

Family Law (Child Abduction Convention) Amendment Regulations 2003 (No. 1) 2003 No. 340

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 340

Issued by the authority of the Attorney-General

Family Law Act 1975

Family Law (Child Abduction Convention) Amendment Regulations 2003 (No. 1)

Section 125 of the *Family Law Act 1975* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 111B (1) of the Act provides that the regulations may make such provision as is necessary or convenient to enable the performance of the obligations of Australia, or to obtain for Australia any advantage or benefit, under the *Hague Convention on the Civil Aspects of International Child Abduction* (the Convention), which entered into force for Australia on 1 January 1987.

Regulation 10 of the *Family Law (Child Abduction Convention) Regulations 1986* (the Abduction Regulations) provides that a Convention country is either a country specified in Schedule 2 of the Abduction Regulations (paragraph 10(a)) or any other country in respect of which the Convention has entered into force for Australia (paragraph 10(b)).

The purpose of the Regulations is to add El Salvador, Estonia, Latvia, Peru and Sri Lanka, which have recently acceded to the Convention, to the list of convention countries in Schedule 2 to the Abduction Regulations.

Article 38 of the Convention sets out the procedures for accession to the Convention and the declaration of acceptance of these accessions. Article 43 provides that the Convention enters into force for countries on the first day of the third calendar month after the deposit of their instruments of ratification, acceptance, approval or accession. On 18 October 2002, Australia deposited its declaration of acceptance of the accessions of the countries listed in accordance with Article 38. The Abduction Convention therefore entered into force between Australia and the countries to be listed on 1 January 2003, in accordance with Articles 38 and 43.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations commenced on gazettal. However, for the purposes of the Act and the Abduction Regulations, Australia's relations with each country to be listed have been effective since Australia's acceptance of their respective accessions became effective, by virtue of paragraph 10(b) of the Abduction Regulations.