



CAN I TAKE THE CHILDREN OVERSEAS?

You are required to obtain the other parent's consent if you wish to travel overseas with your children, unless you have a court order that says otherwise.

Scenario

Rob has booked a holiday to London for 2 weeks with his children, Justin (9) and Sam (6). He forgot to ask the children's mother, Sarah, if this was okay with her. Rob emailed Sarah saying that he intended to travel with the children in the June/July school holidays. Sarah replied stating that she did not consent to this. Sarah has concerns that Rob will not bring the children back to Australia as he has family in London and has expressed a desire to return living in London. Rob and Sarah do not have Parenting Orders or a Parenting Plan in place.

In this case, Sarah and Rob require Court intervention in relation to the overseas travel as it is not agreed. This can happen in one of two ways:

1. Sarah can make an application to the Court to prevent Rob from travelling overseas with the children. Once Sarah files an application with the Court she can notify the Australian Federal Police and request that the children's names be placed on the 'Airport Watch List.' This means that the children will not be allowed to depart from any departure point in the Commonwealth of Australia until further Orders are made.
2. Rob can make an application to the Court to ensure that the children are permitted to travel to London with him. Orders will need to be made providing that Rob returns the children to Australia. The Court must have regard to Sarah's concerns in making any such Orders. Rob may need to provide a form of security to reassure Sarah and the Court that he does intend to return the children to Australia.

In any event, the United Kingdom is a Hague Convention country. Australia has a reciprocal agreement with any country that is a party to the *Hague Convention on the Civil Aspects of International Child Abduction* requiring children to be returned to their home country in the event that they are unlawfully removed from the home country. This is enforced under section 111B of the *Family Law Act 1975 (Cth)*. Albania, Singapore and the Ukraine are the most recent countries to become party to the Hague Convention. Other countries include Canada, New Zealand, Italy, Switzerland, Thailand, the United States of America, Greece and Turkey.

We can assist you to make an application to the Court regarding international travel, or to make an application under the Hague Convention to have a child returned to Australia.

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