GOV.UK Search on GOV.UK → Coronavirus (COVID-19) | Guidance and support

Wales. If you have a cross-border case relating to the courts in Scotland or

Northern Ireland, you should seek advice on <u>mygov.scot</u> or <u>nidirect.gov.uk</u>.

The EU Commission has also published guidance on family law disputes.

1.1 Transitional cases in England and Wales

(11pm on 31 December 2020) is governed by Title VI of Part 3 of the

The treatment of cases commenced before the end of the transition period

Under the terms of the Withdrawal Agreement, divorce proceedings ongoing

in England and Wales at the end of the transition period will continue under

the current law and rules of Council Regulation 2201/2003 (Brussels IIa) to

The jurisdiction rules set out in Article 3 of Brussels IIa have been applied to

The jurisdiction rules can mean that parties to a marriage may have standing

proceedings are avoided by the lis pendens rule in Article 19, requiring the

For same sex divorce and civil partnership dissolution, legislation in the UK

provides jurisdiction rules which broadly replicate the rules in Brussels IIa.

Courts in England and Wales will continue to recognise divorces granted in

granted before the end of the transition period or if the divorce proceedings

were started before the end of the transition period (even if the divorce is

only ordered after the end of the transition period). Judgments on divorce

have generally been recognised in other member states without any special

22. A party seeking or contesting recognition of orders for divorce etc made

procedure, under Article 21, subject to the exceptions contained in Article

Article 37 and in particular the Article 39 certificate at Annex I to Brussels

An interested party (in England and Wales or in an EU member state) can

apply for a court order that a judgment on divorce should not be recognised.

For further information, refer to the <u>Family Procedure Rules 2010</u> and <u>D180</u>

Brussels IIa has been revoked. For cases starting after the end of the

Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit)

when there are proceedings continuing in another jurisdiction.

Transition Period, new jurisdictional rules for the court in England and Wales

which are based on the applicable Brussels IIa rules have been inserted into

section 5(2) of the <u>Domicile and Matrimonial Proceedings Act 1973</u>, by the

Regulations. Sole domicile as a ground of divorce etc. jurisdiction has been

added. The court in England and Wales has discretion to stay proceedings

For same sex divorce and civil partnership dissolution, legislation in the UK

provides jurisdiction rules in the EU Exit Regulations which correspond to

For further information, refer to the <u>Jurisdiction and Judgments (Family)</u>

The court in England and Wales recognises divorces granted in EU member

states in which proceedings started after the end of the transition period in

implemented the 1970 Hague Convention on the recognition of divorce and

Convention on Divorce Recognition are Cyprus, Czech Republic, Denmark,

The treatment of cases commenced before the end of the transition period

The EU Commission has published guidance setting out the rules that will

2.1 Transitional cases in England and Wales

The treatment of maintenance cases commenced under **Council Regulation** 

4/2009 (the Maintenance Regulation) before the end of the transition

The jurisdiction provisions of the Maintenance Regulation will continue to

apply to proceedings instituted before the end of the transition period.

For recognition and enforcement of decisions, Title VI of Part 3 of the

must be recognised and must have a declaration of enforceability

A maintenance decision made in another EU member state (except

For further information, refer to the <u>Family Procedure Rules 2010</u>.

2.2 New cases starting in England and Wales

The Maintenance Regulation has been revoked. For cases starting after the

end of the transition period, the court in England and Wales decides if it has

jurisdiction using the relevant non-EU rules (unless parties have, before the

end of the transition period, made a choice of law agreement in accordance

with the EU rules). These rules are different depending on the type of

The court in England and Wales continues to recognise choice of court

even if the case is issued after the end of the transition period.

Recognition and enforcement of maintenance decisions

agreements in maintenance cases agreed before the end of the transition

period in writing between all parties which satisfy the relevant conditions,

The UK uses the rules of the 2007 Hague Convention on the International

Recovery of Child Support and Other Forms of Family Maintenance with

The 1973 Hague Maintenance Enforcement Convention will continue to

2.3 Transitional cases in an EU member state

The treatment of cases commenced before the end of the transition period

in EU member states is governed by Title VI of Part 3 of the Withdrawal

2.4 New cases starting in an EU member state

3. International parental child

includes both wrongful removal and wrongful retention).

The EU Commission has published guidance setting out the rules that will

The main provisions of the 1980 Hague Convention on the Civil Aspects of

jurisdictions by the Child Abduction and Custody Act 1985. All EU member

states are party to the 1980 Hague Convention and use it with the UK. This

provides a summary procedure for children wrongfully removed or retained

away from their country of habitual residence to be returned there, so that

long-term decisions about the future of the child can be made (abduction

Members of the public whose child has been abducted out of England and

Wales should contact ICACU (International Child Abduction and Contact

believes their child is at risk of abduction in future from any part of the UK,

If they believe the child is being wrongfully removed from the UK and is on

their way out of the country they should go at once to their nearest police

station and ask for warning list action. They should also contact reunite

they should contact the charity reunite International Child Abduction Centre

Unit) for information on what action to take. If the member of the public

International Child Abduction are incorporated into the law of the UK

apply in EU member states to cross-border family law disputes involving the

other States Party, which include all EU member states except Denmark.

Withdrawal Agreement states that a maintenance decision made in England

and Wales that is to be recognised and enforced in another EU member state

(registration for enforcement) before it can be enforced there. It should be

Denmark) that is to be recognised and enforced in England and Wales does

not need to be registered for enforcement. It should be accompanied by the

accompanied by the documents required under Article 28, subject to the

period is governed by Title VI of Part 3 of the Withdrawal Agreement.

apply in EU member states to cross-border family law disputes involving the

in EU member states is governed by Title VI of Part 3 of the Withdrawal

the same way as they currently do for orders from non-EU countries. The

rules on recognition are to be found in the Family Law Act 1986 which

(The 12 EU member states that are currently party to the 1970 Hague

Estonia, Finland, Italy, Luxembourg, Netherlands, Poland, Portugal,

1.3 Transitional Cases in an EU member state

1.4 New cases in an EU member state

(Amendment etc.) (EU Exit) Regulations and the related Explanatory

1.2 New cases in England and Wales

in England and Wales is required to produce the documents detailed in

EU member states in the same way under Brussels IIa if the divorce was

all cases of opposite sex divorce, legal separation and annulment (divorce

etc.) in England and Wales, whether or not the case has a cross-border

to seise the court in a number of different member states. Parallel

court second seised to stay the proceedings before it.

→ **Brexit** | Check how the new rules affect you

Part of Brexit: check how the new rules affect you

1. Divorce

Withdrawal Agreement.

determine jurisdiction.

**Jurisdiction** 

element.

Recognition

Certificate.

**Jurisdiction** 

Recognition

legal separations.

Slovakia, Sweden.)

Agreement.

UK.

**Jurisdiction** 

2. Maintenance

**Recognition and enforcement** 

exceptions in Article 29.

**Jurisdiction** 

Agreement.

UK.

abduction

for advice and information.

International Child Abduction Centre.

• The ICACU application form and guidance

Reunite International on 0116 2556234.

4. Children cases (parental

4.1 Transitional cases in England and Wales

end of the transition period is governed by Title VI of Part 3 of the

The jurisdiction provisions of Brussels IIa will continue to apply to

The recognition and enforcement provisions of Brussels IIa will apply to

Brussels IIa has been revoked. For cases starting after the end of the

transition period, the courts will apply the 1996 Hague Protection of

courts in England and Wales to use the 1996 Hague Convention to

4.3 Transitional cases in an EU member state

The treatment of cases commenced before the end of the transition period

in EU member states is governed by Title VI of the Withdrawal Agreement.

The EU Commission has published guidance setting out the rules that will

apply in EU member states to cross-border family law disputes involving the

recognise and enforce orders made in EU member states.

4.4 New cases in an EU member state

5. Placement of children

of the transition period.

and the Family Procedure Rules 2010.

5.1 Transitional cases in England and Wales

governed by Title VI of Part 3 of the Withdrawal Agreement.

5.2 New cases in England and Wales

For cases commencing after the end of the transition period, local

authorities in the England and Wales will apply the rules in the 1996 Hague

member states. Under these rules they need to seek and obtain consent to

the placement in every case. Under the 1996 Hague Convention, the court

hearing public law care proceedings will normally be the court of the country

Protection of Children Convention on placements to cases involving EU

The treatment of cases commenced before the end of the transition period is

The jurisdiction provisions of **Brussels IIa** continue to apply to such cases,

enforced under the Brussels IIa rules. The cooperation chapter of Brussels

IIa also continues to apply so long as a request was received before the end

For further information, refer to: the ICACU application form and guidance

and judgments given in such proceedings can still be recognised and

Amendments to existing legislation made by the <u>Jurisdiction and Judgments</u>

(Family) (Amendment etc.) (EU Exit) Regulations make provision to enable

proceedings instituted before the end of the transition period.

proceedings instituted before the end of the transition period.

4.2 New cases in England and Wales

The treatment of children cases commenced under **Brussels IIa** before the

For further information refer to:

The ICACU specialist panel

responsibility)

Withdrawal Agreement.

**Recognition of orders** 

**Jurisdiction** 

**Jurisdiction** 

UK.

**Children Convention.** 

**Recognition of orders** 

• The Family Procedure rules 2010

documents required under Article 20.

maintenance case before the court.

operate between the UK and Denmark.

Ila (see <u>family court form D180</u>).

those for opposite-sex divorce.

Home > Law and practice > Family law disputes involving the EU: guidance for legal professionals

**Ministry** of Justice

Guidance Family law disputes involving the EU: guidance for legal professionals

Published 31 December 2020 This guidance only relates to cases involving the courts of England and Contents

Print this page

Divorce

Maintenance

3. International parental

child abduction

responsibility)

5. Placement of children

4. Children cases

(parental

of the child's habitual residence. 5.3 Transitional cases in EU member states The treatment of cases commenced before the end of the transition period in EU member states is governed by Title VI of Part 3 of the Withdrawal Agreement. Is this page useful? Coronavirus (COVID-19): guidance and support

5.4 New cases in EU member states The EU Commission has published guidance setting out the rules that will apply in EU member states to cross-border family law disputes involving the UK. Coronavirus (COVID-19)

Services and information **Benefits** Births, deaths, marriages and care Business and self-employed

Disabled people

**Driving and transport** 

Rhestr o Wasanaethau Cymraeg

otherwise stated

Childcare and parenting Citizenship and living in the UK Crime, justice and the law

**Education and learning Employing people Environment and countryside** Housing and local services Money and tax

Passports, travel and living abroad

Visas and immigration Working, jobs and pensions

<u>Privacy</u> <u>Cookies</u> <u>Contact</u> <u>Accessibility statement</u> Terms and conditions Built by the **Government Digital Service** All content is available under the Open Government Licence v3.0, except where

© Crown copyright

There is something wrong with this page

Check how the new rules affect you

**Departments and policy** 

How government works

Guidance and regulation

Research and statistics

information releases

News and communications

Policy papers and consultations

<u>Transparency</u> and freedom of

<u>Departments</u>

Worldwide

<u>Services</u>

**Brexit**