requested State may only request further evidence of the child's means if it has reasonable grounds to believe that the information provided by the applicant is inaccurate.
- (4) If the most favourable legal assistance provided for by the law of the requested State in respect of applications under this Chapter concerning maintenance obligations arising from a parent-child relationship towards a child is more favourable than that provided for under paragraphs 1 to 3, the most favourable legal assistance shall be provided.

Article 17

Applications not qualifying under Article 15 or Article 16

In the case of all applications under this Convention other than those under Article 15 or Article 16—

- (a) the provision of free legal assistance may be made subject to a means or a merits test;
- (b) an applicant, who in the State of origin has benefited from free legal assistance, shall be entitled, in any proceedings for recognition or enforcement, to benefit, at least to the same extent, from free legal assistance as provided for by the law of the State addressed under the same circumstances.]

Status:

Point in time view as at 26/04/2024.

Changes to legislation:

Civil Jurisdiction and Judgments Act 1982, CHAPTER III is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.