

THE HAGUE CONVENTION

PARENTAL PERMISSION TO TRAVEL AND WHY YOU NEED IT

The principle objectives of the Hague Convention (<http://www.jcics.org/Hague.htm>) are to provide for the protection of children against trafficking/abduction and to lay down a basis for internationally agreed rules relating to adoption and other cross border child related issues.

It has direct impact on the travel plans of single parents or guardians in that the convention requires nations who are members of the convention to monitor and control the movement of children.

While the nightmare image we as parents might have is of a stranger abducting our child, the actuality is, the majority of child abductions are committed by divorced or separated parents. Moreover, both mothers and fathers are equally likely to abduct.

Measures under The Hague Convention provide protection against such 'Familiar Abduction' in that a parent or guardian travelling alone with a child(ren) is required to provide evidence of permission to travel from the other parent.

It is a common misconception that being the legal guardian of a child or having sole guardianship under a court order does in itself give a parent the right to travel with the child – It does not. Nor does having your child's name and photograph included in your own passport.

The reasoning is quite straightforward: The removal of the child may, deliberately or otherwise, infringe the rights of the child and/or other parent. While at the same time removal of the child from the jurisdiction will prevent legal redress to the removal of those rights.

Equally important are the issues relating to the safety and welfare of the child, the proposed trip may not in the view of the other parent be appropriate. The reasons why this might be are numerous but destination, health and safety are clearly rightful concerns of both parents.

Finally there is the responsibility to ensure that adequate measures have been taken to provide for health and welfare of the child. An example of this being health insurance; Travelling without adequate insurance is far too common, this would place a child at risk if there is no insurance for a destination where there is no medical free provision for foreigners; clearly under the circumstances where no insurance has been provided and a child does need medical care, the non travelling parent may be faced with providing funds, perhaps in serious cases their life savings, so there are also financial considerations.

It is therefore necessary on many levels to ensure that correct and considered parental consent is obtained; as a means to reduce child abduction and as a very practical means to provide for child welfare and safety

OBTAINING CONSENT

Before we discuss the problems that might occur I think it is necessary to understand that if you are resident in Europe, the USA, Australia or New Zealand the Courts accept that family holidays overseas are a natural part of modern family life and are generally beneficial to children. They also recognise this requirement for parental consent gets used as a bargaining chip between parents who are unable to settle other issues they themselves have.

So be assured, if you do have problems obtaining consent from the other parent the courts will almost certainly support any well thought out considered holiday plans – This applies equally to both parents, regardless of who is the legal guardian.

However, it is always best that permission is given by mutual agreement, and in the vast majority of cases it is given without calling in the lawyers.

Some simple tips achieving this are:

Discuss your plans early, and keep the other parent informed of the essential information: Your planned destination, dates of travel, who is travelling with you and the provisions you have made for the safety and welfare of your children.

Ask for permission to travel as early as you can, three months would be ideal but don't ask until you have thought out and discussed your plans.

It has to be accepted that communication between divorced or separated parents might not be easy, or even nonexistent, therefore you may need to take legal advice. However, do be aware that the well thought out plans and proven attempts to be reasonable will weigh in your favour. Practical measures are particularly important, insurance is a must and the presence of another adult to help with the trip will undoubtedly help convince others, and the court, that you are not going to leave the children abandoned if you yourself are taken ill.

If this is the first trip since a break-up consider somewhere not too far, something not too adventurous. You perhaps might want to do that anyway, but you might also feel the urge to go further a field having escaped the constraints of a relationship that has been tying you down. Keep in mind the more 'reasonable' your plans the more readily they will be accepted.

If all this fails then I'm afraid you need to take legal advice. I hope it doesn't come to that because it does cost money and you may find additional constraints placed upon you.

GIVING PERMISSION

On the assumption that you accept the parent who wants to make the trip is not about to abscond you still need to ask some questions to assure yourself that the trip is both suitable and well thought out.

The questions I would ask are quite straightforward:

Do I think the destination is suitable? My guess is any of the mainstream destinations will be, but I might want to check a little further if it was a destination to with any safety, security or health issues or where the travelling parent has no personal experience of the destination. Even then I'm going to look more positively on a trip if another adult is going along to help out. I absolutely am going to insist on full medical insurance and I am going to expect clear definitions of destination and travel dates.

I do not think it is unreasonable to expect to have contact addresses or, if the trip is to multiple destinations, a mobile phone number and agreement that the phone will be switched on at specified times.

An example of a trip that might be questioned is one that impinges on school term or perhaps some important family event.

WITHHOLDING PERMISSION

You of course have the right to reasonably withhold permission but it has to be reasonable and considered. If it is not the courts are going to overrule you. If as a non travelling parent you believe a trip is not appropriate, unsafe or ill planned then you need to take early legal advice and be very clear as to what your objections are. Just as the courts will support reasonable travel plans, they will also withhold permission to travel if the plans are unreasonable, inappropriate or clearly ill planned.

ABSENT PARENTS

If the other parent is absent or you have lost contact with the other parent then you are going to need to obtain a formal record that there is no contact between you. I can only recommend you speak to your solicitor and that you discuss the possibility of a notarised statement. A correctly written a statement should suffice for a lifetime of trips. Do be aware though that a parent living at the other side of the town, who you do not speak to, is not an absent parent, discuss this with your solicitor.

DECEASED PARENTS

If the other parent is deceased then you will need a copy of the death certificate giving and the child's birth certificate. I think it might also be better to have a notarised statement that the deceased parent was the parent of the child. I realise that this might not be comfortable to deal with but better, I think, than having to explain this to the immigration officer when your aircraft is about to leave.

THE LETTER OF CONSENT

I have attached an example letter of consent and a blank version that you yourself can complete.

The information in the letter aims to provide the immigration/boarder control officers with sufficient information for them to determine that consent has been given and contact details to check if there are any queries.

ATTACHMENTS TO THE LETTER OF CONSENT

The attachments are copies of documents that demonstrate that the other parent has given consent. You should use copies of positive ID documents such as passports, national ID cards or driver's licences. More than one document is advised and each copy should contain the signature of the non travelling parent together with printed name and date.

Copies of birth certificates should be the full certificate with the name of the non travelling parent included. If there is no other named parent, see "Absent Parents" above.

ADOPTED CHILDREN

Carry a copy of the certificate of adoption

OTHER PEOPLE'S CHILDREN

You need the same permission from both parents

SUPPORTING THE CONVENTION

Child abduction and trafficking is a terrible crime, and while I'm not suggesting you yourself are guilty of this, please keep in mind that every time you present the right documentation you not only demonstrate your rights to travel but you also reaffirm the need for the documents.

The airline desk clerk or immigration officer who has never seen this letter might be prompted to ask next time, and next time might very well prevent a child being abducted.

This is a piece of international cooperation that can and does work to protect children, please give it your support.

Example Parental Consent Letter (See Blank Copy Attached)

To Whom It May Concern:

I (*state your full name as it appears in the positive ID document you are attaching*) of (*state your full address as it appears in the positive ID document you are attaching*) here by state that my child/children:

State Child's name
(*As written in passport*)

State Passport Number

State Child's name
(*As written in passport*)

State Passport Number

.....

Are travelling to, (*state agreed destinations i.e. Thailand*) for the purposes of a holiday between the dates of (*state the agreed dates of travel + a little extra to allow for delays in travel*). My children are travelling with:

STATE GUARDIAN'S NAME
(*As written in passport*)

STATE PASSPORT NUMBER

My children are making this journey with my full knowledge and consent.

In the event of any questions regarding this consent I may be contacted at (*state contact details – always give a telephone number where you can be contacted and ensure any address that you give is the same as stated in the positive ID document you are attaching*)

SIGNATURE

Printed Name

List of Attachments: Documents Provided by None Travelling Parent

*Signed and Dated copies of Driver's license (with Photograph and Address) or Copy of Bio Page from Passport
Copy of Children's birth certificate(s)*

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Notes:

If the journey includes several destinations, list them all.
State the full dates Day Month Year (2 June 2006) not 06-02-06
Always print this document and keep a copy.

Try to get all this information onto one sheet of paper, if you cannot do this number each page as follows (page 1 of 2) (page 2 of 2 END) and sign each page.

Do not use abbreviations for dates, use the 24 hr clock and repeat essential information. Only give one name and repeat all numbers in brackets.
It is also always best to type the fax rather than handwrite it if you can.

To Whom It May Concern:

Iof

here by state that my child/children:

*State Child's name
(As written in passport)*

State Passport Number

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Are travelling to, for the purposes of a holiday between the dates of

..... My children are travelling with:

GUARDIAN'S NAME

GUARDIAN'S PASSPORT NUMBER

.....

My children are making this journey with my full knowledge and consent.

In the event of any questions regarding this consent I may be contacted at

.....

Tel Home Tel Mobile..... Tel Office.....

SIGNATURE.....

Printed Name

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List of Attachments:

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