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## **Justice Committee Comataidh a' Cheartais**

# **Consent notifications considered by the Justice Committee, 4 December 2018**



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# Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/justice-committee.aspx>



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# Introduction

1. At its meeting on 4 December, the Justice Committee considered three UK statutory instruments (SIs) related to the European Union (Withdrawal) Act 2018. This report summarises the Justice Committee's consideration of:
  - The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2018
  - The Civil Jurisdiction and Judgments (Amendment etc.) (EU Exit) Regulations 2018
  - The European Institutions and Consular Protection (Amendment etc.) (EU Exit) Regulations 2018
2. The Official Report for this session, which contains the full discussion of the instruments, is available on the [Justice Committee's webpage](#).

## Background

3. The European Union (Withdrawal) Act 2018, passed by the UK Parliament, allows the UK and Scottish parliaments to begin considering regulations to convert non-domestic European Union (EU) law into UK law.
4. As part of the process by which the UK leaves the EU, consideration must be given as to whether current UK law needs to be amended to the UK's new status as a non-EU member. For example, there are currently many references in regulations to EU bodies and the EU itself that will no longer be applicable after the UK has left the EU.
5. Some of the necessary changes to the statute book will be done through Scottish Statutory Instruments (SSIs) in the usual way. However, a number will be done through Statutory Instruments (SIs) passed in the UK Parliament with the consent of the Scottish Parliament which itself is based on the recommendation of the Scottish Government (these are called SI notifications). Consent will be sought as these SIs will make changes to devolved powers and/or executive competences. Such changes should be broadly technical in nature. Protocols governing arrangements for both of these processes have been agreed to with the Scottish Government (see below).

## Protocol agreement between the Scottish Government and the Scottish Parliament

6. In order to prepare devolved legislation for UK withdrawal from the European Union, Scottish Government and Scottish Parliament officials developed a protocol governing UK Statutory Instruments. The protocol is intended to ensure the Scottish Parliament can scrutinise the Scottish Government's approach to instruments it considers are better dealt with by the UK Government.

7. In a [letter](#) to the Conveners of the Finance and Constitution Committee and the Delegated Powers and Law Reform Committee, Michael Russell, Cabinet Secretary Government Business and Constitutional Relations wrote that, “This [process] is not about the question of where devolved powers will be exercised after EU withdrawal. Instead it is about the technical task of ensuring that important schemes and regulations can continue to operate despite withdrawal.”
8. He continued, “Where the policy outcome being sought is consistent across administrations, then it could be appropriate and in Scotland's interests to agree a UK-wide approach to statutory instruments (for example, to avoid duplication of effort, or where only technical or minor amendments are required). Where a different way of dealing with EU withdrawal, or a different policy outcome, is required in Scotland, we will pursue our own statutory instruments in the Scottish Parliament.”
9. Under terms of the protocol, Scottish Ministers will notify the Scottish Parliament of any proposal to consent to the UK Government using its powers in devolved areas. Lead committees are then invited to scrutinise the proposal to consent, and report to Parliament with a recommendation as to whether consent should be given to the consideration of instrument in question taking place at Westminster.

# The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2018

10. The civil judicial cooperation framework within the EU includes two Regulations in the area of family law:

***Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark. (This is known as the “Maintenance Regulation”).***

The Maintenance Regulation provides rules on jurisdiction and for the recognition and enforcement of family maintenance decisions between EU Member States.

***Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, repealing Regulation (EC) No. 1347/2000. (This Regulation is known as “Brussels IIa”).***

Brussels IIa provides rules (i) to determine which Member State's courts have jurisdiction in proceedings with a connection to more than one Member State which relate to matrimonial matters (divorce) or parental responsibility matters (including child residence and contact); and (ii) on recognition and enforcement of judgments relating to these matters between Member States. It also provides rules on the return of children abducted to, or wrongfully retained in, other Member States. These rules supplement the international 1980 Hague Child Abduction Convention.

11. On Exit Day, these EU family law instruments (and related domestic legislation) will become ‘retained EU law’ in UK domestic law. However, in the absence of an agreement between the EU and the UK, the retained EU law will cease to operate reciprocally between the EU Member States and the UK. Accordingly, amendments are required to address the deficiencies arising.
12. The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2018 revoke the Maintenance Regulation as retained EU law, with a series of savings for cases which are ‘live’ on exit day. Related domestic legislation for the Maintenance Regulation is amended accordingly. The proposal from the Scottish Government is that where there is an alternative international Convention, this will be used instead.
13. In relation to Maintenance, the UK is a member of the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance by virtue of its EU membership but intends to join in its own right and steps have been taken to do so. The UK is also a party to, in its own right, a 1973 Hague Convention and a 1956 UN Convention which some EU countries are a party to. However, the Maintenance Regulation takes precedence over these other Conventions between Member States.



14. As the UK already operates these other Conventions, either in its own right or by virtue of EU membership, the implementing legislation is mostly in place. A number of minor amendments are however made to ensure that those Conventions now operate with respect to EU Member States where currently the EU Regulation takes precedence. Where there are no other international agreements which cover areas in the Maintenance Regulation, the intention of the Scottish Government is to revert to the pre-EU rules concerning jurisdiction to decide maintenance claims.
15. It should be noted that this Statutory Instrument (SI) revokes Brussels IIa for England and Wales and Northern Ireland only. This SI does, however, make amendments for Scotland in legislation concerning international child abduction under Brussels IIa. Specifically, it repeals for Scotland the provisions within the Child Abduction and Custody Act 1985 that provide for Article 60 of Brussels IIa to take precedence over the 1980 Hague Convention on international child abduction (the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25th October 1980). This is known as the “child abduction override”. The override allows a court in the country of a child’s habitual residence to make an order for return which will prevail over the refusal of a court in another EU Member State to order the return of the child under the 1980 Hague Convention. This revocation means that the 1980 Hague Convention remains in force in the UK but from exit day without the Brussels IIa override for EU Member States. The override is rarely used and unilateral retention is not considered appropriate. Non-return decisions will instead be subject to appeal but not override.
16. The Scottish Government has indicated that a Scottish Statutory Instrument (SSI) will be brought forward for all other matters covered by Brussels IIa such as the rules for jurisdiction and recognition and enforcement of judgments in divorce and parental responsibility.
17. The UK SI contains saving and transitional provisions which provide for the approach to cases in which the application or the action has been commenced prior to exit day. It provides that cases which have commenced under the EU rules pre-Exit day should continue under those rules. Where new proceedings, either based upon jurisdiction, or applications for recognition and enforcement, are started after Exit, these will then rely on the law as amended by the SI. For maintenance, the transitional provisions are designed to work in unison with those in the International Recovery of Maintenance (Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance 2007) (EU Exit) Regulations 2018. The Committee has previously considered the notification for this SI and approved the Scottish Ministers’ consent to the instrument.

## Justice Committee scrutiny

18. The Committee noted the time that this Committee has had for this instrument has been surprisingly short. This SI has a laying date of 10 December. The reason for not allowing 28 days for Scottish Parliamentary scrutiny is that “drafting issues emerged late”. This is not entirely acceptable to the Committee and should not become the norm.
19. The Committee sought clarification from Scottish Government officials that there are no substantive differences between what is proposed in this SI and what was

proposed in the Scottish Government's consultation earlier this year on the effect of Brexit on family law.

20. Some members of the Committee expressed concern at the need for the Committee to consider whether to agree to this instrument as they consider that this places Scotland in a lesser position in relation to civil law than is currently in place prior to Exit Day.
21. The Scottish Government responded that this was the case and provided additional details as set out in the [Annex](#) to this report.

# The Civil Jurisdiction and Judgments (Amendment etc.) (EU Exit) Regulations 2018

22. The “Brussels regime” comprises a series of EU legislative instruments and treaties that deal with:
  - the allocation of jurisdiction between courts of EU Member States and EFTA States in civil and commercial matters; and
  - the recognition and enforcement of judgments emanating from those courts in such matters.
23. The principal instrument in this regime is Regulation (EU) 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 (referred to as “Brussels IA”). Brussels IA governs the allocation of jurisdiction in civil and commercial matters between EU Member courts (except Denmark which has opted out of EU measures in Justice and Home Affairs) as well as recognition and enforcement of their judgments.
24. Brussels IA was preceded by, and is a recast of, Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters dated 22 December 2000 (referred to as “Brussels I”). Brussels I included orders for maintenance. Brussels IA does not cover maintenance matters within the EU which are now governed by the Maintenance Regulation (Council Regulation (EC) No. 4/2009 of 18 December 2008). A separate SI addressing the legislative regime in relation to maintenance is being prepared and will be notified to the Committee.
25. There are a number of international agreements relevant to the Brussels regime. The principal one is the Lugano Convention of 2007 (the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark signed on behalf of the European Community on 30th October 2007). This applies the substance of the Brussels I rules on jurisdiction and recognition and enforcement to matters involving the EFTA States of Switzerland, Iceland and Norway as well as Denmark. Its subject matter scope (being similar to Brussels I) includes maintenance.
26. The principal EU legislative instruments and treaties are supplemented by a number of tertiary EU instruments relating to the Brussels regime such as Council Decision establishing the European Judicial Network in civil and commercial matters (2201/470/EC) and Decisions relating to the conclusion of the various Agreements comprising the regime.
27. Domestically, the Civil Jurisdiction and Judgments Act 1982 is the principal legislative vehicle for implementation of the Brussels regime. There are also references to the various EU instruments in other domestic legislation.

28. On Exit Day, these EU law instruments, the rights etc. deriving from the international agreements and the related implementing primary and secondary legislation will become 'retained EU law' in UK domestic law. However, in the absence of an agreement between the EU and the UK, the retained EU law will cease to operate reciprocally between the EU Member States and the UK. The UK alone is not able to legislate to restore that reciprocity and in addition the retained law will contain numerous EU exit related deficiencies meaning that it will cease to operate effectively.
29. The policy proposal out forward by the Scottish Government is to revert to the rules for jurisdiction, recognition and enforcement pre-existing the Brussels regime which is applicable for cases involving countries not part of that regime.
30. The Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2018:
- Revokes Brussels IA (and the two EU Regulations that amend Brussels IA), Brussels I and the related tertiary EU instruments;
  - Extinguishes the rights, powers, liabilities, obligations, restrictions, remedies and procedures that are derived from the international agreements related to the Brussels regime (the principal one being the Lugano Convention of 2007). These are retained in domestic law by section 4 of the 2018 Act and so any such retentions are removed by the SI for the avoidance of doubt;
  - Amends domestic legislation to remove references to the Brussels regime and, where appropriate, replace these with references to domestic legislation so that legislation will work effectively post exit;
  - Preserves aspects of the Brussels regime and the domestic implementing legislation for transitional purposes so they continue to apply to determine jurisdiction for proceedings instituted in the UK before exit day and in relation to the recognition or enforcement of a judgment given, court settlement concluded or authentic instrument registered in a EU or EFTA State before exit day;
  - Preserves, in restated form, elements of the Brussels IA Regulation in two areas: (1) consumer and employment litigation; and (2) interpretative provision for determining whether a company or association is domiciled in the UK.
  - Broadly, the effect of the above will be to remove the Brussels regime rules from domestic law. In its place, jurisdiction and the recognition and enforcement of judgments will be determined by a combination of the common law; statutory provisions on (1) cross-border civil and commercial claims involving UK domiciled consumers and employees and (2) domicile of companies; and the Hague 2005 Convention on Choice of Court Agreements to which the UK is acceding as an independent Contracting State post exit (which is being taken forward in a separate statutory instrument to which the Scottish Ministers have consented, with agreement of the Committee ).
31. The Scottish Government argue that, post EU-exit, as a third country, the United Kingdom cannot participate in the civil judicial cooperation framework, and consequently post EU-exit these reciprocal EU Regulations will cease to have effect in relation to the UK. The Scottish Government notes that the UK cannot legislate to restore the necessary reciprocity.

32. The Scottish Government state that, in the absence of existing EU frameworks, the legal rules need to be certain which this SI does for the jurisdiction of the courts and recognition and enforcement of judgments in civil and commercial matters. In absence of these EU frameworks, the fall-back position of the Scottish Government will be returning to the pre-existing rules and the application of the 2005 Hague Convention on Choice of Court Agreements. The Scottish Ministers, with the agreement of the Scottish Parliament, have consented to a UK SI extending to Scotland to join this Convention as an independent member.
33. The Scottish Government note that Brussels IIa and the Maintenance Regulation are part of the civil judicial co-operation framework between EU Member States. Post EU-exit, as a third country, the Scottish Government note that the United Kingdom cannot participate in the civil judicial cooperation framework, and consequently post EU-exit these reciprocal EU Regulations will cease to have effect in relation to the UK. The UK cannot legislate to restore the necessary reciprocity.
34. The Scottish Government has responsibility for civil law and procedure which relates to devolved matters. In the absence of these EU frameworks, its view is that the legal rules need to be certain which this SI does for international maintenance and child abduction. The Scottish Government therefore intends to bring forward an SSI for Brussels IIa (jurisdiction and the recognition and enforcement of judgments in divorce and matters of parental responsibility) and related domestic legislation.

## Justice Committee scrutiny

35. The Committee noted the time that this Committee has had for this instrument has been surprisingly short. This SI has a laying date of 10 December. The reason for not allowing 28 days for Scottish Parliamentary scrutiny is that “drafting issues emerged late”. This is not entirely acceptable to the Committee and should not become the norm.
36. Some members of the Committee expressed concern at the need for the Committee to consider whether to agree to this instrument as they consider that this places Scotland in a lesser position in relation to civil law than is currently in place prior to Exit Day.

# The European Institutions and Consular Protection (Amendment etc.) (EU Exit) Regulations 2018

37. The Treaty on the Functioning of the European Union (“TFEU”) includes various Protocols which set out rules governing institutions and bodies of the EU. Specifically, provision is made regarding privileges and immunities for persons involved with the Court of Justice of the European Union (“CJEU”) and the European Union itself. This includes privileges and immunities for Members of the European Parliament (MEPs) and officials and other servants of the European Union. This instrument relates to a mixture of reserved and devolved matters, the latter of which are described below.
38. The relevant provisions relate to immunity from legal proceedings in respect of acts performed in an official capacity and are set out in:
- Protocol (No 3) of the TFEU on the statute of the Court of Justice of the European Union. Protocol (No 3) makes provision for the roles of judges and Advocates-General; and
  - Protocol (No 7) of the TFEU on the privileges and immunities of the European Union. Protocol (No 7) sets out the privileges and immunities granted to the EU and to a range of other EU institutions and officials.
39. The privileges and immunities granted to the EU are uniform across Member States. The EU and other institutions are granted such privileges and immunities as are necessary for the performance of their tasks. Privileges and immunities are a standard feature of international law, and are considered necessary for the proper functioning of international organisations. The privileges and immunities that the UK grants to the EU are similar to the privileges and immunities afforded to international organisations in the UK. This is consistent with UK policy to afford such privileges and immunities as are necessary for international organisations to perform their functions.
40. The effect of the European Union (Withdrawal) Act 2018 is that direct EU law is converted into domestic law (known as “retained direct EU law”) and therefore continues to have effect in the UK post exit day. After the UK's withdrawal from the EU, the above-mentioned provisions will become deficient. Specifically, the UK will no longer be party to the institutions and bodies of the EU in a no deal scenario.
41. The proposed Regulations are being brought forward by the UK Government under powers in the EU (Withdrawal) Act 2018. The purpose of the proposed Regulations is to provide technical fixes to legislation in order to deliver a functioning statute book on exit. The Regulations revoke or amend relevant directly applicable EU legislation. The Regulations relate to a mixture of reserved and devolved matters, the latter of which are described below.
42. The proposal is to remove the relevant provisions in Protocol (No 3) and Protocol (No 7) relating to immunity from legal proceedings in the UK after exit day because they will no longer be relevant for the UK. However, the instrument does save the

privileges and immunities in respect of acts performed by individuals in their official capacity before exit day.

43. The UK will no longer be part of the EU and so, according to the UK Government, arrangements of this kind are no longer appropriate. These privileges and immunities are being removed for persons such as Members of the European Parliament, because it would be inappropriate for those individuals to continue receiving those privileges and immunities once the UK has left the EU and its institutions.
44. Privileges and immunities apply across the UK and across devolved and reserved legislation. Criminal law and policing are within devolved competence. The impact of the removal of these immunities in respect of devolved areas will, according to the Scottish Government, be limited to in the activities of relevant individuals in those devolved areas for which they will no longer enjoy immunity, namely immunity from legal proceedings as described above.

## **Justice Committee's Scrutiny**

45. The Committee noted the time that this Committee has had for this instrument has been surprisingly short. This SI has a laying date of 10 December. Additionally, this instrument has been laid with the sifting committee in Westminster before it was sent to the Scottish Parliament for its consideration, which is not the standard procedure. The reason for not allowing 28 days for Scottish Parliamentary scrutiny is that "drafting issues emerged late". This is not entirely acceptable to the Committee and should not become the norm.
46. One member of the Committee expressed a general reservation against the principle of giving a person immunity from prosecution.

# Recommendation

47. The Committee is content for the Scottish Government to give its consent for the UK Ministers to lay a Statutory Instrument in the UK Parliament on the following instruments:
- The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2018
  - The Civil Jurisdiction and Judgments (Amendment etc.) (EU Exit) Regulations 2018
  - The European Institutions and Consular Protection (Amendment etc.) (EU Exit) Regulations 2018



# Annex

## Letter from Scottish Government officials on the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2018

At the Committee meeting on 4 December which considered these two Statutory Instruments, the Committee asked the Scottish Government to confirm that there are no substantive differences between what is being proposed and what was proposed in the Scottish Government's consultation earlier this year on the effect of Brexit on family law.

I can confirm that is the case and provide more details below. The Committee will appreciate that, as the notifications<sup>[1]</sup> said, these SIs are being prepared if there should be no agreement between the EU and the UK on the UK's withdrawal from the EU. This is not the Scottish Government's desired outcome but, as the Cabinet Secretary said in his letter of 26 November 2018 attaching the notifications, we have to respond to the UK Government's preparations for a No-Deal scenario as best we can.

The consultation<sup>[2]</sup> asked a number of questions on:

1. EU provisions continuing to apply after the proposed transition period.
2. Whether Scotland should continue to recognise family law judgments from EU Member States even if the UK leaves the EU without a negotiated settlement.
3. Whether jurisdiction of the courts in family cases should revert to the position before EU provision, if the UK leaves the EU without a negotiated settlement.
4. Whether the Hague Conventions and the Lugano Convention would adequately replace EU instruments for family and civil international law.
5. The impact of any time lag for families in relation to the UK rejoining the Hague Convention of 2005 on Choice of Court Agreements and the Hague Convention of 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.
6. Whether consultees had any other points on the impact on Scots family law of Brexit.
7. Whether consultees had any other points on the impact on civil law of Brexit.

Question 1 relates to EU provisions on family law continuing to apply after the proposed transition period. As a result, it is not directly relevant to the SIs which were notified on 26 November 2018, as these are no deal SIs. However, the Scottish Government is committed to the widest possible co-operation with the EU.

The Scottish Government intends to publish the responses to the consultation, where we have permission to do so<sup>[3]</sup>. Most of the respondents agreed that EU provisions should continue to apply after the proposed transition period, with a number noting that this should be on a reciprocal basis.

On question 2, the Scottish Government remains committed to the maximum possible recognition of family law judgments from EU Member States. In the context of a no deal Brexit, the question is how best to achieve this. On divorces, the consultation noted that

the Scottish Government would propose to continue with wide recognition of overseas divorces, regardless of Brexit, and referred to Part II of the Family Law Act 1986.

Our intention remains that there should be wide recognition of overseas divorces through the 1986 Act. The Scottish Government is preparing a “no deal” Scottish Statutory Instrument (SSI) in relation to Brussels IIa, as the notification indicated. The intention is that this will remove specific references to Brussels IIa. Part II of the 1986 Act would then apply generally to overseas divorces (whether EU or non-EU) as it did before there was EU provision in this area. Part II of the 1986 Act derives from a 1970 Hague Convention on divorce.

On maintenance, the intention in the event of no deal is to rely on international conventions. As the notification indicated, if there is no deal the necessary reciprocity through EU provisions cannot be achieved and relying on reciprocal international conventions is the best alternative, given the circumstances.

On judgments relating to parental responsibility, the Scottish Government intends to make provision in the SSI on Brussels IIa it is preparing in the event of “no deal”. The intention in the event of no deal is that we would recognise overseas judgments on parental responsibility by virtue of the 1996 Hague Convention on Parental Responsibility and not through Brussels IIa.

On question 3, the consultation indicated, in paragraph 23, that “if the UK leaves the EU without a negotiated settlement, it may be difficult to retain EU jurisdictional rules in Scotland unilaterally. The difficulty is that there is no guarantee that EU jurisdictional rules would be followed by Member States in respect of Scotland after Brexit”.

As indicated above, the Scottish Government is preparing an SSI on Brussels IIa. The intention is that on divorce jurisdiction, provision will be made so that in the event of no deal the jurisdiction of the Scottish courts would revert to the position before changes were made to reflect Brussels IIa. This means that the Scottish Courts would have jurisdiction if either of the parties to the marriage:

- (a) is domiciled in Scotland on the date when the action is begun; or
- (b) was habitually resident in Scotland throughout the period of one year ending with that date.

The intention is that similar provision will be made in relation to same sex relationships.

Longer term, we would plan to carry out a review of provisions on jurisdiction.

On question 4, the intention in the event of no deal, as outlined in the notifications, is to rely on international conventions where possible.

On question 5, the Committee was content with the notification of The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) (EU Exit) Regulations 2018 and The International Recovery of Maintenance (Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance 2007) (EU Exit) Regulations 2018<sup>[4]</sup>. These SIs make provision on the UK rejoining the Hague Convention of 2005 on Choice of Court Agreements and the Hague Convention of 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.

As the notification for these two SIs indicated, the intended time lag between EU measures ceasing to have effect in the event of no deal and the UK rejoining these Hague Conventions is just 2 days.

Questions 6 and 7 of the consultation asked consultees for any further comments. Points made included:

- The uncertainty which transnational families may face as a result of Brexit.
- The need to avoid a “power-grab” by the UK Government.
- Operating outwith EU law will increase the importance of private international law and comparative law.
- Private international law will be more complex after Brexit.
- There may be need for clarification in some areas of the effect of being a third country in relation to the EU.
- There needs to be provision on court cases that are pending on exit day. [The notification of 26 November outlined relevant provisions on this in the SIs].
- There will be a need for clear guidance for families on cross-border family law litigation and rights post-Brexit.
- Concerns about the provision of Brussels IIa which allows a child abduction override (this “override” allows courts of a child’s habitual residence to make enforceable return orders, even when return is rejected in the country the child has been taken to). [As outlined in the notification of 28 November, the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2018 makes relevant provision in this area].
- The UK should be at the forefront of agreeing a new Hague Convention on Recognition and Enforcement of Judgments in Civil and Commercial Matters in July 2019 and then in ratifying it quickly.
- There may well be advantages in some of these areas for the UK Parliament to legislate for the whole of the UK, to reduce the likelihood of intra-UK conflict of laws.
- Enforcement of UK judgments in the EU and EU judgements in the UK will be slower unless a reciprocal system is retained to ensure virtually automatic recognition of judgments.
- Concern about the potential loss of EU Regulation 606/2013, on the mutual recognition of protection measures in civil matters (such as interdicts to protect against domestic abuse).
- The need to consider intra-UK issues in relation to the Maintenance Regulation.
- Child-rights focussed training may be needed in relation to Hague Conventions, which may be less familiar than EU instruments.

[1] The notification of these two SIs is at [http://www.parliament.scot/S5\\_Delegated\\_Powers/20180913SInotification.pdf](http://www.parliament.scot/S5_Delegated_Powers/20180913SInotification.pdf)

[2] We are aware that some consultees have already published their responses. Please see <http://www.advocates.org.uk/media/2892/final-faculty-response-16-august-2018.pdf> and <https://www.lawscot.org.uk/media/360910/18-08-16-fam-consultation-family-and-civil-law-and-brexit.pdf>

[3] The notifications are at [http://www.parliament.scot/S5\\_Delegated\\_Powers/20181126SINotification.pdf](http://www.parliament.scot/S5_Delegated_Powers/20181126SINotification.pdf)

[4] The consultation is at <https://www2.gov.scot/Resource/0053/00538843.pdf>

