

SCHEDULE

PROVISIONS OF THE CHILD ABDUCTION AND CUSTODY ACT 1985 AS EXTENDED TO THE CAYMAN ISLANDS

PART I

INTERNATIONAL CHILD ABDUCTION

The Hague Convention.

1.—(1) In this Part of this Schedule “the Convention” means the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25th October 1980.

(2) Subject to the provisions of this Part of this Schedule, the provisions of that Convention set out in Appendix A to this Schedule shall have the force of law in the Cayman Islands.

Contracting States.

2.—(1) For the purposes of the Convention as it has effect under this Part of this Schedule the Contracting States shall be the United Kingdom and those for the time being specified by an Order in Council under section 2(2) of the United Kingdom Child Abduction and Custody Act 1985.

(2) An Order in Council under that section shall specify the date of the coming into force of the Convention as between the United Kingdom and any State specified in the Order. On the same date the Convention shall come into force as between the Cayman Islands and that State; and except where the Order otherwise provides, the Convention shall apply as between the Cayman Islands and that State only in relation to wrongful removals or retentions occurring on or after that date.

(3) Where the Convention applies, or applies only, to a particular territory or particular territories specified in a declaration made by a Contracting State under Article 39 or 40 of the Convention references to that State in sub-paragraphs (1) and (2) above shall be construed as references to that territory or those territories.

Central Authority.

3. The functions under the Convention of a Central Authority shall be discharged in the Cayman Islands by the Attorney-General.

Judicial Authority.

4. The court having jurisdiction to entertain applications under the Convention shall be the Grand Court.

Interim powers.

5. Where an application has been made to the Grand Court under the Convention, the court may, at any time before the application is determined, give such interim directions as it thinks fit for the purpose of securing the welfare of the child concerned or of preventing changes in the circumstances relevant to the determination of the application.

Reports.

6. Where the Attorney-General is requested to provide information relating to a child under Article 7(d) of the Convention he may—

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- (a) request the minister for the time being responsible for social services either to make a report to him in writing with respect to any matter which appears to him to be relevant or to arrange for a suitably qualified person to make such a report to him; and
- (b) request any court to which a written report relating to the child has been made to send him a copy of the report;

and such a request shall be duly complied with.

Proof of documents and evidence.

7.—(1) For the purposes of Article 14 of the Convention a decision or determination of a judicial or administrative authority outside the Cayman Islands may be proved by a duly authenticated copy of the decision or determination; and any document purporting to be such a copy shall be deemed to be a true copy unless the contrary is shown.

(2) For the purposes of sub-paragraph (1) above a copy is duly authenticated if it bears the seal, or is signed by a judge or officer, of the authority in question.

(3) For the purposes of Articles 14 and 30 of the Convention any such document as is mentioned in Article 8 of the Convention, or a certified copy of any such document, shall be sufficient evidence of anything stated in it.

Declaration by the Grand Court.

8. The Grand Court may, on an application made for the purposes of Article 15 of the Convention by any person appearing to the court to have an interest in the matter, make a declaration that the removal of any child from, or his retention outside the Cayman Islands was wrongful within the meaning of Article 3 of the Convention.

Suspension of Court's powers in cases of wrongful removal.

9. The reference in Article 16 of the Convention to deciding on the merits of rights of custody shall be construed as a reference to—

- (a) making, varying or revoking a custody order under section 31 of the Children Law, 1995; and
- (b) registering or enforcing a decision under Part II of this Schedule.

10.—(1) An authority having power to make rules of court may make such provision for giving effect to this Part of this Schedule as appears to that authority to be necessary or expedient.

(2) Without prejudice to the generality of sub-paragraph (1) above, rules of court may make provision—

- (a) with respect to the procedure on applications for the return of a child and with respect to the documents and information to be furnished and the notices to be given in connection with any such application;
- (b) for the giving of notices by or to a court for the purposes of the provisions of Article 16 of the Convention and paragraph 9 above and generally as respects proceedings to which those provisions apply;
- (c) for enabling a person who wishes to make an application under the Convention in a Contracting State other than the Cayman Islands to obtain from any court in the Cayman Islands an authenticated copy of any decision of that court relating to the child to whom the application is to relate.

Cost of applications.

11. The United Kingdom having made such a reservation as is mentioned in the third paragraph of Article 26 of the Convention, the costs mentioned in that paragraph shall not be borne by the Governor or any other authority in the Cayman Islands except so far as they fall to be so borne by virtue of the grant of legal aid or legal advice and assistance under the Poor Persons (Legal Aid) Law 1975.