Op civielrechtelijk vlak blijven lopende procedures en procedures die voor het eind van de overgangsperiode zijn ingeleid, onder het EU-recht vallen. Zoals overeengekomen met het VK, wordt alle informatie op dat gebied in verband met het Verenigd Koninkrijk tot eind 2024 op het e-justitieportaal bijgehouden.

Moving/settling abroad with children

Engeland en Wales

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

The law of England and Wales makes provision for the lawful removal of the child from the UK. A child arrangements order is an order from the court determining with whom a child should live or spend time. Section 13(2) of the Children Act 1989 allows a person with a child arrangements order (formerly known as both residence and contact orders) concerning the child to remove the child from the UK for a period of less than one month (for example for a holiday).

This is consistent with section 1(4) of the Child Abduction Act 1984 which provides that a person does not commit an offence by taking or sending the child out of the UK if they are a person in whose favour there is a child arrangements order in force and the removal is for less than a month.

Where there is no child arrangements order in force, a parent with sole parental responsibility can lawfully remove a child from the UK without permission from the other parent. However, the other parent who does not have parental responsibility may prevent the removal of a child from the jurisdiction by applying to the courts in England and Wales for a prohibited steps order. They may also apply to the courts for a court order relating to parental responsibility. “Parental responsibility” is defined in section 3(1) of the Children Act 1989.

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

Section 13 of the Children Act 1989 requires that where a child arrangements order is in force with respect to a child, no one may remove the child from the UK without the written consent of every person who has parental responsibility for the child, or the permission of the court.

Furthermore, section 1 of the Child Abduction Act 1984 provides that a parent (and specified other people which includes a person who is a guardian of the child, a person in whose favour a child arrangements order is in force with respect to the child or a person with whom the child lives) commits an offence (abduction of a child) if he or she takes or sends a child outside of the UK without the appropriate consent (which means the consent of the child’s mother and the child’s father if he has parental responsibility – or consent of specified other people referred to above).

Where there is no child arrangements order in place but more than one person has parental responsibility for the child, no person with parental responsibility for that child is allowed to remove the child from the UK without the consent of the other holders of parental responsibility or the permission of the court.

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?

A parent with a child arrangements order concerning the child and who is seeking to remove the child permanently from the UK can lawfully relocate with the child without the intervention of the court if they have the written consent of the other parent with parental responsibility or anyone else with parental responsibility. If consent is refused, an application to the court will need to be made for permission to remove the child from England and Wales on a permanent basis (section 13(1) of the Children Act 1989).

If there is no child arrangements order in place, a person who has parental responsibility for the child and who is seeking to remove the child permanently from the UK must apply to the court for permission if consent from anyone else with parental responsibility is refused.

In England and Wales the paramount consideration and determining factor in international relocation cases will always be the welfare of the child. Judges sitting in the Family Courts will take into account all the information available to them in each case before arriving at an independent judgment. They will seek first and foremost to make decisions that are in the best interests of the child concerned.The child’s welfare will always be the court’s paramount consideration in determining such cases. The Children Act 1989 provides statutory protection to safeguard the welfare of children in cases of relocation from England and Wales.

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

The response to question 1 above sets out the provisions for lawful removal of a child from the UK for a period of less than one month. A person with a child arrangements order in favour of the child can take the child abroad for **less than one month** and will therefore not need the permission of the other parent to take the child on holiday.

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