

Regulations made by the Secretary of State, laid before Parliament under paragraph 5(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament within 28 days beginning with the day on which the Regulations were made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2019 No. 1338

**EXITING THE EUROPEAN UNION
FAMILY LAW
PRIVATE INTERNATIONAL LAW**

The Civil Jurisdiction and Judgments (Civil and Family) (Amendment) (EU Exit) Regulations 2019

| | | |
|--|---------|--|
| <i>Made</i> | - - - - | <i>at 9.15 a.m. on 14th October 2019</i> |
| <i>Laid before Parliament</i> | | <i>at 4.00 p.m. on 14th October 2019</i> |
| <i>Coming into force in accordance with regulation 1</i> | | |

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾.

The Secretary of State is of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament⁽²⁾.

Citation and commencement

1. These Regulations may be cited as the Civil Jurisdiction and Judgments (Civil and Family) (Amendment) (EU Exit) Regulations 2019 and come into force immediately before exit day.

(1) 2018 c. 16.

(2) Paragraph 5(2) of Schedule 7 to the European Union (Withdrawal) Act 2018.

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

2. In regulation 26 of the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019⁽³⁾, in the new section 15C(2)(c) to be inserted into the Civil Jurisdiction and Judgments Act 1982⁽⁴⁾ (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 Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019

3.—(1) The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019⁽⁵⁾ 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”;
 - (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⁽⁶⁾”;
- (b) in sub-paragraph (b), after “4/2009” insert “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;

(3) [S.I. 2019/479](#).

(4) [1982 c. 27](#).

(5) [S.I. 2019/519](#).

(6) [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) 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)(7) 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;
 - (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)(8), omit “Subject to Article 19(1) of the Council Regulation,”;
 - (f) for paragraph (8)(9) 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(10) (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(11) (jurisdiction of the court)—

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

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

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

(10) 1982 c. 27. Sub-paragraph (e) of paragraph 2 was repealed by S.I. 2011/1484.

(11) 1984 c. 42. Subsection (1) was amended, and subsections (1A) and (3) inserted, by S.I. 2011/1484.

- (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(12) (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.””
- (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(13) (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(14) (jurisdiction of the court)—
- (a) in paragraph (1), for “paragraphs (1A) and (2)” substitute “paragraph (1A)”;

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

(13) 1989 c. 41. Paragraphs (2A) and (2B) were inserted by [S.I. 2011/1484](#).

(14) [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](#).

- (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(15) (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)(16).”.”;
 - (bb) for paragraphs (b) and (c) substitute—
 - “(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)(17), 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

(15) 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.

(16) 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.

(17) Sub-paragraph (5) of paragraph 39 of Schedule 5 was inserted by S.I. 2011/1484.

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(18) (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)(19), 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)(20), 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”.”;

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

“(a) in paragraph 7(21)—

(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”;

(18) 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](#).

(19) Sub-paragraphs (3A) and (5) of paragraph 2 of Schedule 11 were inserted, and sub-paragraph (1) amended, by [S.I. 2011/1484](#).

(20) Sub-paragraph (5) of paragraph 34 of Schedule 15 was inserted by [S.I. 2011/1484](#).

(21) 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](#).

- (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”;

At 9.15 a.m. on 14th October 2019

Chris Philp
Parliamentary Under Secretary of State
Ministry of Justice

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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 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 3 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>.