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STATUTORY INSTRUMENTS

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**2020 No.**

**EXITING THE EUROPEAN UNION**

**FAMILY LAW**

**MEDIATION, NORTHERN IRELAND**

**PRIVATE INTERNATIONAL LAW**

**The Civil Jurisdiction and Judgments (Civil and Family)  
(Amendment) (EU Exit) Regulations 2020**

*Sift requirements satisfied* \*\*\*

*Made* - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force in accordance with regulation 1*

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018(a) (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, that Act.

**Citation and commencement**

**1.** These Regulations may be cited as the Civil Jurisdiction and Judgments (Civil and Family) (Amendment) (EU Exit) Regulations 2020 and come into force 21 days after the day on which they are laid.

### **Amendment of the Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019**

2.—(1) Paragraph 14 of Schedule 1 to the Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019<sup>(a)</sup> (amendment of the Fair Employment and Treatment (Northern Ireland) Order 1998) is amended as follows.

(2) For sub-paragraph (2)(a) substitute—

“(a) in paragraph (1), for “Articles 46A and” substitute “Article”;

(3) After sub-paragraph (3) insert—

“(4) In Article 46B(1) (extension of time limit to allow conciliation), omit the second sentence.”.

### **Amendment of the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019**

3. In regulation 26 of the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019<sup>(b)</sup>, in the new section 15C(2)(c) to be inserted into the Civil Jurisdiction and Judgments Act 1982<sup>(c)</sup> (jurisdiction in relation to individual contracts of employment)—

(a) after “any one part of the United Kingdom” insert “or any one overseas country”;

(b) after “employee is” insert “or was”.

### **Amendment of the Family Procedure Rules 2010 and Court of Protection Rules 2017 (Amendment) (EU Exit) Regulations 2019**

4.—(1) The Family Procedure Rules 2010 and Court of Protection Rules 2017 (Amendment) (EU Exit) Regulations 2019<sup>(d)</sup> are amended as follows.

(2) In regulation 27 (transitional and saving provision – Part 34), in paragraph (2), after “2019” insert “or, as the case may be, regulation 92 of the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019”.

(3) In regulation 30 (amendment of Part 6)—

(a) for paragraph (3) substitute—

“(3) In rule 6.11, in paragraph (2), omit—

(a) the definition of “Member State”;

(b) in the definition of “Service Convention country”, the words “, not being a Member State,”;

(c) the definition of “the Service Regulation”.”;

(b) in paragraph (5), for “(3)(a)(ii)” substitute “(3)(a)(i)”.

### **Amendment of the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019**

5.—(1) The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019<sup>(e)</sup> are amended as follows.

(2) In regulation 8 (saving and transitional provisions), in paragraph (1)—

(a) in sub-paragraph (a)—

(i) after “Member State” insert “or, as the case may be, a part of the United Kingdom”;

(ii) at the end of paragraph (i), omit “or”;

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(a) S.I. 2019/469.

(b) S.I. 2019/479.

(c) 1982 c. 27.

(d) S.I. 2019/517.

(e) S.I. 2019/519.

- (iii) at the end of paragraph (ii), insert “or”;
- (iv) after paragraph (ii) insert—
  - “(iii) the provisions of Schedule 6 (allocation within the United Kingdom of jurisdiction relating to maintenance matters) to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011(a)”;
- (b) for sub-paragraph (b) substitute—
  - “(b) proceedings before a court seised, whether before or after exit day, in reliance upon a choice of court agreement concluded before exit day in accordance with Article 4 of Council Regulation No. 4/2009 or that Article as applied by paragraph 5 of Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011;”
- (c) in sub-paragraph (c)—
  - (i) at the end of paragraph (i), omit “or”;
  - (ii) at the end of paragraph (ii), insert “or”; and
  - (iii) after paragraph (ii) insert—
    - “(iii) the provisions of Schedule 6 (allocation within the United Kingdom of jurisdiction relating to maintenance matters) to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.
- (3) In the Schedule—
  - (a) in paragraph 5 (amendment of the Maintenance Orders (Reciprocal Enforcement) Act 1972), in sub-paragraph (2)(b), omit the words “for adherence and aliment or”;
  - (b) in paragraph 6 (amendment of the Matrimonial Causes Act 1973), for sub-paragraph (2) substitute—
    - “(2) In section 27 (financial provision orders in cases of neglect to maintain), for subsection (2) substitute—
      - “(2) The court may not entertain an application under this section unless—
        - (a) the applicant or the respondent is domiciled in England and Wales on the date of the application;
        - (b) the applicant has been habitually resident there throughout the period of one year ending with that date; or
        - (c) the respondent is resident there on that date.
      - (2A) If the application or part of it relates to a matter in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain that application or part of it except where permitted by Article 18.
      - (2B) In subsection (2A), “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.”;
  - (c) in paragraph 8 (amendment of the Matrimonial Causes (Northern Ireland) Order 1978), for sub-paragraphs (4)(d) and (e), substitute—
    - “(d) for paragraph (5)(b) substitute—
      - “(5) The court has jurisdiction to entertain an application for financial provision under Article 29 if (and only if)—
        - (a) the applicant or the respondent is domiciled in Northern Ireland on the date of the application;

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(a) S.I. 2011/1484, amended by Crime and Courts Act 2013 (c. 22), Schedule 10, paragraph 99 and Schedule 11, paragraph 210; and by S.I. 2012/2814, 2014/879, 2015/1489 and 2019/519 and S.R. 2016/317.

(b) S.I. 1978/1045 N.I. 15). Paragraph (5) of Article 49 was substituted by S.I. 2011/1484.

- (b) the applicant has been habitually resident there throughout the period of one year ending with that date; or
  - (c) the respondent is resident there on that date.
- (5A) If the application or part of it relates to a matter in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain that application or part of it except where permitted by Article 18.”;
- (e) in paragraph (7)(a), omit “Subject to Article 19(1) of the Council Regulation,”;
  - (f) for paragraph (8)(b) substitute—
 

“(8) In this Article “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.”;
- (d) in paragraph 12 (amendment of the Civil Jurisdiction and Judgments Act 1982), after sub-paragraph (13) insert—
- “(14) In Schedule 8(c) (rules as to jurisdiction in Scotland), in paragraph 2, after sub-paragraph (d) insert—
- “(e) in matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which has jurisdiction to entertain those proceedings, provided that an action of affiliation and aliment shall be treated as a matter relating to maintenance which is not ancillary to proceedings concerning the status of a person.”;
- (e) in paragraph 13 (amendment of the Matrimonial and Family Proceedings Act 1984)—
- (i) for sub-paragraph (2) substitute—
 

“(2) In section 15(d) (jurisdiction of the court)—

    - (a) in subsection (1), for “subsections (1A) and (2)” substitute “subsection (1A)”;
    - (b) in subsection (1A), for the words from “where” to “the end substitute “in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18”;
    - (c) in subsection (3), for the words from ““the Maintenance Regulation”” to the end substitute ““the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.”;
  - (ii) for sub-paragraph (4) substitute—
 

“(4) In section 28(e) (circumstances in which a Scottish court may entertain application for financial provision)—

    - (a) in subsection (1), for “subsections (3A) and (4)” substitute “subsection (3A)”;
    - (b) in subsection (3A), for the words from “where” to the end substitute “in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18”;
    - (c) for subsection (5) substitute—
 

“(5) “The 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.”;

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(a) Paragraph (7) was amended by S.I. 2005/265.

(b) Paragraph (8) was inserted by S.I. 2001/660, and amended by S.I. 2005/265.

(c) 1982 c. 27. Sub-paragraph (e) of paragraph 2 was repealed by S.I. 2011/1484.

(d) 1984 c. 42. Subsection (1) was amended, and subsections (1A) and (3) inserted, by S.I. 2011/1484.

(e) Subsection (1) was amended, and subsections (3A) and (5) inserted, by S.I. 2011/1484.

- (f) in paragraph 15 (amendment of the Family Law Act 1986)—
  - (i) in sub-paragraph (3)(d) for the words from “omit” to the end substitute “for “Council Regulation” substitute “Hague Convention””;
  - (ii) in sub-paragraph (5)(c), for the words from “omit” to the end substitute “for “Council Regulation” substitute “Hague Convention””;
- (g) in paragraph 17 (amendment of the Children Act 1989), for sub-paragraph (2) substitute—
  - “(2) In paragraph 10(a) (alteration of maintenance agreements)—
    - (a) in sub-paragraph (2A), for the words from “where” to the end substitute “in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18”;
    - (b) in sub-paragraph (2B), for the words from ““the Maintenance Regulation”” to the end substitute ““the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”.”;
- (h) in paragraph 18 (amendment of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989), for sub-paragraph (2) substitute—
  - “(2) In Article 19(b) (jurisdiction of the court)—
    - (a) in paragraph (1), for “paragraphs (1A) and (2)” substitute “paragraph (1A)”;
    - (b) in paragraph (1A), for the words from “where” to the end substitute “in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18”;
    - (c) in paragraph (3), for the words from ““The Maintenance Regulation”” to the end substitute ““The 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”.”;
- (i) in paragraph 23 (amendment of the Children (Northern Ireland) Order 1995), for sub-paragraph (2) substitute—
  - “(2) In paragraph 12(c) (alteration of maintenance agreements)—
    - (a) in sub-paragraph (2A), for the words from “where” to the end substitute “in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18”;
    - (b) in sub-paragraph (2B), for ““the Maintenance Regulation”” to the end substitute ““the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”.”;
- (j) in paragraph 25 (amendment of the Civil Partnership Act 2004)—
  - (i) in sub-paragraph (2)—
    - (aa) in paragraph (a), at the end insert “and at the end insert “This subsection is subject to subsection (3B)(d).””;
    - (bb) for paragraphs (b) and (c) substitute—

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(a) 1989 c. 41. Paragraphs (2A) and (2B) were inserted by S.I. 2011/1484.

(b) S.I. 1984/677 (N.I. 4). Paragraph (1) of Article 19 was amended, and paragraphs (1A) and (3) of that Article inserted, by S.I. 2011/1484.

(c) S.I. 1995/755 (N.I. 2). Sub-paragraphs (2A) and (2B) of paragraph 12 of Schedule 1 were inserted by S.I. 2011/1484.

(d) 2004 c. 33. Subsection (3) of section 227 was amended by S.I. 2011/1484 and by S.S.I. 2019/104. Subsections (3A), (3B) and (6) were inserted by S.I. 2011/1484, and subsection (3A) repealed by S.S.I. 2019/104.

- “(b) in subsection (3B), for the words from “where” to the end substitute “in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part it except where permitted by Article 18”;
- (c) in subsection (6), for the words from ““the Maintenance Regulation”” to the end substitute ““the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”.”;
- (ii) in sub-paragraph (3), for paragraph (b) substitute—
  - “(b) after sub-paragraph (2) insert—
    - “(2A) If the application or part of it relates to a matter to which Article 18 of the 2007 Hague Convention applies, the court must not entertain the application or that part of it except where permitted by Article 18.”;
  - (c) in sub-paragraph (5)(a), for the words from ““the Maintenance Regulation”” to the end substitute ““the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”.”;
- (iii) in sub-paragraph (6), for paragraph (a) substitute—
  - “(a) in paragraph 7(b) (jurisdiction of the court)—
    - (i) in sub-paragraph (6), for the words from “where jurisdiction falls” to the end substitute “in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain that application or part of it except where permitted by Article 18”;
    - (ii) in sub-paragraph (7), for the words from ““the Maintenance Regulation”” to the end substitute ““the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”.”;
- (iv) in sub-paragraph (7), for paragraphs (a) to (c) substitute—
  - “(a) in sub-paragraph (1)(c), for “sub-paragraphs (3A) and (4)” substitute “sub-paragraph (3A)”;
  - (b) in sub-paragraph (3A), for the words from “where” to the end substitute “in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18”;
  - (c) in sub-paragraph (5), for the words from ““the Maintenance Regulation”” to the end substitute ““the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”.”;
- (v) in sub-paragraph (8), for paragraph (a)(ii) substitute—
  - “(ii) after sub-paragraph (2) insert—
    - “(2A) If the application or part of it relates to a matter to which Article 18 of the 2007 Hague Convention applies, the court must not entertain the application or that part of it except where permitted by Article 18.”;
  - (iii) in sub-paragraph (5)(d), for the words from ““the Maintenance Regulation”” to the end substitute ““the 2007 Hague Convention” means the Convention on

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(a) Sub-paragraph (5) of paragraph 39 of Schedule 5 was inserted by S.I. 2011/1484.  
 (b) Sub-paragraphs (6) and (7) of paragraph 7 of Schedule 7 were inserted (and sub-paragraph (1) amended in consequence) by S.I. 2011/1484.  
 (c) Sub-paragraphs (3A) and (5) of paragraph 2 of Schedule 11 were inserted, and sub-paragraph (1) amended, by S.I. 2011/1484.  
 (d) Sub-paragraph (5) of paragraph 34 of Schedule 15 was inserted by S.I. 2011/1484.

the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”;

(vi) in sub-paragraph (9), for paragraph (a) substitute—

“(a) in paragraph 7(a)—

- (i) in sub-paragraph (6), for the words from “where jurisdiction falls” to the end substitute “to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18”;
- (ii) in sub-paragraph (7), for the words from “the Maintenance Regulation” to the end substitute “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague”;

Date

*Name*  
Parliamentary Under Secretary of State  
Ministry of Justice

#### **EXPLANATORY NOTE**

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

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies in retained EU law (under section 8(2)(c) of that Act) arising from the withdrawal of the UK from the European Union.

Regulation 2 amends the Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 (“the mediation SI”) before the mediation SI comes into force. It updates the mediation SI to take account of an amendment, made after the mediation SI was made, to a Northern Ireland instrument amended by the mediation SI.

Regulation 3 amends the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 (“the civil SI”) before the civil SI comes into force. It corrects an error in the civil SI to ensure that the new section 15C(2)(c) in the Civil Jurisdiction and Judgments Act 1982 (c. 27) reflects the policy intention to replicate, as closely as possible, the special rule for jurisdiction in relation to individual contracts of employment contained in Article 21(1)(b)(ii) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters.

Regulation 4 amends the Family Procedure Rules 2010 and Court of Protection Rules 2017 (Amendment) (EU Exit) Regulations 2019 (“the Rules SI”) before the Rules SI comes into force. It addresses a gap in the transitional provisions of the Rules SI in relation to amendments made by the Rules SI to Part 34 of the Family Procedure Rules concerning reciprocal enforcement of maintenance, ensuring that those transitional provisions operate by reference not only to the transitional provisions of the family SI, but also, where relevant, to those of the civil SI (which will be relevant for ongoing maintenance matters under the Lugano Convention. It also amends the provisions of the Rules SI which amend the Court of Protection Rules 2017 in relation to service of documents outside the jurisdiction, to omit a reference to “Member State” which had

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(a) Sub-paragraphs (6) and (7) of paragraph 7 of Schedule 17 were inserted (and sub-paragraph (1) amended in consequence) by S.I. 2011/1484.

been missed, and to correct a cross-reference which mistakenly refers to an omitted provision, so that it refers to the correct provision.

Regulation 5 amends the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 ('the family SI') before the family SI comes into force. It makes clear that where proceedings are commenced, applications and requests for assistance have been received, or maintenance is due to be paid, before exit day relying on the provisions of Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 those provisions will continue to apply after exit day. Further, in the case of agreements made pursuant to paragraph 5 of Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 these will continue to be valid after exit day. It also corrects an error in the family SI to retain a special rule for jurisdiction in relation to maintenance in Scotland. Finally, it makes clear that relevant jurisdictional rules are subject to the limit on proceedings contained in Article 18 of Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. Full impact assessments of the effect that the civil SI and the family SI will have on the costs of business, the voluntary sector and the public sector are available from the Ministry of Justice, 102 Petty France, London SW1H 9AJ and are published with Explanatory Memoranda alongside those instruments on <https://legislation.gov.uk>.