

Family Law (Child Abduction Convention) Amendment Regulations 1999 (No. 1) 1999 No. 222

EXPLANATORY STATEMENT

Statutory Rules 1999 No. 222

Issued by the Authority of the Attorney-General

Family Law Act 1975

Family Law (Child Abduction Convention) Amendment Regulations 1999 (No. 1)

Subsection 125(1) of the *Family Law Act 1975* (the Act) empowers the Governor-General to make regulations prescribing all matters necessary to be prescribed for the purposes of the Act.

Section 111B of the Act provides that the regulations may make such provision as is necessary to enable Australia to perform its obligations, or obtain any advantage or benefit, under the 1980 Hague Convention on the Civil Aspects of International Child Abduction (the Convention).

The objects of the Convention are to secure the prompt return of children wrongfully removed to or retained in any Convention country, and to ensure that rights of custody and access to children under the laws of a Convention country are effectively respected in the other Convention countries.

Australia signed and ratified the Convention on 25 October 1986, and the Convention came into force for Australia on 1 January 1987.

The purpose of the proposed regulations is to add Macau, Montserrat, Bermuda, Republic of Paraguay and Belgium to the list of convention countries in Schedule 2 of the Family Law (Child Abduction Convention) Regulations. The list also records the dates on which the convention entered into force between Australia and these countries. The operation of the convention was extended to Macau by Portugal on 2 December 1998, and consequently, in accordance with Article 43, the Convention entered into force between Australia and Macau on 1 March 1999. The operation of the Convention was extended to Montserrat and Bermuda by the United Kingdom on 10 December 1998, and consequently, in accordance with Article 43, the Convention entered into force between Australia and Montserrat and Bermuda on 1 March 1999. In these circumstances, no further action was required by Australia, as Portugal and the United Kingdom were members of the Hague Conference at the time the Convention was adopted. The extension of the Convention to Macau, Montserrat and Bermuda therefore operates as if it were a ratification.

Australia officially accepted the accession of the Republic of Paraguay to the Convention on 4 January 1999. Therefore, in accordance with Article 38 of the Convention, the Convention will enter into force between Australia and Paraguay on 1 April 1999.

Belgium ratified the Convention on 9 February 1999 and in accordance with Article 43, paragraph 2, the convention entered into force between Australia and Belgium on 1 May 1999.

Details of the proposed regulations are as follows:

Regulation 1 is formal.

Regulation 2 amends Schedule 2 of the Regulations to insert details relating to Macau, Montserrat, Bermuda, Republic of Paraguay and Belgium, including the provisions of the Convention in respect of which either country has made reservations. Montserrat and Bermuda have entered reservations under Article 26 (third paragraph) of the Convention excluding its liability for legal costs arising from court proceedings except insofar as those costs may be covered by its legal aid system.

The proposed regulations would commence on gazettal.