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Moving/settling abroad with children

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1 Under what circumstances may a parent lawfully remove the child to another state without the other parent's consent?

Circumstances vary according to the situation but the commonest one is that consent need not be sought from the other parent when the latter's residence is unknown. Section 56(5) of the Civil Code provides that the court may deprive any parent of the rights of parental authority and, therefore, in that case the parent having the care and custody of the child does not need to ask for the consent of that parent so deprived of his or her rights.

However, the parent should always ensure that he or she may transfer a child to another State without the consent of the other parent by requesting authorisation from the competent court, i.e. the Civil Court (Family Section).

2 Under what circumstances is the other parent's consent necessary for the child's removal to another state?

For a parent to transfer a child under national law, the consent of the other parent is always necessary, particularly when the other parent has a right which will be infringed when the child is transferred. Such rights include the right of access and the right to participate in the decisions concerning the child's life (and this includes the place, the environment and the culture where the child is to be brought up). In this situation the parent who does not give his or her consent may oppose the transfer on numerous grounds, for instance that such a transfer would deprive him or her of access.

3 If the other parent does not consent to the child's removal to another state, though it is necessary, how can the child be removed lawfully to another state?

Children may be transferred to another State without the other parent's consent if this is authorised by the competent court.

4 Do the same rules apply to temporary removal (e.g. holiday, healthcare etc.) and permanent removal? If applicable, please provide relevant consent forms.

Yes, the same rules apply for a temporary transfer. A parent's consent may be given as follows:

I, the undersigned, who is the parent of _____ (name, surname, date of birth, identity card number of minor) authorise that my son/daughter (choose applicable) leaves the Island of Malta for the purpose of _____ (reason to leave island) and that the

such period shall be for an indefinite period/ for the duration of _____(time period)(choose applicable).

Signature followed by the name, surname, i.d. card number of parent

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