

***Convention de La Haye du 25 octobre 1980 sur les aspects civils
de l'enlèvement international d'enfants***

Profil des États

établi par le Bureau Permanent

* * *

***Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction***

Country Profile

drawn up by the Permanent Bureau

*Document d'information No 2 de mars 2011 à l'intention de la
Commission spéciale de juin 2011 sur le fonctionnement pratique de la
Convention Enlèvement d'enfants de 1980 et de la
Convention Protection des enfants de 1996*

*Information Document No 2 of March 2011 for the attention of the
Special Commission of June 2011 on the practical operation of the
1980 Hague Child Abduction Convention and the
1996 Hague Child Protection Convention*

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FOREWORD TO THE COUNTRY PROFILE

This Country Profile should be used by Contracting States¹ to assist with fulfilment of the obligations contained within Article 7 of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.² In particular, it is anticipated that the Country Profile will help Contracting States fulfil their obligations under Article 7(2) e) and 7(2) i) of the Convention, that is:

- To provide information of a general character on the law of their State in connection with the application of the Convention; and
- To keep other Central Authorities informed regarding the operation of the Convention in their State and to eliminate any obstacles to the Convention's application.

The Country Profile is intended to assist with the practical operation of the Convention. It is hoped that it will facilitate:

- a) information exchanges between Contracting States;
- b) knowledgeable service by Central Authorities under the 1980 Hague Child Abduction Convention;
- c) cost-effective translation of the information provided by Contracting States into English, French, Spanish, and other languages as required by Contracting States; and
- d) prompt updates of the information provided.

NEWLY ACCEDING STATES:

It should be noted that the Country Profile does not replace the "Standard questionnaire for newly acceding States" (available at < www.hcch.net > under "Child Abduction Section" then "Questionnaires and responses"). The Standard Questionnaire provides a means for newly acceding States to describe promptly, and in brief, the measures taken in their State to ensure compliance with their Convention obligations and to ensure the effective practical operation of the Convention in their State. It thereby assists States already Party to the Convention with their decision as to whether to accept an accession.

Newly acceding States are encouraged to complete this full Country Profile as soon as is practicable.

INSTRUCTIONS:

- Please mark the box which best represents the arrangements in your State:
 - Where the response requires either "Yes" or "No", please mark one box only.
 - For all other questions, it may be necessary to mark more than one box.
- Where applicable, please specify the relevant provision(s) of your domestic legislation and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.
- Please complete a separate profile for each territorial unit if there are significant differences in the substance and operation of the laws in each.
- Please note: the information contained in the Country Profile **is of a general nature only**. The purpose of the Country Profile is to assist with the practical operation of the Convention and not to provide a comprehensive picture of the legal system of each Contracting State. Please consider this when completing the Country Profile and when using the Country Profile of other Contracting States. Please contact the relevant Central Authority for clarification or specific advice.
- Contracting States are exclusively responsible for updating the information contained in their Country Profile. However, reminders for updates will be provided by the Permanent Bureau of the Hague Conference on Private International Law.

¹ Any reference to a Contracting State in this Country Profile is a reference to a Contracting State of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*

² Hereinafter, "the 1980 Hague Child Abduction Convention", or simply "the Convention".

**1980 Hague Child Abduction Convention
Country Profile**

- Completed Country Profiles will be published on the website of the Hague Conference on Private International Law < www.hcch.net >.
- The Permanent Bureau of the Hague Conference has prepared a number of resources which may assist States in the effective implementation and operation of the Convention, in particular Guides to Good Practice. See < www.hcch.net > under "Child Abduction Section" for further information in this regard.

TERMINOLOGY:

- Whilst it is acknowledged that in some Contracting States the formal applicant to a return or access application under the Convention may be a State authority (see question 10.3 b) below), please note that the term "**applicant**" is used in the Country Profile as follows:
 - (a) In relation to a *return* application, the term "applicant" denotes the person, institution or other body alleging that their actually exercised rights of custody in relation to a child have been breached by the removal or retention of the child, in accordance with Article 3 of the Convention; and
 - (b) In relation to an *access* application, the term "applicant" denotes the person, institution or other body seeking to establish and / or exercise rights of access in relation to a child under Article 21 of the Convention.
- The term "**abducting party**" or "**alleged abducting party**" in the Country Profile refers to the person, institution or other body who has, or is alleged to have, wrongfully removed or retained a child in accordance with Article 3 of the Convention.

***Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction***

Table of contents

Part I: Central Authorities	7
1 Central Authority contact details.....	7
2 Language requirements.....	8
3 Central Authority operations	8
Part II: Relevant legislation	10
4 International Child Abduction	10
4.1 1980 Hague Child Abduction Convention.....	10
4.2 Other agreements on international child abduction.....	10
5 1996 Hague Child Protection Convention	10
Part III: Applications for return	13
6 Applications through Central Authorities	13
6.1 Outgoing applications (requesting State)	13
6.2 Incoming applications (requested State).....	13
7 Locating a child and preventing removal.....	16
8 Legal representation and assistance.....	18
8.1 General	18
8.2 Free or reduced rate legal assistance.....	20
9 Rights of custody	23
9.1 Acquisition and exercise of rights of custody.....	23
10 Proceedings for Return	24
10.1 Organisation of competent authorities	24
10.2 Articles 15 and 16 of the Convention	25
10.3 Procedures	27
10.4 Participation of the child	29
10.5 Protective measures.....	31
10.6 Contact or access during return proceedings	31
10.7 Appeals	31
11 Return of the child.....	34
11.1 Arrangements for return and the costs of return	34
11.2 Provisions for safe return	36
11.3 Criminal law and the return of the child	37
12 Enforcement of return orders	38
Part IV: Applications relating to access	40
13 Applications through Central Authorities	40
13.1 Outgoing applications (requesting State)	40
13.2 Incoming applications (requested State).....	40
14 Locating a child and preventing removal.....	44
15 Legal representation and assistance.....	44
15.1 General	44
15.2 Free or reduced rate legal assistance.....	45
16 Rights of access	47
16.1 Determining rights of access	47
16.2 Exercising rights of access	48
16.3 Supervised access.....	48
17 Proceedings for access / contact.....	49
17.1 Organisation of competent authorities	49

**1980 Hague Child Abduction Convention
Country Profile**

17.2	Procedures	49
17.3	Participation of the child	50
17.4	Appeals	51
18	Enforcement of rights of access	52
Part V: Mediation and other forms of alternative dispute resolution.....		54
19	Mediation	54
19.1	Mediation services.....	54
19.2	Legislation and / or rules on mediation	56
19.3	Access to mediation	56
19.4	The mediation process.....	58
19.5	The enforceability of mediated agreements	60
19.6	Agreements mediated in another State.....	60
20	Other forms of alternative dispute resolution (“ADR”)	61
Part VI: Direct judicial communications		62
21	Direct judicial communications	62
Part VII: Other information		63
22	Training.....	63
23	Other implementing measures	63
24	Other services.....	64

**Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction**

COUNTRY PROFILE

Country Name:

Territorial Unit (where applicable):

Last updated: May 2017

Part I: Central Authorities

1 Central Authority contact details

Provide the designation and contact details of the Central Authority to which communications may be addressed.
Always check < www.hcch.net > then "Child Abduction Section" and "Central Authorities" for the most current contact details.

Organisation:	Commonwealth Attorney General's Department
Address:	3-5 National Circuit, Barton, ACT, 2600
Territorial and personal extent of functions, if applicable:	Australia
Telephone:	+61 2 6141 6666
Fax:	+61 2 6141 3246
E-mail:	australiancentralauthority@ag.gov.au
Website:	www.ag.gov.au/childabduction
Contact person(s) and direct contact details (please indicate language(s) of communication):	Tracy Ballantyne, Co-Director, International Family Law Section Amanda Lilley, Co-Director, International Family Law Section +61 2 6141 6666 australiancentralauthority@ag.gov.au
Preferred method of communication:	English <input checked="" type="checkbox"/> Telephone <input type="checkbox"/> Fax <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Post <input type="checkbox"/> Other (<i>please specify</i>):

OTHER DESIGNATED CENTRAL AUTHORITIES (IF APPLICABLE)

Please attach additional pages if there is more than one designated Central Authority in your State.

Organisation:	
Address:	
Territorial and personal extent of functions, if applicable:	
Telephone:	
Fax:	
E-mail:	

Website:	
Contact person(s) and direct contact details (please indicate language(s) of communication):	
Preferred method of communication:	<input type="checkbox"/> Telephone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail <input type="checkbox"/> Post <input type="checkbox"/> Other (<i>please specify</i>):

2 Language requirements	
a) Does the Central Authority prefer applications, communications and other documents sent to them to be accompanied by a translation into the official language(s) of the State? <i>See Article 24</i> <i>See questions 10.3 c) and 17.2 b) below regarding any translation(s) required by the court / administrative authority</i>	<input checked="" type="checkbox"/> Yes, for all communications, applications and other documents. Please specify the official language(s) of the State: English <input type="checkbox"/> Not for informal communications <input type="checkbox"/> No
b) Has your State made a reservation in respect of the use of French or English for communications, applications and other documents sent to the Central Authority? <i>See Article 42</i>	<input type="checkbox"/> Yes, object to English <input type="checkbox"/> Yes, object to French <input checked="" type="checkbox"/> No

3 Central Authority operations	
a) What are the working days and hours of the Central Authority?	Days of the week open: Monday - Friday Opening time: 08:30 Closing time: 17:00 Shut down periods (<i>e.g.</i> , public holidays, court closures): 25 December - 2 January, 26 January, Easter Friday and Monday and 25 April.
b) Can assistance be accessed outside of working hours?	<input type="checkbox"/> Yes (<i>please specify contact details, if different from above</i>): <input type="checkbox"/> For persons in other Convention States: <input type="checkbox"/> For persons in your State: <input checked="" type="checkbox"/> No
c) Does the Central Authority have a dedicated staff who deals <i>only</i> with 1980 Hague Child Abduction Convention applications and related issues?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
d) Please indicate the professions represented in the Central Authority: <i>Please note that some individual staff members may fall under more than one category. This question should not be interpreted as an indication of the</i>	<input checked="" type="checkbox"/> Civil servants <input checked="" type="checkbox"/> Civil servants (legal advisors) <input type="checkbox"/> Lawyers <input type="checkbox"/> Social workers <input type="checkbox"/> Mediators

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

number of staff members in the Central Authority

Other (*please specify*):

Part II: Relevant legislation

4 International Child Abduction	
4.1 1980 Hague Child Abduction Convention	
a) When did the 1980 Hague Child Abduction Convention enter into force in your State?	Date: 1987
b) Was implementing legislation necessary for the 1980 Hague Child Abduction Convention to enter into force in your domestic law? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input checked="" type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> • The date that the legislation entered into force: 1987 • The legislative provision(s) or implementing legislation: Section 111B Family Law Act 1975 and the Family Law (Child Abduction Convention) Regulations 1986. Both the Family Law Act and the Regulations are available at http://www.comlaw.gov.au/ <input type="checkbox"/> No
c) Whether implementing legislation was necessary in your State or not, have any (other) legislative provisions or procedural rules been enacted to assist with the effective operation of the 1980 Hague Child Abduction Convention? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> • The date that the legislation or procedural rules entered into force or effect: • The legislative provision(s) or procedural rules: <input checked="" type="checkbox"/> No
4.2 Other agreements on international child abduction	
a) Is your State party to any other international agreements which relate to international child abduction?	<input checked="" type="checkbox"/> Yes: <ul style="list-style-type: none"> <input type="checkbox"/> Brussels II a Regulation (Council Regulation (EC) No 2201/2003 of 27 November 2003) <input type="checkbox"/> Inter-American Convention of 15 July 1989 on the International Return of Children <input checked="" type="checkbox"/> Bilateral agreements (<i>please specify</i>): <ul style="list-style-type: none"> Agreement between Australia and the Arab Republic of Egypt regarding cooperation on protecting the welfare of children 2000 Agreement between Australia and the Republic of Lebanon regarding Cooperation on Protecting the Welfare of Children 2009 <input type="checkbox"/> Non-binding memoranda of understanding (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No
5 1996 Hague Child Protection Convention	
a) Is your State a Contracting State to the 1996 Hague Child Protection Convention? <i>Refer to < www.hcch.net > for the status table of the 1996 Hague Child Protection Convention</i>	<input checked="" type="checkbox"/> Yes, if so, on what date did the 1996 Hague Child Protection Convention enter into force in your State: 1 August 2003 <input type="checkbox"/> No
b) Was implementing legislation necessary for the 1996 Hague Child Protection Convention to enter into force in your domestic law? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input checked="" type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> • The date that the legislation entered into force: 1 August 2003 • The legislative provision(s) or implementing legislation: Division 4, Part XIII AA of the Family

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>Law Act 1975 and the Family Law (Child Protection Convention) Regulations 2003, which are both available at http://www.comlaw.gov.au/.</p>
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No

c) Whether implementing legislation was necessary in your State or not, have any (other) legislative provisions or procedural rules been enacted to assist with the effective operation of the 1996 Hague Child Protection Convention?

Please specify how legislation can be accessed (e.g., website) or attach a copy

Yes, please specify:

- The date that the legislation or procedural rules entered into force or effect:
- The legislative provision(s) or procedural rules: Each Australian State and Territory has child protection legislation that interacts with the Regulations detailed above. In addition, some States have their own legislation to implement the 1996 Convention. That latter legislation largely mirrors the Commonwealth legislation detailed above.

No

Part III: Applications for return

6 Applications through Central Authorities	
6.1 Outgoing applications (requesting State)	
<p>a) What type of assistance is provided to applicants in your State when completing an application for return under the Convention?</p> <p><i>See Articles 7 and 8</i></p>	<p><input checked="" type="checkbox"/> Assistance from the Central Authority</p> <p><input type="checkbox"/> Assistance from another authority</p> <p><input checked="" type="checkbox"/> Referral to a legal representative</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Assistance is also provided free of charge from International Social Service Australia, an organisation funded by the Australian Government to assist applicants in Australia to prepare outgoing applications for return.</p>
6.2 Incoming applications (requested State)	
<p>a) What form of application does your State require for an incoming application?</p>	<p><input type="checkbox"/> (1) Model Application Form <i>Available at < www.hcch.net > under "Child Abduction Section"</i> Go to question c)</p> <p><input type="checkbox"/> (2) Form developed by your State Please specify how this form can be accessed (<i>e.g.</i>, website) or attach a copy: The form is located on the Attorney General's website at www.ag.gov.au/childabduction Go to question c)</p> <p><input checked="" type="checkbox"/> Both (1) and (2), go to question c)</p> <p><input checked="" type="checkbox"/> The form of the requesting State is accepted, go to question c)</p> <p><input type="checkbox"/> No particular form is required, go to question b)</p> <p><input type="checkbox"/> Other, go to question b)</p>
<p>b) If your State does not require a particular form of application, what information or documents does your State request?</p> <p><i>See Article 8</i></p> <p><i>Please note that the only information actually required by the Convention (Art. 8) is indicated by a cross in the relevant box</i></p>	<p><input type="checkbox"/> Information concerning the identity of the child:</p> <p><input type="checkbox"/> Name and previous name/s</p> <p><input type="checkbox"/> Date of birth, where available</p> <p><input type="checkbox"/> Address</p> <p><input type="checkbox"/> Telephone number</p> <p><input type="checkbox"/> Nationality / nationalities</p> <p><input type="checkbox"/> Passport number(s)</p> <p><input type="checkbox"/> Physical description (height, eye and hair colour)</p> <p><input type="checkbox"/> Photograph (as recent as possible)</p> <p><input type="checkbox"/> Information identifying the child's parents <i>e.g.</i>, nationalities – where a parent is not the applicant or respondent to proceedings (<i>please specify</i>):</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> Information concerning the identity of the applicant:</p> <p><input type="checkbox"/> Name and previous name/s</p> <p><input type="checkbox"/> Date of birth</p> <p><input type="checkbox"/> Address</p> <p><input type="checkbox"/> Telephone number</p> <p><input type="checkbox"/> Nationality / nationalities</p> <p><input type="checkbox"/> Passport number(s)</p> <p><input type="checkbox"/> Relationship of the applicant to the child</p> <p><input type="checkbox"/> Name(s) of legal adviser, if any</p>

	<input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Information concerning the identity of the person alleged to have removed or retained the child: <input type="checkbox"/> Name and previous name/s <input type="checkbox"/> Date of birth <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Nationality / nationalities <input type="checkbox"/> Passport number(s) <input type="checkbox"/> Physical description (height, eye and hair colour) <input type="checkbox"/> Photograph (as recent as possible) <input type="checkbox"/> Relationship of the person to the child <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> The grounds upon which the applicant's claim for return of the child is based <input type="checkbox"/> Evidence of the applicant's rights of custody <input type="checkbox"/> An authenticated copy of any relevant decision or agreement <input type="checkbox"/> A certificate or an affidavit emanating from the Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State <input type="checkbox"/> The alleged habitual residence of the child, with supporting information <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> All available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be <input type="checkbox"/> Any other relevant document / information <input type="checkbox"/> Concerning any child protection issues <input type="checkbox"/> Marriage certificate (if applicable) <input type="checkbox"/> Divorce decree (if applicable) <input type="checkbox"/> Civil and / or criminal proceedings in progress (if applicable) <input type="checkbox"/> Evidence of child or other relevant person's right to re-enter the State of the child's habitual residence <input type="checkbox"/> Other (<i>please specify</i>):
c) Does your Central Authority accept an application and accompanying documentation transmitted by electronic means?	<input type="checkbox"/> Yes, please specify any requirements for electronically transmitted applications / documentation: <input checked="" type="checkbox"/> Yes, but any documentation sent electronically is not accepted by the court / administrative authority (<i>please specify</i>): The Australian Central Authority will begin processing the application if it is received electronically, however the original documents are required to be submitted to the courts. <input type="checkbox"/> No

<p>d) Does the Central Authority require a written authorisation empowering it or a designated representative (e.g., <i>lawyer</i>) to act on behalf of the applicant? <i>See Article 28</i></p>	<p><input checked="" type="checkbox"/> Yes, the authorisation should be provided: <input checked="" type="checkbox"/> On the application form <input checked="" type="checkbox"/> In a signed statement or declaration <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No</p>
<p>e) Does the Central Authority acknowledge receipt of the application?</p>	<p><input checked="" type="checkbox"/> Yes, acknowledgment generally is provided by: <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Post <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No</p>
<p>f) Can the Central Authority proceed with an application where the information provided is incomplete?</p>	<p><input type="checkbox"/> Yes, the Central Authority will begin processing the application and will immediately inform the requesting Central Authority of what additional information is required to complete the request <input checked="" type="checkbox"/> No: <input type="checkbox"/> The Central Authority will not process an application without all of the necessary supporting documentation <input checked="" type="checkbox"/> The Central Authority is unable to process the application but will immediately inform the requesting Central Authority of what additional information is required before further action can be taken <input type="checkbox"/> It depends upon what type of information is missing (<i>please specify</i>): <input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>g) Who does the Central Authority prefer to communicate with in incoming applications?</p>	<p><input checked="" type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The applicant <input type="checkbox"/> The applicant's legal representative <input type="checkbox"/> All of the above <input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>h) What measures are taken by the Central Authority (directly, or through an intermediary) to attempt to secure the voluntary return of a child allegedly wrongfully removed or retained in accordance with Article 3 of the Convention (hereinafter, simply "the child")? <i>Please explain where necessary</i> <i>See Article 7 c) and Article 10</i> <i>See also Part V: Mediation and other forms of alternative dispute resolution below</i></p>	<p><input checked="" type="checkbox"/> Contact is made with the alleged abducting party to seek a voluntary return This is done in appropriate circumstances <input checked="" type="checkbox"/> Mediation and / or other forms of alternative dispute resolution are offered to the parties (see Part V: Mediation and other forms of alternative dispute resolution) <input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>i) How is it ensured that no undue delay results from the measures taken, or attempted, to secure the voluntary return of the child (see question h) above)?</p>	<p>Please explain: <i>The matter is usually filed in court at the same time that attempts to seek voluntary return or initiate mediation are done. This ensures that if attempts to resolve the matter amicably fail the matter can proceed to hearing by the court without delay.</i></p>

<p>j) What is the role of the Central Authority in taking or causing to be taken provisional measures to prevent further harm to the child? <i>See Article 7(2) b)</i> <i>Refer also to sections 10.5 and 11.2 below</i></p>	<input checked="" type="checkbox"/> Alert appropriate agencies where there are concerns that a child is at risk <input type="checkbox"/> Apply directly to authorities for protection orders <input checked="" type="checkbox"/> Refer parties to appropriate agencies <input type="checkbox"/> Other (<i>please specify</i>):
<p>k) Can an applicant commence proceedings in your State for the return of the child under the Convention without using the Central Authority channel? <i>See Article 3 and Article 29</i></p>	<input checked="" type="checkbox"/> Yes, if so, please explain: <ul style="list-style-type: none"> • Where the applicant can obtain information about commencing proceedings: Information about a person, institution or other body (that has rights of custody in relation to a child for the purposes of the Convention) making an application for the return of a child in person rather than using the Australian Commonwealth Central Authority can be obtained from a private legal practitioner. Paragraph 14(1)(b) of the Family Law (Child Abduction Convention) Regulations provides for such applications. The regulations can be accessed at http://www.comlaw.gov.au/. Such proceedings are at the applicant's own cost. • What role, if any, the Central Authority has in these proceedings: None <input type="checkbox"/> No

7 Locating a child and preventing removal

For best practice on locating a child and preventing removal, see the Guides to Good Practice under the 1980 Hague Child Abduction Convention available at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice". In particular, in relation to preventing removal, see Part III of the Guide to Good Practice on Preventive Measures.

<p>a) Can return proceedings commence before the child is located?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Yes, in certain circumstances (<i>please specify</i>): In most cases the location of the child(ren) is known. However, it is possible for the return proceedings to commence in order for the making of orders by a court designed to assist in the location of the child(ren). <input type="checkbox"/> No
<p>b) What evidence / information does your State require regarding the child's whereabouts to begin to assist with locating the child? <i>Please explain where necessary</i></p>	<input checked="" type="checkbox"/> Evidence that the child entered your State (<i>e.g.</i> , evidence that the child boarded an aeroplane bound for your State): Once an application is received under the Hague Convention seeking the return of a child from Australia, immigration and travel movement records are obtained from the Australian Department of Immigration and Border Protection. The information obtained from these sources often identifies the whereabouts of the child(ren). <input checked="" type="checkbox"/> Information from the applicant as to why he / she believes the child is in your State: including any specific information as to a possible address. <input type="checkbox"/> No information or evidence is required; searches for the child can begin upon request: <input type="checkbox"/> Other (<i>please explain</i>):
<p>c) What mechanisms or sources of information are available in your State to discover the whereabouts of the child? <i>Please indicate in the space provided any associated costs for an applicant or any other necessary information</i> <i>See Article 7(2) a)</i></p>	<input type="checkbox"/> (1) Private location services: <input type="checkbox"/> (2) Population register: <input type="checkbox"/> (3) Employment register: <input checked="" type="checkbox"/> (4) Information maintained by other government agencies (<i>e.g.</i> , <i>immigration, social welfare</i>): immigration and social welfare checks are able to be conducted <input checked="" type="checkbox"/> (5) Police: <input checked="" type="checkbox"/> (6) INTERPOL:

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input checked="" type="checkbox"/> (7) Court orders to compel the production of information on the whereabouts of the child: <input type="checkbox"/> (8) Other (<i>please specify</i>):
d) Please indicate who is responsible for arranging the measures listed above in question c) by inserting the relevant number next to the responsible person or authority <i>E.g.</i> , Central Authority: 2, 3 The applicant's representative: 7	Central Authority: 4, 5, 6 and 7 The applicant: The applicant's representative: Other (<i>please specify</i>):

e) Please indicate, by inserting the relevant numbers, which of the measures listed above in question c) need an order from a competent authority?	7 requires orders from either the Family Court of Australia or the Family Court of Western Australia.
f) What measures can be taken in your State to deter the removal or re-abduction of the child? <i>Please explain where necessary</i> <i>Refer also to the Guide To Good Practice, Part III – Preventive Measures, available at < www.hcch.net >, particularly to paragraph 3.1 on barriers to international travel</i>	<input checked="" type="checkbox"/> (1) Child’s passport(s) to be deposited with authorities <input checked="" type="checkbox"/> (2) Alleged abductor’s passport to be deposited with authorities <input checked="" type="checkbox"/> (3) Obtain orders to prevent the removal of the child <input checked="" type="checkbox"/> (4) Issuing border and / or port alerts <input checked="" type="checkbox"/> (5) Requiring the alleged abductor to report periodically to authorities <input checked="" type="checkbox"/> (6) Requiring the alleged abductor to pay a bond / deposit <input checked="" type="checkbox"/> (7) Temporary placement of child in institutional care This is possible, though extremely unusual and would require the relevant State or Territory welfare authorities to satisfy the requirements of their child welfare legislation. <input type="checkbox"/> (8) Other (<i>please specify</i>):
g) Please indicate who may apply for the measures listed above in question f) by inserting the relevant number next to the responsible person or authority	Central Authority: 1, 2, 3, 4, 5 and 7 (these can only be done in the context of an open Hague Convention application to prevent further abduction pending those proceedings being finalised). The applicant: 1, 2, 3, 4, 5, 6 (these would all require an order of a court specifically requiring each action being obtained by the applicant) The applicant’s representative: Other (<i>please specify</i>): .
h) Please indicate, by inserting the relevant numbers, which of the measures above in question f) need an order from a competent authority?	1, 2, 3, 4, 5, 6 and 7.

8 Legal representation and assistance

8.1 General

a) Has your State made a reservation to Article 26 of the Convention?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
b) Does the Central Authority provide legal advice regarding return applications?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No, however: <ul style="list-style-type: none"> <input type="checkbox"/> The Central Authority will refer the applicant to the appropriate person or authority to obtain legal advice <input checked="" type="checkbox"/> The Central Authority will provide information that is of a general nature about laws and procedures <input type="checkbox"/> Other (<i>please specify</i>):
c) Is legal representation required in return proceedings? <i>See Article 25</i> <i>Please explain where necessary</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No separate legal representation for the applicant parent is not required, providing that the application seeks the assistance of the Australian Commonwealth Central Authority to secure the return of the child(ren). In Australia the work required to secure the return of a child in such circumstances is undertaken by the Central Authority of the relevant State or Territory where the

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>child is located or by the Australian Commonwealth Central Authority. The court application for the return of the child(ren) is made in the name of the relevant Central Authority, it is not made in the name of the applicant parent.</p> <p>In undertaking an application for the return of a child the Central Authority in Australia does not act on behalf of or represent the applicant, but represents and acts on behalf of Australia in fulfilling Australia's obligations under the Convention.</p> <p>If an applicant parent wishes to be represented separately they would be advised to commence the proceedings themselves as is permitted under paragraph 14(1)(b) of the Family Law (Child Abduction Convention) Regulations 1986, available at http://www.comlaw.gov.au/.</p> <p><input type="checkbox"/> No, but recommended</p>
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<p>d) What is the role of the Central Authority in arranging legal representation? <i>See Article 7(2) g)</i></p>	<p><input type="checkbox"/> The applicant is required to make his / her own arrangements for legal representation, but the Central Authority will:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Provide the applicant with a list of lawyers <input type="checkbox"/> Provide the applicant with a list of free or reduced rate lawyers <input type="checkbox"/> Other (<i>please specify</i>): <p><input checked="" type="checkbox"/> Legal representation is not required. The Central Authority ensures the application is forwarded to the competent authority for action. Please provide additional information if necessary: The CA is the party, not the parent. Separate legal representation is not required. See answer to 8.1(c) above.</p> <p><input checked="" type="checkbox"/> Legal representation is arranged by the Central Authority. Representation is provided by:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Central Authority lawyers <input type="checkbox"/> Private lawyers <input type="checkbox"/> Public prosecutor <input type="checkbox"/> Other (<i>please specify</i>): <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
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8.2 Free or reduced rate legal assistance

<p>a) Is free or reduced rate legal assistance available to an applicant in return proceedings in your State?</p>	<p><input checked="" type="checkbox"/> Yes, free legal assistance. Go to question c) <input type="checkbox"/> Yes, reduced rate legal assistance. Go to question c) <input type="checkbox"/> No, go to question b)</p>
<p>b) If free or reduced rate legal assistance is <u>not</u> available, in what other ways can your State assist an applicant financially?</p>	<p><input type="checkbox"/> There is a system of costs ordering the respondent to pay <input type="checkbox"/> <i>Pro bono</i> legal assistance <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Not at all</p> <p>Go to section 9</p>
<p>c) Is the applicant required to complete an application form for free or reduced rate legal assistance?</p>	<p><input type="checkbox"/> Yes, please specify how application forms can be obtained (<i>e.g.</i>, website) or attach a copy: <input checked="" type="checkbox"/> No</p>
<p>d) Please indicate on what basis free or reduced rate legal assistance may be available <i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Income of the applicant <input type="checkbox"/> Assets of the applicant <input type="checkbox"/> Country of residence of the applicant <input type="checkbox"/> Likelihood of success of the proceedings on some matters only <input checked="" type="checkbox"/> Other (<i>please specify</i>): The assistance described in the answer to 8.1(c) above is available in any matter that meets the requirements of the Convention and of the relevant Australian legislation. However in seeking a return under the Convention legal representatives do not represent or act on behalf of applicants but act on behalf of the Central Authority in fulfilling Australia's obligations under the Convention.</p>
<p>e) Which costs are covered by free or reduced rate legal assistance? <i>Please explain where necessary</i></p>	<p><input type="checkbox"/> (1) Mediation <input type="checkbox"/> (2) Translation <input type="checkbox"/> (3) Interpreters <input checked="" type="checkbox"/> (4) Service of documents <input checked="" type="checkbox"/> (5) Costs associated with locating the child see answer to 7(b), (c), (d) and (e) above for what the ACCA will do. <input checked="" type="checkbox"/> (6) Court fees <input type="checkbox"/> (7) Travel costs for the return of the child (see question 11.1 c))</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input type="checkbox"/> (8) Other (<i>please specify</i>):
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f) Please indicate which costs, if any, are covered by the Central Authority by listing the numbers set out in question e) above?	4, 5 and 6
g) Is free or reduced rate legal assistance available for the appeal of decisions?	<input type="checkbox"/> No, go to question i) <input type="checkbox"/> Yes, free legal assistance; go to question h) <input type="checkbox"/> Yes, reduced rate legal assistance; go to question h) <input checked="" type="checkbox"/> It depends upon an assessment of the merits of the case and / or the means of the individual concerned (<i>please specify</i>): If the Australian Commonwealth Central Authority determines that a matter is an appropriate one for appeal the ACCA will meet the costs associated with the appeal. If the ACCA does not appeal the decision the applicant may choose to do so. If the applicant appeals the decision in those circumstances they are responsible for the costs of doing so. The ACCA has no involvement in private appeals where it has decided not to commence an appeal. Go to question h)
h) Is a new application for free or reduced rate legal assistance required for appeals?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i) Is free or reduced rate legal assistance available for proceedings needed to enforce a return order?	<input type="checkbox"/> No, go to question k) <input checked="" type="checkbox"/> Yes, free legal assistance; go to question j) <input type="checkbox"/> Yes, reduced rate legal assistance; go to question j) <input type="checkbox"/> It depends upon an assessment of the merits of the case and / or the means of the individual concerned (<i>please specify</i>): Go to question j)
j) Is a new application for free or reduced rate legal assistance required for enforcement applications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
k) Is free or reduced rate legal assistance available to an alleged abducting party located in your State?	<input checked="" type="checkbox"/> Yes, free legal assistance <input checked="" type="checkbox"/> Yes, reduced rate legal assistance Please specify in what circumstances and on what basis legal assistance will be granted: Free or reduced rate legal assistance may be available. The respondent can apply for legal aid. The Australian Government funds legal aid commissions to provide legal assistance services to disadvantaged people who have legal problems that come within Commonwealth legal aid priorities. In order for an application for legal aid to succeed, the applicant for legal aid must meet guidelines and satisfy means and merits tests as determined by legal aid commissions. <input type="checkbox"/> No
l) Where a child is returned to your State, is free or reduced rate legal assistance available to all parties in the custody proceedings in your State?	<input type="checkbox"/> Yes, free legal assistance is available to all parties <input type="checkbox"/> Yes, reduced rate legal assistance is available to all parties Please specify in what circumstances and on what basis legal assistance will be granted: <input checked="" type="checkbox"/> Free legal assistance is only available to certain persons (<i>please specify</i>): Either party can apply for

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>legal aid. The Australian Government funds legal aid commissions to provide legal assistance services to disadvantaged people who have legal problems that come within Commonwealth legal aid priorities. In order for an application for legal aid to succeed, applicants must meet guidelines and satisfy means and merits tests as determined by legal aid commissions.'</p> <p><input checked="" type="checkbox"/> Reduced rate legal assistance is only available to certain persons (<i>please specify</i>): same as above</p> <p>Please specify in what circumstances and on what basis legal assistance will be granted:</p> <p><input type="checkbox"/> No, free and / or reduced rate legal assistance is not available to any party</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
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9 Rights of custody	
9.1 Acquisition and exercise of rights of custody	
<i>See Articles 3 and 5</i>	
<p>a) Do rights of custody arise by operation of law in your State?</p> <p><i>Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy</i></p>	<p><input checked="" type="checkbox"/> Yes, go to question b)</p> <p><input type="checkbox"/> No, go to question c)</p>
<p>b) To whom are rights of custody attributed by operation of law?</p> <p><i>See Articles 3 and 5</i></p> <p><i>Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy</i></p>	<p>Please explain: Section 61C of the Family Law Act 1975 provides that each of the parents of a child who is not 18 has parental responsibility for the child. Section 61B of the same Act provides that parental responsibility, in relation to a child, means all the duties, powers, responsibilities and authority which, by law, parents have in relation to children.</p>
<p>c) By what other methods can a person or institution acquire rights of custody?</p>	<p><input checked="" type="checkbox"/> Judicial decision</p> <p><input type="checkbox"/> Administrative decision</p> <p><input type="checkbox"/> Agreement having legal effect</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): It is possible for parents, and other parties, to agree in relation to parental responsibility and have that agreement evidenced as consent orders. It is also possible for older written agreements to have been registered with the Court as parenting plans. Some of these continue to have legal effect.</p>
<p>d) How, if at all, can the attribution of rights of custody be modified?</p>	<p><input checked="" type="checkbox"/> By order of a judicial or administrative authority</p> <p><input type="checkbox"/> By written agreement</p> <p><input type="checkbox"/> It depends upon how the rights of custody were acquired (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): It is possible for parents to agree modify the attribution of parental responsibility and to have that agreement evidenced as consent orders. It is also possible for older written agreements to have been registered with the Court as parenting plans. Some of these continue to have legal effect.</p>

<p>e) How, if at all, can rights of custody be terminated?</p>	<p><input checked="" type="checkbox"/> By order of a judicial or administrative authority</p> <p><input type="checkbox"/> By written agreement</p> <p><input type="checkbox"/> It depends upon how the rights of custody were acquired (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): It is possible for parents to agree to terminate the attribution of parental responsibility and to have that agreement evidenced as consent orders. It is also possible for older written agreements to have been registered with the Court as parenting plans. Some of these continue to have legal effect.</p>
<p>f) Prior to any order determining the issue, who <i>generally</i> has the right to determine the child's residence?</p>	<p>Please explain: Each of the parents of the child.</p>

10 Proceedings for Return

10.1 Organisation of competent authorities

<p>a) Does your State limit the number of judicial or administrative authorities who can hear return applications under the Convention?</p> <p>(<i>i.e.</i>, has your State "concentrated jurisdiction" in respect of applications under the Convention)</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>b) If possible, please state exactly how many courts or administrative authorities and how many judges or relevant decision-makers can hear return applications under the Convention?</p>	<p>Courts / administrative authorities: The Family Court of Australia and the Family Court of Western Australia.</p> <p>Judges / decision-makers: approximately 38 Judges can hear return applications, though some of these judges would, in practice, only hear such cases on appeal.</p>

c) Please list the judicial or administrative authorities that can make decisions in return applications under the Convention	See answer to 10.1(b) above.
d) Are the judges or administrative authorities who decide return applications in your State specialists in either family law or international child abduction? <i>See also section 22 on Training below</i>	<input checked="" type="checkbox"/> Yes, specialists in family law <input type="checkbox"/> Yes, specialists in international child abduction <input type="checkbox"/> No <input type="checkbox"/> Other (<i>please specify</i>):
e) In ascertaining whether there has been a wrongful removal or retention under the Convention, do judicial or administrative authorities in your State take judicial notice of foreign law and decisions without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable in ascertaining whether there has been a wrongful removal or wrongful retention? <i>See Article 14</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Other (<i>please specify</i>): It is open to a court to take judicial notice, however, it is a matter of discretion for the specific court. The Regulations implementing the Convention provide that the court 'may take judicial notice of ...a law in force in a convention country'. The Regulations are available online at http://www.comlaw.gov.au/ .
10.2 Articles 15 and 16 of the Convention	
a) In your State is it possible for a decision or other determination to be made, in accordance with Article 15 of the Convention, that the removal or retention of a child was wrongful within the meaning of Article 3? <i>See Article 3 and Article 15</i>	<input checked="" type="checkbox"/> Yes, go to question b) <input type="checkbox"/> No, go to question e)
b) Which authorities in your State can issue Article 15 decisions / determinations? <i>See Article 15</i>	Please list: These are usually issued by the Family Court of Australia or the Family Court of Western Australia.
c) Who can apply for an Article 15 decision / determination?	<input checked="" type="checkbox"/> Central Authority <input checked="" type="checkbox"/> The applicant in the return proceedings <input type="checkbox"/> Other (<i>please specify</i>): Note it is not clear here whether 'apply' in this context means apply to the Australian court or apply to the Australian Commonwealth Central Authority. An Article 15 Declaration can be sought from an Australian court under Regulation 17 of the Family Law (Child Abduction Convention) Regulations 1986. That Regulation is available at http://www.comlaw.gov.au/ . Such an order would normally be sought by the applicant seeking the return of a child to Australia from another Convention country.
d) Are Article 15 decisions / determinations of other States accepted by the judicial or administrative authorities in your State?	<input checked="" type="checkbox"/> Yes, <i>please explain if necessary</i> : it is a matter for the court to determine the weight given to such decisions. The court can also request an applicant to obtain a declaration. <input type="checkbox"/> No
e) Who notifies the relevant judicial or administrative bodies that a decision on the merits of rights of custody should not be made until it has been determined that the child should not be returned? <i>See Article 16</i>	<input checked="" type="checkbox"/> Central Authority <input checked="" type="checkbox"/> The applicant's legal representative <input type="checkbox"/> Other (<i>please specify</i>):

f) When does notification in accordance with Article 16 take place?	<input checked="" type="checkbox"/> Automatically upon receipt of a return application <input type="checkbox"/> Upon request of either party <input checked="" type="checkbox"/> Other (<i>please specify</i>): Automatically providing the existence of domestic court proceedings is known.
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10.3 Procedures	
<p>a) How does the Central Authority fulfil its obligation to initiate or facilitate the initiation of proceedings in your State? <i>See Article 7(2) f</i> <i>See also question 8.1 d) above</i></p>	<p><input checked="" type="checkbox"/> The Central Authority itself initiates the proceedings for return <input type="checkbox"/> The Central Authority sends the file to an appropriate lawyer <input type="checkbox"/> The Central Authority sends the file to the Public Prosecutor <input checked="" type="checkbox"/> Other (<i>please specify</i>): The Australian Commonwealth Central Authority will provide the application to the relevant State or Territory Central Authority in Australia which will initiate the proceedings in the name of the relevant Central Authority. In some limited circumstances the proceedings are initiated by the Australian Commonwealth Central Authority in its own name.</p>
<p>b) Who is the formal applicant in return proceedings before the court / administrative authority in your State?</p>	<p><input type="checkbox"/> The person, institution or other body which made the application under the Convention <input checked="" type="checkbox"/> The Central Authority <input type="checkbox"/> The Public Prosecutor <input checked="" type="checkbox"/> Other (<i>please specify</i>): It is usually the relevant Central Authority, however, it can be the person who applied if they apply directly to the court rather than going through the CA.</p>
<p>c) Does documentation submitted to the court / administrative authority have to be translated into the official language(s) of your State? <i>See question 2 a) for the official language(s) of the State</i></p>	<p><input checked="" type="checkbox"/> Yes, please state who is responsible for the organisation and cost of the translation: Documents must be provided by the requesting overseas Central Authority in English. <input type="checkbox"/> No <input type="checkbox"/> It depends upon the type of documentation submitted (<i>please specify</i>):</p>
<p>d) Have measures been taken to ensure that the judicial and administrative authorities in your State act expeditiously in return proceedings? <i>See Article 11</i></p>	<p><input checked="" type="checkbox"/> Yes, please explain briefly what the measures are: <input checked="" type="checkbox"/> In the implementing legislation: Subregulation 15(2) requires that a "...court must, so far as practical, give to an application such priority as will ensure that the application is dealt with as quickly as a proper consideration of each matter relating to the application allows." Subregulation 15(4) provides that if an application for return is not determined within 42 days commencing on the day on which the application is filed, the Registrar of the Court may be requested to state in writing the reasons for the application not having been determined within that period and the Registrar must provide that statement as soon as practicable after being asked. <input type="checkbox"/> In procedural rules: <input type="checkbox"/> Other (<i>please specify</i>): C Please specify how the legislation or rules can be obtained (<i>e.g.</i>, website) or attach a copy: Subregulations 15(2) and (4) are available at http://www.comlaw.gov.au/. <input type="checkbox"/> No</p>
<p>e) Generally, what is the expected time from the commencement of the proceedings for return to a final order (excluding appeals)? <i>See Article 11</i></p>	<p><input type="checkbox"/> Up to 6 weeks <input type="checkbox"/> 6 to 12 weeks <input checked="" type="checkbox"/> More than 12 weeks (<i>please provide further information</i>): Timeframes range from 6 weeks to 6 months</p>
<p>f) Is the applicant generally required to participate in the return proceedings? <i>Please note that attendance in person is not required under the Convention (see paragraph 6.5.3 of the</i></p>	<p><input checked="" type="checkbox"/> Yes, please specify in what circumstances: Usually not in person, but of course the applicant will be required to provide material to support the application in the form of affidavit evidence.</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

<p><i>Guide to Good Practice, Part II - Implementing Measures)</i></p>	<p>In some circumstances Australian courts have determined that the appearance of the applicant (whether in person or via phone or video link) for the purposes of cross examination, is required.</p> <p><input type="checkbox"/> No, but advisable</p> <p><input type="checkbox"/> No</p>
<p>g) Are facilities available to enable the applicant to participate in return proceedings from outside your State?</p>	<p><input checked="" type="checkbox"/> Yes:</p> <p><input checked="" type="checkbox"/> Video-conference</p> <p><input checked="" type="checkbox"/> Telephone</p> <p><input type="checkbox"/> Through a legal representative</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): The views of the applicant are normally provided to the Court by the relevant Central Authority via affidavit evidence.</p> <p><input type="checkbox"/> No</p>
<p>h) If the applicant does participate in return proceedings in your State, is simultaneous interpretation available, where necessary?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> It depends upon the circumstances of the case (<i>please specify</i>):</p>

<p>i) Where the facilities set out in question 10.3 g) and h) above are required, who is responsible for the cost of providing such facilities?</p>	<p><input checked="" type="checkbox"/> The applicant <input checked="" type="checkbox"/> The requesting Central Authority <input checked="" type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The court / administrative authority <input checked="" type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>j) Can special immigration arrangements (<i>e.g.</i>, visas) be made to enable the applicant to attend return proceedings in person if he / she so wishes?</p>	<p><input type="checkbox"/> Yes (<i>please specify</i>): No. An Applicant would need to satisfy the usual visa requirements. In most cases the general visitor visa would be sufficient to permit the parent entry for this purpose. No special category is available <input checked="" type="checkbox"/> No</p>
<p>k) Is it possible for a return application to be decided solely on the basis of the papers <i>i.e.</i>, with no court (or administrative authority) hearing at all?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> Yes, but it is unlikely <input checked="" type="checkbox"/> No, there will always be a hearing</p>
<p>l) Can oral evidence (<i>i.e.</i>, in-person evidence) be received in return proceedings?</p>	<p><input type="checkbox"/> Yes, oral evidence will always be received in return proceedings <input checked="" type="checkbox"/> Yes, oral evidence can be received in return proceedings but in limited circumstances only (<i>please specify</i>): Oral evidence will normally only be taken where the court considers it is unable to determine the matter on the written evidence that has been provided and any oral submissions made by the legal representatives. <input type="checkbox"/> No, oral evidence can never be received in return proceedings</p>

10.4 Participation of the child

<p>a) Does the child have an opportunity to be heard in return proceedings in your State?</p>	<p><input type="checkbox"/> Yes, in every case; go to question b) <input checked="" type="checkbox"/> It depends upon the particular case and is always at the discretion of the judge / authority hearing the case. <i>Please explain if necessary</i>: Under paragraph 16 (3)(c) of the Family Law (Child Abduction Convention) Regulations 1986, a court may refuse to make an order for the return of a child if</p> <p>i) the child objects to being returned, and ii) the child's objection shows a strength of feeling beyond a mere expression of a preference or of ordinary wishes, and iii) the child has attained an age, and a degree of maturity, at which it is appropriate to take account of his or her views.</p> <p>In order to obtain the child's views and to assess the child's degree of maturity, the court may require a report from an expert to be done in relation to the child and the family (see Regulation 26). In limited cases the court may also appoint a separate legal representative for the child, known as an independent children's lawyer. Go to question b)</p> <p><input type="checkbox"/> Only where Article 13(2) is relied upon; go to question b) <input type="checkbox"/> Other (<i>please specify</i>): Go to question b) <input type="checkbox"/> No, never. Go to section 10.5</p>
<p>b) How is the child heard in return proceedings?</p>	<p><input type="checkbox"/> Direct interview with judge <input checked="" type="checkbox"/> Report prepared for court by independent expert</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input checked="" type="checkbox"/> Child's own legal representative <input type="checkbox"/> Other (<i>please specify</i>):
c) How does your State ensure that no undue delay results from hearing the child in the course of return proceedings?	<i>Please explain: Any necessary experts reports are usually obtained quickly and independent children's lawyers can similarly be arranged quickly, and in appropriate cases are usually appointed at an early stage of the case.</i>
d) Can judicial or administrative authorities appoint a legal representative (attorney or <i>guardian ad litem</i>) to represent the child's best interests in return proceedings?	<input checked="" type="checkbox"/> Yes, please specify under what circumstances: See answer at c) above <input type="checkbox"/> No

10.5 Protective measures	
<p>a) Where there are concerns about the care being given to a child in your State, which authorities provide services for the assessment and protection of the child?</p> <p><i>Please provide additional information if necessary</i></p> <p><i>On the role of the Central Authority in this respect, see also question 6.2 j) above</i></p>	<input checked="" type="checkbox"/> Government social / welfare agency: <input type="checkbox"/> Non-governmental organisations / agencies: <input type="checkbox"/> Central Authority: <input checked="" type="checkbox"/> Police: <input checked="" type="checkbox"/> Courts: <input type="checkbox"/> Other (<i>please specify</i>):
<p>b) What measures are available to ensure the protection of a child in your State (both prior to the initiation of return proceedings and whilst return proceedings are ongoing)?</p>	<input checked="" type="checkbox"/> 1. Injunctive orders can be placed on the alleged abducting party prohibiting certain forms of conduct <i>e.g.</i> , violence, drinking <i>etc.</i> <input checked="" type="checkbox"/> 2. Placement of the child in foster care <input checked="" type="checkbox"/> 3. Placement of the child in State care <input checked="" type="checkbox"/> 4. Supervision of the alleged abducting party's care of the child by a social / welfare agency <input type="checkbox"/> 5. Other (<i>please specify</i>):
<p>c) Which of the above measures require a court order? Please list the relevant numbers from question 10.5 b) above</p>	<p>All of the above measures would require a court order.</p>
<p>d) Who is responsible for applying for any protective measure requiring a court order? Please list next to the relevant individual or body the number of the measure from question b) above, which they are required to apply for</p> <p><i>On the role of the Central Authority in this respect, see also question 6.2 j) above</i></p>	<input type="checkbox"/> The applicant: <input type="checkbox"/> The requesting Central Authority: <input checked="" type="checkbox"/> The requested Central Authority: <input type="checkbox"/> The Public Prosecutor: <input type="checkbox"/> The judge (<i>ex officio</i>): <input checked="" type="checkbox"/> A government social / welfare agency: <input type="checkbox"/> The police: <input type="checkbox"/> Other (<i>please specify</i>):
10.6 Contact or access during return proceedings	
<p>a) Can judicial or administrative authorities take provisional or interim measures to enable an applicant to exercise contact or access in respect of the child while return proceedings are pending?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10.7 Appeals	
<p>a) Can a decision in return proceedings be appealed?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Only in certain circumstances (<i>please specify</i>): <p>If either of the boxes above are ticked, please specify how many levels of appeal exist and to which court(s) / authority(ies) an appeal may be made: Full Court of the Family Court of Australia and the High Court of Australia.</p> <input type="checkbox"/> No, go to section 11

<p>b) Is there an expedited procedure or special process of appeal for Hague return cases?</p> <p><i>Please specify the legislation and / or rules which provide for this and how they can be obtained (e.g., website) or attach a copy</i></p>	<p><input type="checkbox"/> Yes, please specify: <input checked="" type="checkbox"/> No</p>
<p>c) Who can initiate the appeal process?</p>	<p><input checked="" type="checkbox"/> Either party to the proceedings <input checked="" type="checkbox"/> Central Authority <input type="checkbox"/> Public Prosecutor <input checked="" type="checkbox"/> Other (<i>please specify</i>):</p> <p>Note that the Central Authority is one party to the proceedings and the alleged abducting parent is the other party. Either of these parties can appeal a decision to return/not return a child.</p> <p>The applicant parent could, if the Central Authority did not wish to appeal the decision, seek leave from the court to appeal a decision.</p>
<p>d) Is leave to appeal required?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> In certain circumstances (<i>please specify</i>): Providing the appeal (to the Full Court of the Family Court of Australia against an initial decision on an application for return of a child under the Convention) is lodged within the 28 day period required the appeal is as of right. Outside that period leave is required. As set out above the applicant parent (who is not a party to the proceedings if they are being managed by the Australian Central Authorities) would need to seek leave to appeal against the decision. Appeals from the Full Court of the Family Court of Australia to the High Court of Australia require Special Leave to appeal.</p>
<p>e) If a return order is made, can it be suspended (<i>i.e.</i>, "stayed") pending an appeal?</p>	<p><input type="checkbox"/> Yes, a return order is <i>automatically</i> suspended pending an appeal <input checked="" type="checkbox"/> Yes, a return order can be suspended pending an appeal at the request of either party <input checked="" type="checkbox"/> Yes, a return order can be suspended pending an appeal at the request of either party <u>and</u> after determination by the judge / authority <input type="checkbox"/> No</p>
<p>f) Is there a time limit by which an appeal must be filed in return proceedings?</p>	<p><input checked="" type="checkbox"/> Yes, please specify: The time limit: 28 days From when the time limit starts to run (<i>e.g.</i>, from the date of judgment, from the date of the order, from the date the decision was notified to the parties <i>etc.</i>): From the date of the judgment, which will also be the date of the order. <input type="checkbox"/> No</p>
<p>g) Generally, what is the expected time within which appeals are filed and decided?</p>	<p><input type="checkbox"/> Up to 3 months <input checked="" type="checkbox"/> 3 to 6 months <input type="checkbox"/> Longer than 6 months</p>
<p>h) Is the applicant generally required to participate in the appeal proceedings?</p> <p><i>Please note that attendance in person is not required under the Convention (see para. 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i></p>	<p><input type="checkbox"/> Yes, please specify in what circumstances: <input type="checkbox"/> No, but advisable <input checked="" type="checkbox"/> No</p>
<p>i) Are facilities available to enable the applicant to attend appeal proceedings from outside your State?</p>	<p><input checked="" type="checkbox"/> Yes, please specify: <input checked="" type="checkbox"/> Video-conference <input checked="" type="checkbox"/> Telephone</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p><input type="checkbox"/> Through a legal representative</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p>Note, this would only be at the request of the court. It would be extremely unusual for the applicant to be required to attend.</p> <p><input type="checkbox"/> No</p>
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j) If the applicant does participate in appeal proceedings in your State, is simultaneous interpretation available, where necessary?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
k) Where the facilities set out in questions i) and j) above are required, who is responsible for the cost of providing such facilities?	<input checked="" type="checkbox"/> The applicant <input checked="" type="checkbox"/> The requesting Central Authority <input checked="" type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The court / administrative authority <input checked="" type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):
l) Can special immigration arrangements (<i>e.g.</i> , visas) be made to enable the applicant to attend appeal proceedings in person if he / she so wishes?	<input type="checkbox"/> Yes (<i>please specify</i>): No. Applicant would need to satisfy the usual visa requirements. In most cases the general visitor visa would be sufficient to permit the parent entry for this purpose. No special category is available <input type="checkbox"/> No

11 Return of the child

11.1 Arrangements for return and the costs of return

a) Who is responsible for making travel arrangements for the return of the child?	<input checked="" type="checkbox"/> The abducting party <input checked="" type="checkbox"/> The applicant <input checked="" type="checkbox"/> The abducting party and the applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The judicial or administrative authority will direct who is to make arrangements on a case-by-case basis. Please explain if necessary: It will normally be a matter for the parents to arrange and pay for the travel. The Australian Commonwealth Central Authority and the responsible Australian Central Authority may coordinate the making of arrangements necessary to give effect to a court order, but will not pay the costs relating to those arrangements (see subregulation 20(3)). <input type="checkbox"/> Other (<i>please specify</i>):
b) Who is responsible for the travel costs relating to the return of the child?	<input checked="" type="checkbox"/> The abducting party <input checked="" type="checkbox"/> The applicant <input checked="" type="checkbox"/> The abducting party and the applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The costs are decided by the judicial or administrative authority on a case-by-case basis. Please explain if necessary: The Australian Central Authorities will not pay the travel costs relating to the return of children. <input type="checkbox"/> Other (<i>please specify</i>):
c) Is there financial assistance available in your State to assist with travel costs associated with the return of the child? <i>See also question 8.2 e)</i>	<input checked="" type="checkbox"/> Yes, please specify: Applicants can apply for financial assistance under a merits and means tested scheme, which may assist with the costs of travel and legal costs relating to the abduction of children from Australia to overseas. Details can be found at www.ag.gov.au/childabduction . There is no similar scheme for the travel costs relating to children abducted into Australia. <input type="checkbox"/> No

d) Can special immigration arrangements (e.g., visas) be made, where necessary, to enable an applicant to travel to your State to collect a child (following a return order or a voluntary agreement to return the child)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Please explain, if necessary: No Applicant would need to satisfy the usual visa requirements. In most cases the general visitor visa would be sufficient to permit the parent entry for this purpose. No special category is available
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e) Can special immigration arrangements (e.g., visas) be made, where necessary, for abducting parties and children returning to your State?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Please explain, if necessary: No Applicant would need to satisfy the usual visa requirements. In most cases the general visitor visa would be sufficient to permit the parent entry for this purpose. No special category is available
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11.2 Provisions for safe return

See also: Article 7(2) b)

Part VI: Direct judicial communications

Section 6: Applications through Central Authorities

a) Does the law in your State provide for the protection of children from domestic violence or other forms of abuse?	<input checked="" type="checkbox"/> Yes, please specify how legislation can be accessed (e.g., website) or attach a copy: Each State and Territory also has its own legislation relating to child protection. <input type="checkbox"/> No
b) Does the law in your State provide for the protection of adults from domestic violence or other forms of abuse?	<input checked="" type="checkbox"/> Yes, please specify how legislation can be accessed (e.g., website) or attach a copy: Each State and Territory also has its own legislation relating to the protection of adults from domestic violence. <input type="checkbox"/> No
c) Which authorities provide services for the protection, if necessary, of the child? <i>Please provide additional information if necessary</i>	<input checked="" type="checkbox"/> Government social / welfare agency: <input type="checkbox"/> Non-governmental organisations: <input type="checkbox"/> Central Authority: <input checked="" type="checkbox"/> Police: <input checked="" type="checkbox"/> Courts: <input type="checkbox"/> Other (<i>please specify</i>):
d) What action can the Central Authority in your State take, where necessary, to ensure the safe return of the child? <i>See Article 7(2) h)</i>	Please explain: In most cases the arrangements that will be necessary to ensure the safe return of children to other countries will be set out in the court orders, usually by way of conditions placed upon the return. In some cases parents may be required to make undertakings, or to arrange for mirror orders to be made overseas.

Requested State

e) Where a judge or administrative authority in your State is ordering the return of the child, what can the authority do to create conditions for a safe return? <i>Please explain where necessary</i> <i>Please tick all boxes which apply</i>	<input checked="" type="checkbox"/> Make a protective order or other order designed to prevent harm occurring to the child <input checked="" type="checkbox"/> Accept undertakings from either party designed to prevent harm occurring to the child Please specify the subject-matter of, and any limitations on, the undertakings the authority can accept: <input checked="" type="checkbox"/> Other (<i>please specify</i>): If the other State is a party to the Child Protection Convention, these orders may be able to be registered in the other contracting State.
f) Where a judge or administrative authority in your State takes measures to create conditions for a safe return, what can the authority do to ensure compliance with those measures?	<i>Please specify</i> : Unless the conditions are met the order for return need not be complied with.

Requesting State

g) Can judicial or administrative authorities in your State:

- i. Recognise and enforce protective orders or other orders made in the requested State designed to prevent harm occurring to the child?
- ii. Insist upon undertakings given in the requested State being carried out?
- iii. Make any "mirror orders" necessary as a result of protective measures taken in the requested State?

- Yes
- No

Please explain where necessary: Australia recognises court orders made in countries with which the 1996 Convention is in force (and in certain other countries with which Australia has reciprocal arrangements).

- Yes
- No
- It depends upon the subject-matter of the undertakings given

Please explain where necessary: Not unless the undertakings are also given force of an Australian court order. This would normally be done using a mirror order or through recognition under the 1996 Convention (or under reciprocal arrangements with New Zealand).

- Yes
- No

Please explain where necessary: However, this needs to be done upon application of the parents.

11.3 Criminal law and the return of the child

a) Is the wrongful *removal* of a child by a parent from your State a criminal offence?

See Article 3

Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation

- Yes
- It depends upon the circumstances of the case, please specify: Sections 65Y and 65Z of the Family Law Act 1975 provide that wrongful removal is a criminal offence punishable by up to 3 years imprisonment only where it is done in circumstances where there are parenting orders in place in relation to the child or there are proceedings pending to obtain such orders. The provision is available at <http://www.comlaw.gov.au/>.
- No

b) Is the wrongful *retention* of a child by a parent outside your State a criminal offence?

See Article 3

Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation

- Yes
 - It depends upon the circumstances of the case, please specify:
 - No
- If the answer to both question 11.3 a) and b) is "no", go to section 12**

c) What penalties are available for the wrongful removal or wrongful retention of a child by a parent?

- (1) Pecuniary measures
- (2) Imprisonment
- (3) Other (*please specify*):

d) Please indicate which of the penalties listed above are mandatory

None

e) Can criminal proceedings in your State proceed without a complaint being presented (*e.g.*, by the applicant to the return proceedings or any other concerned person / body)?

- Yes
- No, please specify: Prosecutions are extremely rare

f) Once initiated, can criminal proceedings in your State be withdrawn or suspended to facilitate the return of a child?	<input checked="" type="checkbox"/> Yes, please specify: Theoretically this is possible, however, it is extremely unlikely that the prosecuting authority would do so. As indicated above, prosecutions under the relevant sections are extremely rare. <input type="checkbox"/> No, go to section 12
g) Who is able to initiate the withdrawal or suspension of criminal proceedings relating to the wrongful removal or wrongful retention of a child?	<input checked="" type="checkbox"/> Prosecuting authority <input type="checkbox"/> Police <input type="checkbox"/> The person / body / institution alleging a wrongful removal or retention <input type="checkbox"/> Judicial or administrative authority <input type="checkbox"/> Other (<i>please specify</i>):
h) Who will determine whether the criminal proceedings are to be withdrawn or suspended?	<input checked="" type="checkbox"/> Prosecuting authority <input type="checkbox"/> Police <input type="checkbox"/> The person / body / institution alleging a wrongful removal or retention <input checked="" type="checkbox"/> Judicial or administrative authority <input type="checkbox"/> Other (<i>please specify</i>):
i) What assistance can the Central Authority provide regarding the suspension or withdrawal of criminal proceedings?	<input type="checkbox"/> None <input checked="" type="checkbox"/> Refer the matter to prosecuting authority <input type="checkbox"/> Other (<i>please specify</i>):

12 Enforcement of return orders

For best practice in relation to the enforcement of return orders, see the Guide to Good Practice, Part IV – Enforcement available at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

a) What procedure may be used to enforce a return order?	<input checked="" type="checkbox"/> Directions by a judicial or administrative authority to make arrangements for return <input type="checkbox"/> Measures for the immediate execution of final orders <input checked="" type="checkbox"/> Issue of a warrant for the apprehension or detention of the child <input type="checkbox"/> Authority for coercive detention or use of force <input type="checkbox"/> Other (<i>please specify</i>):
b) Who is generally responsible for exercising supervision over the process of enforcement?	<input type="checkbox"/> The applicant <input checked="" type="checkbox"/> Central Authority <input type="checkbox"/> Public Prosecutor <input checked="" type="checkbox"/> The court / administrative authority <input checked="" type="checkbox"/> Police <input type="checkbox"/> No one body has general responsibility <input type="checkbox"/> Other (<i>please specify</i>):
c) Where parties do not voluntarily comply with a return order, is it necessary to commence additional proceedings to enforce the order?	<input checked="" type="checkbox"/> Yes, go to question d) <input type="checkbox"/> It depends on the circumstances (<i>please specify</i>): Go to question d) <input type="checkbox"/> No, go to Part IV: Applications relating to access
d) What is the procedure to commence enforcement proceedings?	<input checked="" type="checkbox"/> The Central Authority will apply for enforcement <input type="checkbox"/> The applicant must apply for enforcement <input type="checkbox"/> Other (<i>please specify</i>):
e) Can the merits of the proceedings for return be reviewed in enforcement proceedings?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
f) What coercive measures, if any, are available to enforce a return order?	<input checked="" type="checkbox"/> Intervention by government agency (e.g., <i>police, social welfare</i>)

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<ul style="list-style-type: none"><input checked="" type="checkbox"/> Removal of the child from the abducting party<input type="checkbox"/> Removal of the child from the State<input type="checkbox"/> Criminal charges<input type="checkbox"/> Imprisonment<input type="checkbox"/> Pecuniary measures<input checked="" type="checkbox"/> An order placing the child under supervision<input type="checkbox"/> Other (<i>please specify</i>):
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Part IV: Applications relating to access

13 Applications through Central Authorities	
13.1 Outgoing applications (requesting State)	
<p>a) What assistance is available to applicants in your State in the preparation of outgoing access applications? <i>See Articles 7 and 21</i></p>	<p><input checked="" type="checkbox"/> Assistance from the Central Authority to apply under Article 21</p> <p><input checked="" type="checkbox"/> Assistance from another authority or body to apply under Article 21</p> <p><input checked="" type="checkbox"/> Referral to a legal representative for assistance to apply under Article 21</p> <p><input type="checkbox"/> Other (<i>please specify</i>): International Social Services (Australia) is funded to assist applicants to prepare outgoing applications (return and access).</p>
13.2 Incoming applications (requested State)	
<p>a) Has your State developed a specific form for access applications under the Convention?</p>	<p><input checked="" type="checkbox"/> Yes Please specify how this form can be accessed (<i>e.g.</i>, website) or attach a copy: The form is located on the child access page of Attorney General's website at www.ag.gov.au/childabduction. This form is used for all outgoing requests, and shows the preferred form for incoming applications. Please note that mediation will be offered in an incoming access case. The ACCA will not seek orders in court. If the applicant wishes to pursue the matter in court they should apply using the domestic legal system in Australia at their own expense. Information can be provided by the ACCA. Go to question c)</p> <p><input type="checkbox"/> No, go to question b)</p>
<p>b) If your State does not require a particular form for access applications, what information or documents are requested?</p>	<p><input type="checkbox"/> Information concerning the identity of the child:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Name and previous name/s <input type="checkbox"/> Date of birth, where available <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Nationality / nationalities <input type="checkbox"/> Passport number(s) <input type="checkbox"/> Physical description (height, eye and hair colour) <input type="checkbox"/> Photograph (as recent as possible) <input type="checkbox"/> Information identifying the child's parents <i>e.g.</i>, nationalities – where a parent is not the applicant or respondent to proceedings (<i>please specify</i>): <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> Information concerning the identity of the applicant:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Name and previous name/s <input type="checkbox"/> Date of birth <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Nationality / Nationalities <input type="checkbox"/> Passport number(s) <input type="checkbox"/> Relationship of the applicant to the child <input type="checkbox"/> Name(s) of legal adviser, if any <input type="checkbox"/> Other (<i>please specify</i>):

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input type="checkbox"/> Information concerning the identity of the person with whom the child is presumed to be (the proposed respondent to the application): <ul style="list-style-type: none"> <input type="checkbox"/> Name and previous name/s <input type="checkbox"/> Date of birth <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Nationality / nationalities <input type="checkbox"/> Passport number(s) <input type="checkbox"/> Physical description (height, eye and hair colour) <input type="checkbox"/> Photograph (as recent as possible) <input type="checkbox"/> Relationship of the person to the child <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> The grounds upon which the applicant's claim for access to the child is based <ul style="list-style-type: none"> <input type="checkbox"/> Evidence of the applicant's rights of access (whether obtained by operation of law, or otherwise) <input type="checkbox"/> An authenticated copy of any relevant decision or agreement <input type="checkbox"/> A certificate or an affidavit emanating from the Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> All available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be <input type="checkbox"/> Any other relevant document / information <ul style="list-style-type: none"> <input type="checkbox"/> Concerning any child protection issues <input type="checkbox"/> Marriage certificate (if applicable) <input type="checkbox"/> Divorce decree (if applicable) <input type="checkbox"/> Civil and / or criminal proceedings in progress (if applicable) <input type="checkbox"/> Other (<i>please specify</i>):
c) Does your Central Authority accept an application and accompanying documentation transmitted by electronic means?	<input checked="" type="checkbox"/> Yes, please specify any requirements for electronically transmitted applications / documentation: <input type="checkbox"/> Yes, but any documentation sent electronically is not accepted by the court / administrative authority (<i>please specify</i>): <input type="checkbox"/> No
d) Does the Central Authority require a written authorisation empowering it or a designated representative (e.g., <i>lawyer</i>) to act on behalf of the applicant? <i>See Article 28</i>	<input checked="" type="checkbox"/> Yes, the authorisation should be provided: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> On the application form <input checked="" type="checkbox"/> In a signed statement or declaration <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No

e) Does the Central Authority acknowledge receipt of the application?	<input checked="" type="checkbox"/> Yes, acknowledgment generally is provided by: <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Post <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No
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<p>f) Can the Central Authority proceed with an application where the information provided is incomplete?</p>	<p><input type="checkbox"/> Yes, the Central Authority will begin processing the application and will immediately inform the requesting Central Authority of what additional information is required to complete the request</p> <p><input checked="" type="checkbox"/> No:</p> <p><input type="checkbox"/> The Central Authority will not process an application without all of the necessary supporting documentation</p> <p><input checked="" type="checkbox"/> The Central Authority is unable to process the application but will immediately inform the requesting Central Authority of what additional information is required before further action can be taken</p> <p><input type="checkbox"/> It depends upon what type of information is missing (<i>please specify</i>):</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>g) Who does the Central Authority prefer to communicate with in incoming applications?</p>	<p><input checked="" type="checkbox"/> The requesting Central Authority</p> <p><input type="checkbox"/> The applicant</p> <p><input type="checkbox"/> The applicant's legal representative</p> <p><input type="checkbox"/> All of the above</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>h) What measures are taken by the Central Authority (directly, or through an intermediary) to attempt to secure agreement between parties in international access cases?</p> <p><i>See Article 21</i></p> <p><i>See Part V: Mediation and other forms of alternative dispute resolution</i></p>	<p><input checked="" type="checkbox"/> Contact is made with the respondent to the application</p> <p><input checked="" type="checkbox"/> Mediation and / or other forms of alternative dispute resolution are offered to the parties (see Part V: Mediation and other forms of alternative dispute resolution)</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>i) How is it ensured that no undue delay results from the measures taken, or attempted, to secure an agreement between parties in international access cases (see question h) above)?</p>	<p><i>Please explain: All that the ACCA offers in incoming access cases is mediation. After the mediation has been completed the ACCA can provide information about how to locate lawyers in Australia, but any legal proceedings for access will not be funded by the ACCA.</i></p>
<p>j) What general assistance can be provided by the Central Authority in respect of arrangements for rights of access?</p> <p><i>See Article 21</i></p>	<p><input type="checkbox"/> The Central Authority can facilitate contact with the parties:</p> <p><input type="checkbox"/> Directly through the Central Authority</p> <p><input type="checkbox"/> Through intermediaries</p> <p><input checked="" type="checkbox"/> The Central Authority can provide information to the applicant on services available, e.g., mediation, legal services, social welfare services (<i>please specify</i>):</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>k) Will the Central Authority's assistance depend on:</p> <p><i>See paragraph 4.6 of the General Principles and Guide to Good Practice on Transfrontier Contact Concerning Children (available at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice") recommending that Central Authorities should make their services available in all cases where cross-frontier contact rights of parents and children are in issue</i></p>	<p><input type="checkbox"/> Existence of a judicial or administrative order establishing or confirming rights of access</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): The Australian Central Authority will provide assistance if the applicant has rights of access to the child under the law of the requesting country.</p>

<p>l) Can an applicant commence proceedings in your State with respect to access without using the Central Authority channel?</p>	<p><input checked="" type="checkbox"/> Yes; if so, please explain: Where an applicant can obtain information about commencing proceedings: from a private legal practitioner. These proceedings would be domestic proceedings, not Hague access proceedings and the cost would be borne by the applicant.</p> <ul style="list-style-type: none"> • What role, if any, the Central Authority has in these proceedings: None <p><input type="checkbox"/> No</p>
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14 Locating a child and preventing removal

<p>a) Are the responses to the questions in this section the same as for applications for return (see section 7)?</p>	<p><input type="checkbox"/> Yes, go to section 15 <input checked="" type="checkbox"/> No, continue to question b)</p>
<p>b) What evidence / information does your State require regarding the child's whereabouts to begin to assist with locating the child? <i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Evidence that the child entered your State (e.g., evidence that the child boarded an aeroplane bound for your State):</p> <p><input checked="" type="checkbox"/> Information from the applicant as to why he / she believes the child is in your State: This is useful information, the applicant parent often knows the child's address in Australia.</p> <p><input checked="" type="checkbox"/> No information or evidence is required; searches for the child can begin upon request:</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>c) What mechanisms or sources of information are available in your State to discover the whereabouts of a child who is the subject of an access application? <i>Please indicate in the space provided any associated costs for the applicant or any other necessary information</i></p>	<p><input type="checkbox"/> (1) Private location services: <input type="checkbox"/> (2) Population register: <input type="checkbox"/> (3) Employment register: <input checked="" type="checkbox"/> (4) Information maintained by other government agencies (e.g., immigration, social welfare):</p> <p><input type="checkbox"/> (5) Police: <input type="checkbox"/> (6) INTERPOL: <input type="checkbox"/> (7) Court orders to compel the production of information on the whereabouts of the child: <input type="checkbox"/> (8) Other (<i>please specify</i>):</p>
<p>d) Please indicate who is responsible for arranging the measures indicated above in question c) by listing the relevant number next to the responsible person or authority <i>E.g., Central Authority: 2, 3 The applicant's representative: 6</i></p>	<p>Central Authority: 4 The applicant: The applicant's representative: Other (<i>please specify</i>):</p>
<p>e) Please indicate by listing numbers which of the measures above in question c) need an order from a competent authority?</p>	

15 Legal representation and assistance

15.1 General

<p>a) Are the responses to the questions in this section the same as for applications for return (see section 8)?</p>	<p><input type="checkbox"/> Yes, go to section 15.2 <input checked="" type="checkbox"/> No, continue to question b)</p>
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<p>b) Does the Central Authority provide legal advice regarding access applications?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No, however: <input type="checkbox"/> The Central Authority will refer the applicant to the appropriate person or authority to obtain legal advice <input checked="" type="checkbox"/> The Central Authority will provide information that is of a general nature about laws and procedures <input checked="" type="checkbox"/> Other (<i>please specify</i>): The CA will provide information about mediation offered by the ACCA and information about how to find a lawyer, noting that any court action will be domestic proceedings at the expense of the applicant.</p>
<p>c) Is legal representation needed in access proceedings? <i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No, but advisable <input checked="" type="checkbox"/> No All the ACCA offers in incoming access matters is mediation. Any legal applications have to be funded and run directly by the applicant. We can provide details of Law Society's etc so a lawyer can be found.</p>
<p>d) What is the role of the Central Authority in making arrangements to progress the application? <i>See Article 7(2) g)</i></p>	<p><input checked="" type="checkbox"/> The applicant is required to make his / her own arrangements for legal representation, but the Central Authority will: <input type="checkbox"/> Provide the applicant with a list of lawyers <input type="checkbox"/> Provide the applicant with a list of free or reduced rate lawyers <input checked="" type="checkbox"/> Other (<i>please specify</i>): refer the applicant to websites of the Law Society in the relevant State or Territory to obtain lawyer details. <input type="checkbox"/> Legal representation is not required. The Central Authority ensures the application is forwarded to the competent authority for action. Please provide additional information if necessary: <input type="checkbox"/> Legal representation is arranged by the Central Authority. Representation is provided by: <input type="checkbox"/> Central Authority lawyers <input type="checkbox"/> Private lawyers <input type="checkbox"/> Public prosecutor <input type="checkbox"/> Other (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): The ACCA can refer the matter to mediation</p>
<p>15.2 Free or reduced rate legal assistance</p>	
<p>a) Are the responses to the questions in this section the same as for applications for return (see section 8.2)?</p>	<p><input type="checkbox"/> Yes, go to section 16 <input checked="" type="checkbox"/> No, go to question b)</p>
<p>b) Is free or reduced rate legal assistance for access applications available for applicants located in another Contracting State?</p>	<p><input type="checkbox"/> Yes, free legal assistance; go to question d) <input type="checkbox"/> Yes, reduced rate legal assistance; go to question d) <input checked="" type="checkbox"/> No; go to question c)</p>
<p>c) If free or reduced rate legal assistance is <u>not</u> available, in what other ways can your State assist an applicant financially?</p>	<p><input type="checkbox"/> There is a system of costs ordering the respondent to pay <input type="checkbox"/> Pro bono legal assistance <input checked="" type="checkbox"/> Other (<i>please specify</i>): The ACCA will offer mediation but will not fund any legal proceedings in relation to access. The applicant will need to file directly in the family courts in Australia. This application will not be a Hague application but will be an access application under domestic Australian</p>

	<p>family law. The cost of making such an application would need to be borne by the applicant.</p> <p><input type="checkbox"/> Not at all</p> <p>Go to section 16</p>
<p>d) Is the applicant required to complete an application form for free or reduced rate legal assistance?</p>	<p><input type="checkbox"/> Yes. Please specify how application forms can be obtained (e.g., website) or attach a copy:</p> <p><input type="checkbox"/> No</p>

e) Please indicate on what basis free or reduced rate legal assistance may be available <i>Please explain where necessary</i>	<input type="checkbox"/> Income of the applicant <input type="checkbox"/> Assets of the applicant <input type="checkbox"/> Country of residence of the applicant <input type="checkbox"/> Likelihood of success of the proceedings <input type="checkbox"/> Other (<i>please specify</i>):
f) Which costs are covered by free or reduced rate legal assistance? <i>Please explain where necessary</i>	<input type="checkbox"/> (1) Mediation <input type="checkbox"/> (2) Translation <input type="checkbox"/> (3) Interpreters <input type="checkbox"/> (4) Service of documents <input type="checkbox"/> (5) Costs associated with locating the child <input type="checkbox"/> (6) Court fees <input type="checkbox"/> (7) Travel costs for the return of the child (see question 11.1 c)) <input type="checkbox"/> (8) Other (<i>please specify</i>):
g) Please list the corresponding numbers of the costs, if any, listed in question f) which are covered by the Central Authority?	
h) Is free or reduced rate legal assistance available for the appeal of decisions?	<input type="checkbox"/> No, go to question j) <input type="checkbox"/> Yes, free legal assistance <input type="checkbox"/> Yes, reduced rate legal assistance
i) Is a new application for free or reduced rate legal assistance needed for appeals?	<input type="checkbox"/> Yes <input type="checkbox"/> No
j) Is free or reduced rate legal assistance available for proceedings needed to enforce an access order?	<input type="checkbox"/> No, go to section 16 <input type="checkbox"/> Yes, free legal assistance <input type="checkbox"/> Yes, reduced rate legal assistance
k) Is a new application for free or reduced rate legal assistance needed for enforcement applications?	<input type="checkbox"/> Yes <input type="checkbox"/> No

16 Rights of access

16.1 Determining rights of access

a) Which legislation in your State governs the establishment and exercise of rights of access? <i>See Article 5</i>	Please specify how legislation can be accessed (<i>e.g.</i> , website) or attach a copy: Note comments above - for Hague access applications, all the ACCA offers is mediation. If an applicant wishes to establish or enforce their rights of access in the courts, they will need to go to the family courts under domestic Australian legislation. The Family Law Act 1975 is also available at http://www.comlaw.gov.au .
b) Which judicial and / or administrative authorities can make decisions with respect to rights of access?	Family Court of Australia
c) In your State, who may seek rights of access in respect of a child?	<input checked="" type="checkbox"/> Parent <input checked="" type="checkbox"/> Step-parent <input checked="" type="checkbox"/> Grandparent <input checked="" type="checkbox"/> Other family member (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): Any other person concerned with the care, welfare or development of the child (see section 65C of the Family Law Act 1975 at http://www.comlaw.gov.au .

<p>d) Are the best interests of the child a primary consideration in access proceedings?</p> <p><i>See Articles 3 and 9 of the United Nations Convention on the Rights of the Child</i></p> <p><i>Please explain, if necessary</i></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, please specify what are the primary considerations:</p>
<p>16.2 Exercising rights of access</p>	
<p>a) Where necessary, what guarantees and safeguards do your courts or administrative authorities have to enable them to secure rights of access for children and applicants?</p>	<p><input checked="" type="checkbox"/> Surrender of passport or travel documents</p> <p><input checked="" type="checkbox"/> Applicant to regularly report to police or other authority</p> <p><input checked="" type="checkbox"/> Deposit of a monetary bond or surety</p> <p><input checked="" type="checkbox"/> Supervised contact</p> <p><input checked="" type="checkbox"/> Placing restrictions on how contact is exercised</p> <p><input checked="" type="checkbox"/> Signing an affidavit or religious oath</p> <p><input checked="" type="checkbox"/> Provision of a detailed itinerary with contact details</p> <p><input checked="" type="checkbox"/> Requesting foreign consulates / embassies should not issue new passports / travel documents for the child</p> <p><input type="checkbox"/> Other:</p>
<p>16.3 Supervised access</p>	
<p>a) Do facilities exist in your State for the exercise of rights of access in a supervised environment?</p>	<p><input checked="" type="checkbox"/> Yes, please explain if necessary: The Government funds NGOs to operate children's contact centres which provide supervised access and supervised changeover of children between parents.</p> <p><input type="checkbox"/> No, go to section 17</p>
<p>b) Under what circumstances is access supervised?</p>	<p><input checked="" type="checkbox"/> Where it is agreed between the parties</p> <p><input type="checkbox"/> Where it is requested by one party</p> <p><input checked="" type="checkbox"/> As a result of a decision by a social welfare agency</p> <p><input checked="" type="checkbox"/> By order of a judicial or administrative authority</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>c) Which authorities provide supervised access?</p>	<p><input checked="" type="checkbox"/> Government social / welfare agency:</p> <p><input checked="" type="checkbox"/> Non-government organisations:</p> <p><input type="checkbox"/> Central Authority:</p> <p><input type="checkbox"/> Police:</p> <p><input type="checkbox"/> Courts:</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>d) Who will pay the costs associated with exercising supervised access?</p>	<p><input checked="" type="checkbox"/> The applicant</p> <p><input type="checkbox"/> The person(s) with day to day care of the child</p> <p><input type="checkbox"/> The Central Authority</p> <p><input checked="" type="checkbox"/> It depends upon the order of the judicial or administrative authority</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>

17 Proceedings for access / contact	
17.1 Organisation of competent authorities	
a) Does your State limit the judicial or administrative authorities who can hear access applications under the Convention? (i.e., has your State "concentrated jurisdiction" in respect of access applications under the Convention?)	<input type="checkbox"/> Yes <input type="checkbox"/> No
b) If possible, please state exactly how many courts or administrative authorities and how many judges or relevant decision-makers can hear access applications under the Convention?	Courts / administrative authorities: Judges / decision-makers:
c) Which courts or administrative authorities can make decisions in applications relating to access under the Convention?	
d) Are the judges or administrative authorities who decide access applications in your State specialists in family law? <i>See also section 22 on Training below</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (<i>please specify</i>): As detailed above, the ACCA only provides mediation in access matters, any court proceedings are domestic proceedings that the applicant must initiate and pay for.
17.2 Procedures	
a) Is a special procedure applied by judicial or administrative authorities to access applications made under Article 21 of the Convention? <i>Please explain where necessary</i>	<input type="checkbox"/> Yes: <input type="checkbox"/> No: As detailed above, the ACCA only provides mediation in access matters, any court proceedings are domestic proceedings that the applicant must initiate and pay for.
b) Does documentation submitted to the court / administrative authority have to be translated into the official language(s) of your State? <i>See question 2 a) for the official language(s) of the State</i>	<input type="checkbox"/> Yes, please state who is responsible for the organisation and cost of the translation: <input type="checkbox"/> No <input type="checkbox"/> It depends upon the type of documentation submitted (<i>please specify</i>):
c) Generally, how long are proceedings relating to access from commencement to final order (excluding appeals)?	<input type="checkbox"/> Up to 6 weeks <input type="checkbox"/> 6 to 12 weeks <input type="checkbox"/> 3 to 6 months <input type="checkbox"/> Longer than 6 months
d) Is the applicant generally required to participate in proceedings relating to access? <i>Please note that attendance in person is not required under the Convention (see para. 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i>	<input type="checkbox"/> Yes, please specify in what circumstances: <input type="checkbox"/> No, but advisable <input type="checkbox"/> No

e) Are facilities available to enable an applicant to participate in access proceedings from outside your State?	<input type="checkbox"/> Yes, please specify: <input type="checkbox"/> Video-conference <input type="checkbox"/> Telephone <input type="checkbox"/> Through a legal representative <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No
f) If the applicant does participate in access proceedings in your State, is simultaneous interpretation available, where necessary?	<input type="checkbox"/> Yes <input type="checkbox"/> No
g) Where the facilities set out in questions e) and f) above are required, who is responsible for the cost of providing such facilities?	<input type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):
h) Can special immigration arrangements (<i>e.g.</i> , visas) be made to enable the applicant to attend access proceedings in person if he / she so wishes?	<input type="checkbox"/> Yes (<i>please specify</i>): <input type="checkbox"/> No
17.3 Participation of the child	
a) Are the responses to the questions in this section the same as for applications for return (see section 10.4)?	<input type="checkbox"/> Yes, go to section 17.4 <input checked="" type="checkbox"/> No, continue to question b)
b) Does the child have an opportunity to be heard in access proceedings under the Convention in your State?	<input type="checkbox"/> Yes, always; go to question c) <input type="checkbox"/> It depends upon the particular case and is always at the discretion of the judge / authority hearing the case. <i>Please explain if necessary:</i> Go to question c) <input checked="" type="checkbox"/> Other (<i>please specify</i>): the ACCA only provides mediation in access matters, any court proceedings are domestic proceedings that the applicant must initiate and pay for. Go to question c) <input type="checkbox"/> No, never; go to section 17.4
c) How can the child be heard in access proceedings?	<input type="checkbox"/> Direct interview with judge <input type="checkbox"/> Report prepared for court by independent expert <input type="checkbox"/> Child's own legal representative <input type="checkbox"/> Other (<i>please specify</i>):
d) How does your State ensure that no undue delay results from hearing the child in the course of access proceedings?	Please explain:
e) Can judicial or administrative authorities appoint a legal representative (attorney or <i>guardian ad litem</i>) to represent the child's best interests?	<input type="checkbox"/> Yes, please specify under what circumstances: <input type="checkbox"/> No

17.4 Appeals	
a) Can a decision in applications relating to access be appealed?	<input type="checkbox"/> Yes <input type="checkbox"/> Only in certain circumstances (<i>please specify</i>): If either of the boxes above are ticked, please specify how many levels of appeal exist and to which courts / authorities an appeal may be made: . <input type="checkbox"/> No, go to section 18
b) Is there an expedited procedure or special process of appeal for Hague access cases? <i>Please specify the legislation and / or rules which provide for this and how they can be obtained (e.g., website) or attach a copy</i>	<input type="checkbox"/> Yes, please specify: <input type="checkbox"/> No
c) Who can initiate the appeal process?	<input type="checkbox"/> Either party to the proceedings <input type="checkbox"/> Central Authority <input type="checkbox"/> Public Prosecutor <input type="checkbox"/> Other (<i>please specify</i>):
d) Is leave to appeal required?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In certain circumstances (<i>please specify</i>):
e) If an access order is made, can it be suspended (<i>i.e.</i> , "stayed") pending an appeal?	<input type="checkbox"/> Yes, an access order is <i>automatically</i> suspended pending an appeal <input type="checkbox"/> Yes, an access order can be suspended pending an appeal at the request of either party <input type="checkbox"/> Yes, an access order can be suspended pending an appeal at the request of either party and after determination by the relevant judge / authority <input type="checkbox"/> No
f) Is there a time limit by which an appeal must be filed in access proceedings?	<input type="checkbox"/> Yes, please specify: The time limit: From when the time limit starts to run (<i>e.g.</i> , from the date of judgment, from the date of the order, from the date the decision is notified to the parties <i>etc.</i>): <input type="checkbox"/> No
g) Generally, what is the expected time within which appeals are filed and decided?	<input type="checkbox"/> Up to 3 months <input type="checkbox"/> 3 to 6 months <input type="checkbox"/> Longer than 6 months
h) Is the applicant generally required to participate in appeal proceedings? <i>Please note that attendance in person is not required under the Convention (see paragraph 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i>	<input type="checkbox"/> Yes, please specify in what circumstances: <input type="checkbox"/> No

i) Is the applicant able to participate in proceedings without being physically present?	<input type="checkbox"/> Yes, please specify: <input type="checkbox"/> Video-conference <input type="checkbox"/> Telephone <input type="checkbox"/> Through a legal representative <input type="checkbox"/> Other (please specify): <input type="checkbox"/> No
j) If the applicant does participate in appeal proceedings in your State, is simultaneous interpretation available, where necessary?	<input type="checkbox"/> Yes <input type="checkbox"/> No
k) Where the facilities set out in questions i) and j) above are required, who is responsible for the cost of providing such facilities?	<input type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):
l) Can special immigration arrangements (e.g., visas) be made to enable the applicant to attend appeal proceedings in person if he / she so wishes?	<input type="checkbox"/> Yes, please specify: <input type="checkbox"/> No

18 Enforcement of rights of access

a) Can an order relating to rights of access made in another State be registered for enforcement or be declared enforceable in your State?	<input type="checkbox"/> Yes, all orders made in another State are recognised and are enforceable. Please explain or specify how relevant legislation can be accessed (e.g., website) or attach a copy: <input checked="" type="checkbox"/> Yes, if there is an international agreement in place with the foreign State. Please specify: <input type="checkbox"/> Brussels II a (Council Regulation (EC) 2201/2003 of 27 November 2003) <input checked="" type="checkbox"/> 1996 Hague Child Protection Convention <input checked="" type="checkbox"/> Other (<i>please specify</i>): There is provision under the Family Law Act for certain overseas orders to be registered in Australian courts. The prescribed overseas jurisdictions are few: Austria, New Zealand, Papua New Guinea, Switzerland, and most of the individual states of the USA. <input type="checkbox"/> Yes, subject to conditions. Please explain or specify how relevant legislation can be accessed (e.g., website) or attach a copy: <input type="checkbox"/> No, however the party can seek to have "mirror orders" made by the judicial or administrative authorities <input type="checkbox"/> No
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<p>b) Can an agreement relating to rights of access made in another State be registered for enforcement or be declared enforceable in your State?</p>	<p><input type="checkbox"/> Yes, if there is an international agreement in place with the foreign State. Please specify:</p> <p><input type="checkbox"/> Brussels II a (Council Regulation (EC) 2201/2003 of 27 November 2003)</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> Yes, subject to conditions. Please explain:</p> <p><input checked="" type="checkbox"/> No, however the party can seek to have "mirror orders" made by the judicial or administrative authorities</p> <p><input type="checkbox"/> No</p>
<p>c) Can a party seek to have orders made in your State in respect of a decision from another State on rights of access?</p>	<p><input checked="" type="checkbox"/> Yes, the party must apply to the judicial or administrative authorities</p> <p><input type="checkbox"/> Yes, the Central Authority will apply to the judicial or administrative authorities on behalf of the party</p> <p><input type="checkbox"/> No</p>
<p>d) What is the procedure for the applicant to commence enforcement proceedings?</p>	<p><input type="checkbox"/> The Central Authority can apply for enforcement on behalf of the applicant</p> <p><input checked="" type="checkbox"/> The applicant must seek enforcement</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>e) What coercive measures, if any, are available to enforce an order relating to access and contact?</p>	<p><input type="checkbox"/> Intervention by government agency (e.g., <i>police, social welfare, etc.</i>)</p> <p><input type="checkbox"/> Removal of the child from the custodial person(s)</p> <p><input type="checkbox"/> Criminal charges</p> <p><input type="checkbox"/> Imprisonment</p> <p><input type="checkbox"/> Pecuniary measures</p> <p><input type="checkbox"/> An order placing the child under supervision</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p>The Australian Commonwealth Central Authority does not participate in enforcement proceedings for access matters.</p>
<p>f) Does the application of coercive measures require a separate order from judicial or administrative authorities?</p>	<p><input checked="" type="checkbox"/> Yes. If so, who must apply for the order:</p> <p><input checked="" type="checkbox"/> The applicant</p> <p><input type="checkbox"/> Public Prosecutor</p> <p><input type="checkbox"/> Police</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>

Part V: Mediation and other forms of alternative dispute resolution

19 Mediation	
<p><i>For best practice in relation to mediation in the context of the 1980 Hague Child Abduction Convention see the forthcoming Guide to Good Practice on Mediation under the 1980 Hague Child Abduction Convention. When published, the Guide will be available to download at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".</i></p>	
19.1 Mediation services	
<p>a) What family matters can be dealt with by mediation in your State?</p>	<p> <input checked="" type="checkbox"/> Return / non-return of a child following an alleged wrongful removal / retention <input checked="" type="checkbox"/> Custody <input checked="" type="checkbox"/> Access / contact <input checked="" type="checkbox"/> Relocation <input checked="" type="checkbox"/> Child support <input checked="" type="checkbox"/> Property disputes on relationship breakdown <input type="checkbox"/> Other (<i>please specify</i>): </p> <p>Any of these matters could, in appropriate circumstance, be dealt with by mediation if the parties agree to do so through private mediation. Mediation is even available over the phone, or in some circumstances online, through the Government funded Family Relationships Advice Line. Mediation is offered by the ACCA in incoming abduction matters.</p>
<p>b) What mediation services / structures exist in your State where an incoming application has been received for the return of a child?</p> <p><i>See Articles 7(2) c) and 10</i></p>	<p> <input checked="" type="checkbox"/> Private mediation services / structures (<i>please specify</i>): If both parties agree to participate and are willing meet the costs. <input checked="" type="checkbox"/> Mediation services / structures within the judicial or administrative system (<i>please explain</i>): The Family Court may refer parties to mediation in appropriate cases. <input checked="" type="checkbox"/> Mediation services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>): Services provided by the Family Relationships Advice Line and International Social Services Australia. <input checked="" type="checkbox"/> Other (<i>please explain</i>): If the matter looks suitable for mediation, the ACCA may offer to fund appropriate mediation. <input type="checkbox"/> There are no mediation services / structures available </p>
<p>c) What mediation services / structures exist in your State where an incoming application has been received for access / contact with a child?</p> <p><i>See Article 21</i></p>	<p> <input checked="" type="checkbox"/> Private mediation services / structures (<i>please specify</i>): If both parties agree to participate and are willing to meet the costs. <input type="checkbox"/> Mediation services / structures within the judicial or administrative system (<i>please explain</i>): <input checked="" type="checkbox"/> Mediation services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>): <input checked="" type="checkbox"/> Other (<i>please explain</i>): The ACCA will fund mediation with an appropriately qualified organisation that is skilled in international mediation <input type="checkbox"/> There are no mediation services / structures available </p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>If you answered that there are no mediation services / structures available in your State in response to both questions b) and c) above, go to section 20</p>
<p>d) Is co-mediation (<i>i.e.</i> mediation involving two mediators – one from each State) available in your State for the mediation of international family disputes which are within the scope of the Convention?</p>	<p><input checked="" type="checkbox"/> Yes (<i>please provide brief details of any available scheme e.g., bi-national mediation programmes</i>): But this will depend on the mediation organisation undertaking the mediation and whether they have affiliated mediators in both countries.</p> <p><input type="checkbox"/> No</p>

19.2 Legislation and / or rules on mediation

a) Is mediation in family matters regulated in your State?

Please tick all boxes which apply

EU Member States, excluding Denmark, should note that Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters will apply from May 2011. EU Member States, excluding Denmark, should reference the laws, regulations and administrative provisions brought into force to comply with this Directive if known at the time of completion of this Country Profile

Yes, there is general legislation relating to mediation which also applies to mediation in family matters. Please specify how the legislation can be accessed (e.g., website) or attach a copy:

Yes, there is specific legislation relating to mediation in family matters. Please specify how the legislation can be accessed (e.g., website) or attach a copy:

Part VII, Division 1, Subdivision E of the Family Law Act requires the attendance of all persons in dispute about parenting matters in relation to which an order may be sought at family dispute resolution. The court will not, other than in limited circumstances make a parenting order if the parties have not attended family dispute resolution.

<http://www.comlaw.gov.au/>

Yes, there is specific legislation relating to mediation in international family matters within the scope of the Convention. Please specify how the legislation can be accessed (e.g., website) or attach a copy:

Yes, mediation in family matters is regulated in another way (*please specify*):

No, **go to section 19.3**

b) Please indicate which matters are regulated by the legislation / rules in relation to mediation in your State

Please explain where necessary

Formal accreditation of mediators

Necessary qualifications / experience of mediators

Process of mediation

Confidentiality of mediation

Status and enforceability of mediated agreements

Taking into consideration the child's views in the mediation of disputes relating to him / her

Availability of mediation in disputes involving allegations of domestic violence or other forms of abuse

Other (*please explain*):

19.3 Access to mediation

a) How can individuals obtain information identifying suitable mediators in your State?

Lists of mediators are available:

Through the Central Authority (*see also question 19.3 b) below*)

Via accrediting bodies (*please provide details*):

Through other sources (*please specify*):

Other methods of accessing information are available (*please specify*): The ACCA will provide this information upon receipt of an application. Our website (www.ag.gov.au/childabduction) also provides the details for International Social Services (Australia) who provide mediation for international disputes involving children.

No general information is available. Individuals must carry out research themselves

<p>b) What role, if any, does the Central Authority play in facilitating mediation where an incoming application has been received for the return of a child?</p> <p><i>See Articles 7(2) c) and 10</i></p> <p><i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> Provides information about mediation to the parties May fund mediation if it is considered an appropriate case.</p> <p><input type="checkbox"/> Refers parties to accredited professionals to undertake mediation</p> <p><input type="checkbox"/> Seeks orders from judicial or administrative authorities for mediation between the parties</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>) The court may refer parties to mediation if it considers it appropriate to do so.</p>
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<p>c) What role, if any, does the Central Authority play in facilitating mediation where an incoming application has been received for access / contact with a child?</p> <p><i>See Article 21</i></p> <p><i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Provides information about mediation to the parties</p> <p><input checked="" type="checkbox"/> Refers parties to accredited professionals to undertake mediation and funds</p> <p><input type="checkbox"/> Seeks orders from judicial or administrative authorities for mediation between the parties</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
<p>d) How are the costs of mediation met in disputes where an incoming application has been received for the return of a child?</p> <p><i>Please explain if necessary</i></p>	<p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this will <i>always</i> include the cost of mediation (see question 8.2 e) above)</p> <p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this <i>may</i> cover the cost of mediation (see question 8.2 e) above) (<i>please specify</i>)</p> <p><input type="checkbox"/> The Central Authority will meet the costs associated with mediation</p> <p><input type="checkbox"/> Other sources of funding are available (<i>please specify</i>)</p> <p><input checked="" type="checkbox"/> The costs of mediation must be borne by the parties</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>) If the ACCA determines that a matter would benefit from mediation, the ACCA may offer to fund this mediation.</p>
<p>e) How are the costs of mediation met where an incoming application has been received for access / contact with a child?</p> <p><i>Please explain if necessary</i></p>	<p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this will <i>always</i> include the cost of mediation (see question 15.2 f) above)</p> <p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this <i>may</i> cover the cost of mediation (see question 15.2 f) above) (<i>please specify</i>)</p> <p><input checked="" type="checkbox"/> The Central Authority will meet the costs associated with mediation Note - it will be a mediator chosen by the ACCA.</p> <p><input type="checkbox"/> Other sources of funding are available (<i>please specify</i>)</p> <p><input type="checkbox"/> The costs of mediation must be borne by the parties</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>) assistance provided by the Family Relationships Advice Line is free of charge.</p>
<p>19.4 The mediation process</p>	
<p>a) At what stage of a return application is mediation available?</p>	<p><input checked="" type="checkbox"/> At all stages, including prior to any application and as a preventive measure where necessary (<i>provide an explanation if necessary</i>)</p> <p><input type="checkbox"/> Only before an application has been made to the relevant Central Authority</p> <p><input type="checkbox"/> Only after an application has been made to the relevant Central Authority</p> <p><input type="checkbox"/> Only before an application has been filed in the relevant court or administrative authority</p> <p><input type="checkbox"/> Only after an application has been filed in the relevant court or administrative authority</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>) The Australian Commonwealth Central Authority would express serious concerns about mediation that would have the effect of delaying the hearing of the matter once it is before the court.</p>

<p>b) At what stage of an access / contact application is mediation available?</p>	<p><input type="checkbox"/> At all stages, including prior to any application and as a preventive measure where necessary (<i>provide an explanation if necessary</i>)</p> <p><input type="checkbox"/> Only before an application has been made to the relevant Central Authority</p> <p><input type="checkbox"/> Only after an application has been made to the relevant Central Authority</p> <p><input type="checkbox"/> Only before an application has been filed in the relevant court or administrative authority</p> <p><input type="checkbox"/> Only after an application has been filed in the relevant court or administrative authority</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>) mediation is all that is offered by the ACCA in a Hague access matter.</p>
<p>c) Are cases assessed to determine their suitability for mediation?</p>	<p><input checked="" type="checkbox"/> Yes, always; go to question d)</p> <p><input type="checkbox"/> No, never; go to question e)</p> <p><input type="checkbox"/> Other (<i>please explain</i>) ; go to question d) or e) as appropriate</p>
<p>d) Who carries out the assessment of cases to determine whether they are suitable for mediation?</p>	<p><input checked="" type="checkbox"/> Mediator(s)</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
<p>e) Where legal proceedings have commenced, can such proceedings be suspended while mediation is undertaken?</p>	<p><input checked="" type="checkbox"/> Yes, provide additional information if necessary: This would generally occur at the discretion of the court.</p> <p><input type="checkbox"/> No</p>
<p>f) How, if at all, are the views of the subject child(ren) taken into account in mediation in your State?</p> <p><i>See also question 19.2 b) above</i></p>	<p><input type="checkbox"/> Rules / legislation require that, if the child is of a sufficient age / maturity, the child must be seen by the mediator (<i>see also question 19.2 b) above</i>)</p> <p><input type="checkbox"/> Rules / legislation require that, if the child is of a sufficient age / maturity, the views of the child must be communicated to the mediator but this need not be directly (<i>see also question 19.2 b) above</i>). Please explain the method(s) used</p> <p><input checked="" type="checkbox"/> It is within the discretion of the particular mediator</p> <p><input type="checkbox"/> The child's views play no part in the mediation</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
<p>g) What safeguards are available in your State where allegations of domestic violence and / or other forms of abuse are made in a dispute which goes to mediation?</p>	<p><input checked="" type="checkbox"/> (1) Address and other contact details of the alleged victim are kept confidential</p> <p><input checked="" type="checkbox"/> (2) Other safeguards (<i>please specify</i>) The mediator can use techniques such as shuttle mediation.</p>
<p>h) Please specify which, if any, of the safeguards set out in question 19.4 g) above are required by rules / legislation in your State and which safeguards are left to the discretion of the mediator?</p> <p><i>See also question 19.2 b) above</i></p>	<p>Required by legislation / rules of State:</p> <p>Left to the discretion of the mediator:</p> <p>Yes</p>

i) Can judicial or administrative authorities take provisional or interim measures to enable an applicant to exercise contact or access in respect of a child while mediation is ongoing?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
19.5 The enforceability of mediated agreements	
a) Are there legal restrictions on the content of mediated agreements regarding family law matters in your State?	<input checked="" type="checkbox"/> Yes, please specify: Agreements need to be reflected as consent orders made by the Court. <input type="checkbox"/> No
b) Which additional formalities, if any, are required in your State to make mediated agreements in a family dispute involving children enforceable?	<input type="checkbox"/> (1) Notarisation of the mediated agreement <input type="checkbox"/> (2) Court approval of the mediated agreement Please specify competent court: <input type="checkbox"/> (3) Registration of the mediated agreement with the court. Please specify competent court: F <input checked="" type="checkbox"/> (4) Other (<i>please specify</i>) See above, need to be entered as consent orders. <input type="checkbox"/> (5) No additional formalities are required. Mediated agreements in family disputes involving children are immediately enforceable <i>without</i> any additional formalities being required If you ticked one or both of options (2) or (3) above, please go to question 19.5 c). If not, please proceed to question 19.5 d)
c) Is the mediated agreement, once approved by or registered with a court, treated as an order of that court? <i>Please explain where necessary</i>	<input type="checkbox"/> Yes, Go to question 19.5 e) <input type="checkbox"/> No, Go to question 19.5 d)
d) Is it possible to turn a mediated agreement into a court order?	<input checked="" type="checkbox"/> Yes, please briefly explain what steps are required and which court would be competent: Consent orders would need to be obtained from the Family Court of Australia, the Federal Circuit Court or the Family Court of Western Australia. <input type="checkbox"/> No
e) Who bears the cost of rendering the mediated agreement enforceable? Please list the number from question 19.5 b) next to the relevant answer	The parties must pay: 4 The cost is covered by any free or reduced rate legal assistance provided to one / both parties: Central Authority: There are no costs:
19.6 Agreements mediated in another State	
a) Can an agreement mediated in another State in a family dispute involving children be approved by a court or otherwise formalised in your State in the same manner as an agreement mediated in your State (see question 19.5 b) above)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, a different method for formalising the agreement must be used. Please specify: Mirror orders or consent orders under the Family Law Act 1975 would need to be used. It may be possible for a mediated agreement that is evidenced as consent orders overseas to be registered under the 1996 Convention or under specific reciprocal arrangements. <input type="checkbox"/> No, it is not possible to formalise an agreement mediated in another State <input type="checkbox"/> Other (<i>please specify</i>):

20 Other forms of alternative dispute resolution (“ADR”)	
<p>a) What other forms of ADR are available in your State for the resolution of international family disputes falling within the scope of the Convention? <i>See Articles 7(2) c) and 10</i></p>	<p><input type="checkbox"/> (1) In-court conciliation <input type="checkbox"/> (2) Out-of-court conciliation <input type="checkbox"/> (3) Collaborative law <input type="checkbox"/> (4) Early Neutral Evaluation <input type="checkbox"/> (5) Other (<i>please specify</i>): Family Dispute Resolution <input type="checkbox"/> (6) No other forms of ADR are available, go to Part VI: Direct judicial communications</p>
<p>b) What services / structures exist in respect of the other forms of ADR available in your State? Please list the relevant number(s) from question 20 a) above next to the service / structure which is available in respect of that method of ADR</p>	<p>Private ADR services / structures (<i>please specify</i>): ADR services / structures within the judicial or administrative system (<i>please explain</i>): ADR services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>): Other (<i>please explain</i>):</p>
<p>c) In relation to:</p> <ul style="list-style-type: none"> • legislation on ADR • access to ADR • the ADR process • the enforceability of agreements reached as a result of ADR; and • the enforceability of agreements reached as a result of ADR in another State <p>are the responses the same as for the section on mediation above – see sections 19.2 to 19.6?</p>	<p><input checked="" type="checkbox"/> Yes, go to Part VI: Direct judicial communications <input type="checkbox"/> Some of the responses are the same, go to question d) <input type="checkbox"/> No, go to question d)</p>
<p>d) Please briefly specify in what way the answers to the questions in sections 19.2 to 19.6 above are different in relation to other forms of ADR in your State</p>	

Part VI: Direct judicial communications

21 Direct judicial communications	
<p>a) Has a member of the International Hague Network of Judges been designated for your State?</p> <p>For more information, go to < www.hcch.net > under "Child Abduction Section" then "Judicial Communications"</p>	<p><input checked="" type="checkbox"/> Yes</p> <p>Name/s: Chief Justice Diana Bryant and Justice Victoria Bennett.</p> <p><i>Please do not list the contact details of the judge(s) here. Instead, please ensure that the name, position, court and contact details have been provided to the Permanent Bureau</i></p> <p><input type="checkbox"/> No</p>
<p>b) Is there a legislative basis upon which judges in your State can engage in direct judicial communications?</p>	<p><input type="checkbox"/> Yes, please specify how the legislation can be accessed (e.g., website) or attach a copy: Go to Part VII: Other information</p> <p><input checked="" type="checkbox"/> No, go to question c)</p>
<p>c) In the absence of legislation, can judges in your State engage in direct judicial communications?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

Part VII: Other information

22 Training	
<p>a) What measures are being taken to ensure that persons responsible for implementing the Convention (e.g., <i>judges, lawyers and Central Authority personnel</i>) have received appropriate information and training?</p> <p><i>Please contact the Permanent Bureau for information in relation to forms of assistance which may be available for this purpose</i></p>	<p><input checked="" type="checkbox"/> Training as required for Central Authority staff</p> <p><input type="checkbox"/> Training as required for responsible authorities</p> <p><input checked="" type="checkbox"/> Updates as required on legal developments related to the Convention provided to staff responsible for its implementation</p> <p><input checked="" type="checkbox"/> Training as required for lawyers</p> <p><input type="checkbox"/> Training as required for law enforcement</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Training to staff of the Department of Foreign Affairs and Trade.</p> <p>Specifically in respect of judges:</p> <p><input type="checkbox"/> Sending a basic package of information on the 1980 Convention to judges</p> <p><input type="checkbox"/> Training through a dedicated judicial studies board</p> <p><input checked="" type="checkbox"/> Participation in judicial training seminars</p> <p><input checked="" type="checkbox"/> Participation in the International Hague Network of Judges</p> <p><input checked="" type="checkbox"/> Accessing <i>The Judges' Newsletter on International Child Protection</i> (available at < www.hcch.net > under "Child Abduction Section" then "Judges' Newsletter on International Child Protection")</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): The family courts provide training and material to their Judges</p>
<p>b) Is your Central Authority willing to participate in a "twinning arrangement" with another Central Authority?</p> <p><i>A "twinning arrangement" is where two Central Authorities engage in discussions and / or visits to exchange information with the view to improving operations in both Central Authorities</i></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

23 Other implementing measures	
<p>a) Does your State use iChild?</p> <p>For more information, go to < www.hcch.net under "Child Abduction Section" then "iChild"</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
<p>b) Does your State use another electronic case management system other than iChild?</p>	<p><input checked="" type="checkbox"/> Yes, please specify: IFaM a CRM based data management system. We are currently in the process of upgrading that system.</p> <p><input type="checkbox"/> No</p>
<p>c) Does your State use INCASTAT?</p> <p>For more information, go to < www.hcch.net > under "Child Abduction Section" then "INCASTAT"</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
<p>d) Does your State use INCADAT?</p> <p>For more information, go to < www.incadat.com ></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

<p>e) Are statistics related to applications under the Convention in your State publicly available?</p>	<p><input checked="" type="checkbox"/> Yes, please specify how the statistics can be accessed (e.g., <i>website, annual report</i>): www.ag.gov.au/childabduction</p> <p><input type="checkbox"/> No</p>
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24 Other services

<p>a) What general services / resources are available in your State to assist those involved in international child abduction cases?</p> <p><i>Please indicate, where available, contact details, websites and costs for such services</i></p>	<p><input checked="" type="checkbox"/> International Social Service (ISS) (<i>please provide contact information</i>): 1300 657 843</p> <p><input checked="" type="checkbox"/> Specific NGOs dealing with child abduction:</p> <p><input checked="" type="checkbox"/> Financial assistance: Overseas Child Abduction Matters Scheme see www.ag.gov.au/childabduction for details.</p> <p><input checked="" type="checkbox"/> Social / welfare assistance: Family Relationship Advice Line - 1800 050 321, Family Relationships Online - www.familyrelationships.gov.au</p> <p><input type="checkbox"/> Immigration services:</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
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