

EXPLANATORY MEMORANDUM TO
THE PARENTAL RESPONSIBILITY AND MEASURES FOR THE PROTECTION OF
CHILDREN (INTERNATIONAL OBLIGATIONS) (ENGLAND AND WALES AND
NORTHERN IRELAND) REGULATIONS 2010

2010 No. 1898

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 These Regulations make the necessary changes in domestic law to enable the United Kingdom to ratify the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (the 1996 Hague Convention). The 1996 Hague Convention, which the UK has already signed, is intended to improve the effectiveness of measures for the protection of children in cross-border cases and to support the operation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

2.2 The Regulations also make additional provision to ensure consistency in the implementation of similar requirements under Council Regulation (EC) No 2201/2003 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). This Regulation has been in force since March 2005.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 As a consequence of the Council Regulation, the EU has competence over certain provisions of the 1996 Hague Convention: competence is shared with Member States but the Convention can be ratified or acceded to by Member States only.

3.2 The 1996 Hague Convention was accordingly specified by Order in Council¹ as a Community Treaty under section 1(3) of the European Communities Act 1972, which permits its implementation in the UK by way of statutory instruments under section 2(2) of that Act.

3.3 These Regulations will come into force on the date that the 1996 Hague Convention comes into force for the UK. In accordance with the Convention this will be on the first day of the month following the expiry of three months from the date of ratification. A Council Decision² that EU Member States which have yet to ratify should do so simultaneously and, if possible, by 5 June 2010 means that the date of ratification for the UK is dependent on when all other remaining EU Member States

¹ The European Communities (Definition of Treaties) (1996 Hague Convention on Protection of Children etc.) Order 2010 (SI 2010 No.232)

² 2008/431/EC Council Decision of 5 June 2008, Official Journal of the European Union: OJ L151

complete their legislative procedures. The date on which this instrument comes into force will be notified in the London, Edinburgh and Belfast *Gazettes*.

3.4 Regulation 16 provides that the Secretary of State, the Department of Justice in Northern Ireland, the Welsh Ministers or a Local Authority in England or Wales may charge a reasonable fee in respect of the provision of services under Article 35(1) or for providing a report under Article 35(2) of the Convention. This is a new fee power. The policy intention is that a local authority in England or Wales, or the Department of Justice in Northern Ireland, when asked to provide a report on the suitability of a parent to exercise access under Article 35(2), should, where it agrees to do so, be able to recover its reasonable costs. The power will also apply to services under Article 35(1) aimed at supporting and facilitating implementation of measures of protection under the Convention, in particular effective rights of access (“contact” as defined in domestic law). Where the Secretary of State, Department of Justice in Northern Ireland or the Welsh Ministers provide a service under these provisions they too will be able to charge a fee to recover reasonable costs.

3.5 Regulation 16(7) makes it clear that the fee must be limited to the reasonable cost of providing the service and no more.

4. Legislative Context

4.1 The 1996 Hague Convention will be directly effective. The changes made by these Regulations are accordingly those necessary to provide the mechanisms to support ratification of the Convention and to make consequential amendments to primary legislation. The Regulations also improve the procedures for information sharing under the Council Regulation provisions of the same nature as those in the 1996 Hague Convention.

4.2 The intention to bring forward this statutory instrument was announced to Parliament in affirmative resolution debates on the draft Order in Council (House of Commons Seventh Delegated Legislation Committee 8 December 2009³ and House of Lords Grand Committee 15 December 2009⁴). The Regulations reflect agreements reached with the Devolved Administrations on the method of implementation within the UK. The Scottish Ministers are responsible for implementation in Scotland and have brought forward legislation to that end.

4.3 Since the Convention is directly effective as a matter of European Union law, it does not require transposition into domestic law in the manner required for a Directive. The approach to implementation is accordingly that where provisions of the 1996 Hague Convention can operate without the need for further provision, in particular for administrative arrangements, further provision is not required and so has not been made. The detail of the transposition is set out in the Transposition Note attached at Annex A. The Regulations enable applications to be made to the court and information to be disclosed as required under the Convention: the rules of court necessary to support the operation of the 1996 Hague Convention in England and Wales and in Northern Ireland will be made separately by the respective rule-making authorities.

4.4 The EU procedure for ratification of the 1996 Hague Convention was authorised by the Council Decision 2008/431/EC of 5 June 2008 (the Council Decision). This followed on from the earlier Commission proposal 10868/03, COM(2003)348, Proposal for a Council Decision authorising Member States to ratify

³ Official Report, 8 December 2009, Column 3

⁴ Official Report, 15 December 2009, Column 125

or accede to the 1996 Hague Convention, which was the subject of the required Parliamentary scrutiny process. That document cleared scrutiny in the House of Commons and in the House of Lords in 2003.

4.5 Article 1 of the Council Decision authorised the UK and the other EU Member States which had not already done so to ratify the 1996 Hague Convention in the interests of the Union. Article 3 required those EU Member States to deposit their instruments of ratification simultaneously. The date for simultaneous deposit was expressed as "if possible by 5 June 2010". A number of EU Member States are continuing work to put in place their legislative changes, some of which may not be completed until 2011. These Regulations will enable the UK to ratify this important Convention in accordance with the Council Decision and meet its treaty / legal obligations.

4.6 Ratification is in respect of the United Kingdom of Great Britain and Northern Ireland. The Overseas Territories have been consulted and the Falkland Islands have requested extension. The Crown Dependencies will be consulted to consider the extension of the Convention to them. The Council Decision applies to Gibraltar, and the Government of Gibraltar is bringing forward the necessary legislation.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Northern Ireland.

5.2 Regulations for Scotland were laid by the Scottish Government before its Parliament on 26 May 2010⁵.

6. European Convention on Human Rights

6.1 The Lord Chancellor and Secretary of State for Justice, the Right Honourable Kenneth Clarke QC MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 The 1996 Hague Convention establishes uniform rules in international cases on which court will take decisions (jurisdiction), what law the court will apply (choice of law) and rules for the recognition and enforcement in a second Contracting State of decisions made in the first Contracting State. The rules apply to measures for the protection of children and their property so that these matters do not have to be re-litigated in cross-border situations. Such measures include custody and access orders (known as residence and contact orders in domestic law), orders on the grant and exercise of parental responsibility, including representation of the child in relation to the child's property (although the exercise of parental responsibility is subject to the law of the country of the child's habitual residence) and certain orders about the fostering and placement of children in cross-border situations.

⁵ The Parental Responsibility and Measures for the Protection of Children (International Obligations) (Scotland) Regulations 2010 (Scottish SI 2010 No. 213)

7.2 Parents and children should benefit because the 1996 Hague Convention removes the need to re-litigate these decisions by securing their recognition and enforcement when the child has moved to another country. This will make for speedier, more efficient handling of cases, to the benefit of the children and families involved. The 1996 Hague Convention also provides for information and reports on the situation of the child or the non-resident parent in one country which is a party to the Convention to be sent to another country which is also a party, in appropriate circumstances. The 1996 Hague Convention requires provision of a system of Central Authorities, administrative bodies which transmit information on cases between Contracting States, to improve administrative co-operation on individual cases and more generally on the smooth operation of the 1996 Hague Convention. Such systems already exist for Member States of the EU for the Council Regulation, and states Party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

7.3 As the 1996 Hague Convention is directly effective, the Regulations do not set out all the provisions of the Convention nor purport to give the 1996 Hague Convention effect in domestic law. The Regulations make specific provision to deal with matters where applications need to be made to the courts of England and Wales and Northern Ireland. Where the Council Regulation or the 1996 Hague Convention apply, applications may be made for interim care or interim supervision orders to protect the child in an emergency situation where the court does not have full jurisdiction (Regulations 5 and 6). This is necessary because domestic law otherwise prevents applications for such orders unless there is an application for a full care or supervision order. Provision is also made to ensure flexibility in the court's power to stay proceedings for transfer to another Contracting State to be considered (Regulation 3 and Schedule paragraph 6), and to ensure that the most senior courts deal with certain internationally important matters under the 1996 Hague Convention (recognition and enforcement of foreign orders, declarations of the existence or extent of foreign parental responsibility under Article 16, and requests to assume jurisdiction under Article 9 - Regulations 4, and 8). Regulation 7 ensures that the applicable law rules of the Convention will apply to cases under the Council Regulation between EU Member States, as was undoubtedly the intention of the EU legislator, despite an oversight in the drafting of the Council Regulation.

7.4 The Regulations also make specific provision for designation of Central Authorities in England, Wales and Northern Ireland (Regulation 9) and provisions to allow the disclosure by a relevant public authority of information to a Central Authority for the purpose of the protection of a child under the 1996 Hague Convention (Regulations 10 and 12) and under the Council Regulation (Regulation 11) without either contravention of data protection legislation or any disclosure which would be a contempt or a criminal offence. Regulation 14 provides a power (but not an obligation) for a public authority to give information relevant to the protection of a child where a request is made under Article 34. Specific provision about disclosure of information relating to court proceedings is made for Northern Ireland (Regulation 15) reflecting the different legislative framework in that jurisdiction. Provision is also made to facilitate consultation on cross-border placement of children by providing information under the 1996 Hague Convention and under the Council Regulation (Regulation 13). Consequential amendments to primary legislation are set out in the Schedule (Regulation 17).

7.5 The 1996 Hague Convention provides some mechanisms for the provision of reports and for consultation on cross-border placements which also exist in the Council Regulation between EU Member States. If the Convention is widely ratified beyond the European Union these provisions will be available between the UK and other non-EU

countries with which the Convention is in force for the UK. The Convention also provides new mechanisms, for example a report on the non-resident parent's suitability to obtain or maintain access in a cross-border situation. It is not possible to say how much the mechanisms will be used. It is not yet known how many non-EU countries are likely to become party to the Convention. There has been no significant level of public interest in the UK. There has been some Parliamentary interest over the years in the implementation of the 1996 Hague Convention to support the operation of the 1980 Hague Child Abduction Convention.

Consolidation

7.6 There are no plans for consolidation, since the 1996 Hague Convention itself is free-standing, and the connected European Union instruments have direct effect and are not susceptible to consolidation at domestic level.

8. Consultation

On whether the UK should sign and ratify the 1996 Hague Convention

8.1 Public consultation on whether the United Kingdom should sign and ratify the 1996 Hague Convention was concluded in 2001. This included specialists in the legal profession and the judiciary. On the basis of the responses received the UK Government decided in May 2001 that the UK should sign and ratify the Convention. Consultation responses identified the main impact of the Convention as follows:

- It should ensure that, so far as possible, conflicts between the courts of different countries in relation to children are avoided.
- It should enable parents, children and others to have access to convenient and accessible courts.
- It should ensure that decisions relating to children made in one country will be respected in others, so that people do not have to incur the expense and trouble of taking fresh proceedings when they move to another country.
- It will complement and strengthen the operation of the 1980 Hague Child Abduction Convention between states which have ratified both Conventions.

On the provisions to be made in these Regulations

8.2 A six week technical consultation on the draft of this Statutory Instrument was conducted in 2010 with key interest groups in England, Wales and Northern Ireland including the judiciary and practitioners. In England, the Children and Family Court Advisory and Support Service (Cafcass), local authorities and the representative body of local authorities and the Association of Directors of Children's Services were also consulted, with the consultation focusing particularly on the practical and operational implications of the proposals. This approach was adopted in the light of the earlier public consultation on the Convention itself and the fact that these regulations are technical and ancillary to the Convention, primarily affecting those key interest groups with the knowledge and experience to comment. Accordingly, the detailed responses have not been published. Proposals set out in the Ministry of Justice's technical consultation were agreed as follows:

- Most respondents agreed that a separate application under Article 16 to provide for declarations as to the existence and/or extent of parental responsibility should be available, and made in the High Court.
- Applications for recognition and enforcement to be made in the High Court.
- The lower courts to be able to deal with recognition arising as an incidental question in proceedings.
- A local authority should not be able to directly request from another contracting State Article 9 transfer of jurisdiction where its intention was to seek court orders about the child in question following such transfer (a situation otherwise possible under the Convention). Instead, the local authority should be obliged to ask the High Court to make the request.
- A procedure for other interested persons to ask the court to make an Article 9 request in suitable cases.

8.3 Points raised in the consultation which required amendment to the provisions in this instrument were:

- Concern regarding the requirement that a court must comply with a Central Authority request to provide reports submitted to it, this being information relating to children proceedings which would normally be specifically protected from disclosure under domestic law. This has been addressed by a provision that nothing in the regulation requires a person to disclose information where to do so would constitute contempt of court or a criminal offence, although in such a situation that person must inform the court if he or she feels that disclosure of the information is nevertheless important to the child's protection.

9. Guidance

9.1 The President of the Family Division of the High Court has agreed to issue practice guidance for the legal profession and court users to support operation of the Convention. The Ministry of Justice will work with the Department for Education to ensure that local authorities and Cafcass have appropriate access to this and any other practical guidance on operating relevant aspects of the Convention. Where appropriate this guidance will address detailed issues raised during the technical consultation, not relevant to the provisions of this Statutory Instrument.

10. Impact

10.1 Some of the provisions of the Convention are already mirrored in the Council Regulation implemented in 2005. The Convention will extend a similar framework to other non-EU States that choose to become Contracting States to the Convention. There are some differences to the way in which the Convention will operate as between the UK and non-EU Contracting States. The provisions in this Statutory Instrument do not go beyond what is necessary to implement the Convention, including making consequential changes to domestic legislation. Furthermore, these provisions impact directly on public sector bodies by affecting the duties of Central Authorities (the administrative units that receive and transmit requests for information and assistance under the Convention), the courts, local authority children's services and Cafcass. The detailed operational aspects of implementing the Convention in England, Wales and

Northern Ireland will be set out in rules of court and in administrative agreements. These will be subject to separate discussion and consultation with appropriate bodies.

10.2 Work flows under the Council Regulation, with which the Convention overlaps, have developed very gradually over time and remain low. There were only 50 cases in 2009 under Article 55 of the Council Regulation (which contains similar administrative co-operation requirements to those in the Convention). The short-term assessment is therefore that there is unlikely to be any significant impact from implementation of the Convention – a view supported by several responses to the technical consultation on this instrument. In the medium to longer term it is not possible to predict the number of countries that may become Contracting States to the Convention. Future work flows will depend on how many non-EU countries become Contracting States, whether these are countries with which the UK has cases and when the provisions of the convention come into force between each country and the UK. Information to undertake a detailed impact assessment is very limited but to the best of our knowledge the annual impact on public sector bodies will be minimal and for that reason an impact assessment has not been prepared for this instrument. Mechanisms will, however, be put in place as part of implementation to collect information about future case flows.

10.3 This instrument imposes no direct impact on business, charities or voluntary bodies. In terms of indirect impact for business, legal practitioners will need to understand the changes and be able to apply them to relevant cases, as for any other legislative change. Judicial practice guidance on the operation of the Convention will be made available to public sector bodies and any other body with an interest. For charities and voluntary bodies working in the field of child protection, we anticipate that they will wish to make their staff aware of the effect of the Convention. These matters are beyond the scope of this instrument which makes changes to enable ratification of the Convention.

10.4 It is also possible that individual local authorities may, on a case by case basis, choose to make use of services provided by relevant charities or voluntary bodies. There is, however, no obligation under this instrument for charities or voluntary bodies to provide such services.

11. Regulating small business

11.1 This instrument does not apply to small business.

12. Monitoring & review

12.1 Statistics will be maintained by the Central Authorities on the use made of the provisions in the 1996 Hague Convention where the activity involves the Central Authority. The operation of the 1996 Hague Convention will also be reviewed in line with UK treaty obligations. In particular, the UK jurisdictions will participate fully in the review mechanisms of the Hague Conference on Private International Law and any prior review requirements of the European Union, normally entailing a Hague Conference Special Commission meeting in The Hague every four or five years to review in detail the operation of the 1996 Hague Convention. The UK will put forward any proposals for operational improvements to any EU review.

12.2 The UK jurisdictions in England, Wales and Northern Ireland will review the operation of these Regulations domestically from time to time as appropriate and bring forward any necessary amending regulations as needed. This will include a review of whether the High Court remains the appropriate court to which certain applications

must be made. Experience with Article 55 of the existing EU regulation was that there were no cases in the first two years of operation. We therefore propose that a first domestic review of the operation of the Convention should be undertaken two years from the date of implementation. Mechanisms will be put in place as part of implementation to collect information about case flows.

13. Contact

Miss G BAILEY at the Ministry of Justice on tel: 020 3334 3200 or email gay.bailey@justice.gsi.gov.uk can answer any queries regarding the instrument.

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 1996⁶ (the Convention)

TRANSPOSITION NOTE

Introduction

1. This transposition note addresses the implementation in England and Wales and Northern Ireland of the requirements of the Convention (which was specified as a Community Treaty by an Order in Council under s.1(3) of the European Communities Act 1972.⁷). Implementation in Scotland is the responsibility of the Scottish Ministers.
2. The Convention is directly effective as a matter of European Union law and does not require transposition into domestic law in the manner required for a directive. The provisions made by the regulations are therefore concerned not with transposition but with facilitating the effective operation of the Convention.
3. Implementation, as far as required, is by the Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010, made under s.2(2) of the European Communities Act 1972 (the regulations).
4. The regulations also contain provision to ensure consistency with and to improve the operation of Council Regulation (EC) No. 2201/2003 concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and the Matters of Parental Responsibility⁸ (the Council Regulation) which deals with similar matters and was modelled on the Convention. Provisions of the regulations which address the Council Regulation are marked by an asterisk (*) in the table below.
5. The Council Regulation makes substantially similar provision for children cases within the European Union to that made by the Convention, and prevails over the Convention in most situations in relations between EU member States in matters of jurisdiction, recognition, enforcement and administrative co-operation. It does not, however, make provision for applicable law rules (which law the court should use in cases with an international element) which will be provided by the Convention as between EU member States in the same way as between other Contracting States to the Convention.
6. These regulations do not go beyond what is necessary to implement the Convention, including making consequential changes to domestic legislation to ensure its coherence in the area to which it applies.

⁶ Cm 7727

⁷ S.I. 2010/232

⁸ OJ No.L338, 22.12.03, pp.1 - 29

Implementation table (provisions relating to the Council Regulation marked with *)

Implementation of the Convention is the responsibility of the Secretary of State for Justice, and the Department of Justice in Northern Ireland (for those matters relating to Northern Ireland). Column 4 of the table refers to responsibility for the function under the Convention.

Article	Objective	Implementation	Responsibility
8	An authority with jurisdiction (the power to take decisions) under Articles 5 or 6 may by agreement transfer that jurisdiction to the authority of another Contracting State with which the child has an appropriate connection and where that is in the child's best interests.	Regulation 3 (and Schedule paragraph 6(2) and 8(2)) provide power for domestic courts to lift a stay of proceedings imposed for requests under Article 8 to be made, and withdraw the Article 8 request, where there is undue delay in obtaining transfer to the other state.	Lord Chancellor; Northern Ireland Executive
9	Request by authority without jurisdiction to assume jurisdiction by agreement with authority with jurisdiction in the other Contracting State.	Regulation 4 provides for local authorities which wish to apply for a care or supervision order about a child within the jurisdiction of another Contracting State's authorities to ask the High Court to make the Article 9 request to those authorities. Local Authorities and Northern Ireland authorities are "competent authorities" under the Convention and so, unless otherwise restrained, could in theory get jurisdiction transferred to the UK by direct Article 9 request to authorities of the other Contracting State. This is not appropriate where the purpose would be to apply for a care or supervision order – in such a situation the decision should be that of the court, particularly given the requirements of international respect for other legal systems.	Request by Local Authority: Secretary of State; Welsh Ministers; Northern Ireland Executive Article 9 request – Lord Chancellor; Northern Ireland Executive
11, 12 - and Council Regulation A.20*	These provisions permit a Contracting State, or a member State, to take measures to protect a child on an interim basis, even though another Contracting State or member State's authorities have "full" jurisdiction in the case.	In domestic law, the local authority can apply for an interim care or interim supervision order only if it is also applying for a full order and the court has jurisdiction. Regulation 5 (and Regulation 6, for Northern Ireland) modify the application of the Children Act 1989 s.38 and the Children (Northern Ireland) Order 1995 Article 57 where Article 11, 12 or Council Regulation Article 20 apply, and the local authority or Northern Ireland Authority wishes to apply for an interim	

		care or interim supervision order. The modification enables such application to be made, relying on Article 11, 12 or Article 20 as appropriate, even though there would be no jurisdiction to make the full care or supervision order.	
15(1)	This Article provides the general rule that, when using the jurisdictional rules of Chapter II of the Convention, the authority making the decision will apply its own law (as opposed to the law of another state with which the child has connections as defined in the Convention). This is a rule on applicable law.	Regulation 7 seeks to repair a weakness in the application of the Council Regulation. It is intended that, within the European Union, ratification of the Convention would be relied upon to introduce applicable law rules to cases within the EU. However, the drafting of Article 15(1) of the Convention refers to exercise of jurisdiction under Chapter II <i>of the Convention</i> being the trigger for the application of this rule. EU member States do not generally apply the jurisdictional rules of the Convention <i>in relations between themselves</i> (see Article 61 of the Council Regulation), and the Council Regulation makes no provision to ensure that Article 15(1) of the Convention applies where jurisdiction is exercised under the rules of the EU Regulation instead of the Convention. Regulation 7 therefore gives clear effect to the undoubted intention of the EU legislator by ensuring that Article 15(1) of the Convention is read to include the Council Regulation jurisdictional rules too.	
Chapter IV and A.16	Chapter IV provides rules on recognition and enforcement of orders about children between Contracting States, and in particular provides for two types of application that can be made – recognition (Article 24) and enforcement (Article 26). Article 16 makes provision on the law to be used to decide whether, and to what extent, a person has parental responsibility for a child where the parental responsibility derives from another Contracting State.	Regulation 8 implements Chapter IV by saying which domestic courts will be able to hear applications for recognition and enforcement. These will be heard in the High Court. Declarations will be made by the High Court on the existence, or extent, of a person’s parental responsibility for a child under Article 16. Resolution of such issues should normally be sought by an application to the domestic court under the Children Act 1989 in England and Wales and the Children (Northern Ireland) Order 1995 in Northern Ireland. It is only where such an application is inappropriate or unavailable that a declaration should be sought.	Lord Chancellor Northern Ireland Executive

29	This provision requires each Contracting State to establish a Central Authority to facilitate the operation of the Convention. States with more than one system of law, or more than one territorial unit, may appoint more than one Central Authority.	Regulation 9 establishes which bodies will be Central Authorities for the <u>Convention</u> – the Lord Chancellor in England, the Welsh Ministers in Wales, and the Department of Justice in Northern Ireland. Where a person outside the UK is uncertain which Central Authority to write to, the Lord Chancellor will accept the communication and transmit it as appropriate.	Lord Chancellor; Welsh Ministers; Northern Ireland Executive
31c	This provision requires each Central Authority to take all appropriate steps to assist in locating a child where a request is made by the authority of another Contracting State, when that child appears to be present and in need of protection within the country.	Regulation 10 facilitates the operation of Article 31c in England, Wales and Northern Ireland by giving each Central Authority power to make requests for relevant information from specific public bodies, which must be complied with (subject to there being a danger to the child or his/her family from transmission of the information – Article 37 of the Convention; or where transmission would constitute contempt of court or a criminal offence). This provision ensures that authorities can share information appropriately and lawfully.	Requests by Central Authorities - Lord Chancellor; Welsh Ministers; Northern Ireland Executive Compliance with requests by relevant public bodies – Secretary of State; Welsh Ministers; Northern Ireland Executive
Council Regulation A.55(a)(i)*	This provision, which imposes obligations similar to those in Article 31 and Article 32(a) of the Convention, requires (among other matters) Central Authorities established under the Council Regulation to take all appropriate steps (in accordance with national law on data protection) to collect	Regulation 11 gives the England and Wales Central Authority the power to make requests for information on the location and situation of a child from specified public bodies, which must comply (unless it would be contempt of court or a criminal offence to do so). This provision assists the Central Authority to carry out its duties under Article 55(a)(i) in an effective and proportionate way, and assists the lawful and appropriate sharing of information for the protection of a child.	Requests by Central Authority - Lord Chancellor Compliance with requests by relevant public bodies – Secretary of State;

	and exchange information on the situation of the child. It applies only between EU member States, except Denmark.		Welsh Ministers
32a	This provision of the Convention permits Central Authorities to provide a report on the situation of a child upon request, with reasons in support, from another Central Authority or competent authority of a Contracting State.	Regulation 12 gives the Central Authority power to request reports on a child's situation from specified bodies where it considers that it would be appropriate to provide a report. The report must be provided where it would endanger the child or his family (see Article 37 of the Convention) or would constitute contempt or a criminal offence.	Requests by Central Authorities - Lord Chancellor; Welsh Ministers; Northern Ireland Executive Compliance with request by stated public bodies – Secretary of State; Welsh Ministers; Northern Ireland Executive
33, and Council Regulation A.56*	These provisions require an authority which is making a decision about a child and is contemplating placing that child in foster care, institutional care, or <i>kafala</i> (replacement protection) in another Contracting State or member State to consult the authorities of that state prior to the decision on placement (for Convention cases, a report is required). Consent of the requested authority to placement is required if that would be necessary under their domestic arrangements.	Regulation 13 makes it obligatory for the court or local authority to provide the report to or consult with the authority in the other state. This ensures that the provision of information is lawful for the purposes of the Data Protection Act 1998, by imposing a function via domestic law on the court or local authority, as the case may be.	Reports by the court - Lord Chancellor; Northern Ireland Executive; Reports by local authorities or Northern Ireland Authorities - Secretary of State; Welsh Ministers; Northern Ireland Executive

34	This provision allows a competent authority (e.g. a court) to request “any” authority of another Contracting State to give information relevant to the protection of the child “if the situation of the child so requires”. There is no obligation on the requested authority to respond.	Regulation 14 gives an authority in England, Wales or Northern Ireland to which a request is made, the power to provide the information in question should it wish to respond. This facilitates the lawful provision of information in appropriate circumstances.	
35	This Article allows competent authorities of one Contracting State to request the assistance of authorities of another Contracting State in implementing protective measures, especially on rights of access (known as “contact” in domestic law). The provision relates to practical assistance (Article 35(1)) as opposed to legal enforcement. By Article 35(2), a parent resident in a Contracting State who seeks access to a child in proceedings in the Contracting State of the child's habitual residence can ask the authorities of his or her Contracting State of residence to provide a report on his/her suitability to obtain/maintain access, for use as evidence in the proceedings.	Regulation 16 facilitates the operation of Article 35 in England and Wales and Northern Ireland. It gives specific bodies the power to make reasonable charges for services under Article 35(1) and (2) should that be appropriate; and identifies the bodies which will be responsible for Article 35(2) reports.	Secretary of State; Welsh Ministers; Northern Ireland Executive
Central Authority functions under the		Regulation 15 gives specific powers to Northern Ireland courts to permit disclosure for Central Authority functions, and provides that disclosure in accordance with such permission does not constitute contempt of court. This is required because it may be necessary in	Northern Ireland Executive

Convention - general		specific cases for information relating to court proceedings to be transmitted under the Convention, but such information is protected by specific domestic legislation which makes most disclosure a contempt of court. In England and Wales it is possible to authorise disclosure for specific purposes in rules of court, but equivalent Northern Ireland legislation does not allow this at present.	
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