

# **Family Law (Child Abduction Convention) Regulations (Amendment) 1994 No. 252**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1994 No. 252**

Issued by the Authority of the Attorney-General

#### Family Law Act 1975

Family Law (Child Abduction Convention) Regulations (Amendment)

Regulation 125(1) of the Family Law Act 1975 (the Act) empowers the Governor-General to make regulations 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 under the Convention on the Civil Aspects of International Child Abduction (the Convention). The Convention was signed at the Hague on 25 October 1980.

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. On 22 April 1986, the Family Law (Child Abduction Convention) Regulations were made to give effect to the Convention for Australia.

Proposed Regulation 2 would extend the list of countries in Schedule 2 of the Regulations by specifying the Federal Republic of Yugoslavia (Serbia and Montenegro) as an additional Convention country in respect of which the Convention has entered into force for Australia.

Although the depositary of the Convention does not recognise the Federal Republic of Yugoslavia (Serbia and Montenegro) as a party to the Convention, Australia may recognise the bilateral operation of the Convention between the Federal Republic of Yugoslavia (Serbia and Montenegro) and Australia provided that the Federal Republic of Yugoslavia (Serbia and Montenegro) considers that it has succeeded to the Convention rights and obligations of the former Socialist Federal Republic of Yugoslavia.

Proposed Regulation 2 includes in Schedule 2, the date the Convention came into force for the Federal Republic of Yugoslavia (Serbia and Montenegro). According to the rules of treaty succession, this date is the date on which the Convention entered into force for the former Socialist Federal Republic of Yugoslavia.

Proposed Regulation 3 ensures that the inclusion of the Federal Republic of Yugoslavia (Serbia and Montenegro) in Schedule 2 gives the widest possible coverage of the Convention in the territory of the former Socialist Federal Republic of Yugoslavia, but such inclusion in no way implies recognition by Australia of that entity.