

Status: Point in time view as at 31/12/2020.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982, CHAPTER IV is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 3F

TEXT OF THE 2005 HAGUE CONVENTION

Textual Amendments

- F1** Sch. 3F inserted (31.12.2020) by Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 3 (with s. 3(1), Sch. 5 para. 7)

CONVENTION ON CHOICE OF COURT AGREEMENTS

CHAPTER IV

GENERAL CLAUSES

Article 16

Transitional provisions

- (1) This Convention shall apply to exclusive choice of court agreements concluded after its entry into force for the State of the chosen court.
- (2) This Convention shall not apply to proceedings instituted before its entry into force for the State of the court seised.

Article 17

Contracts of insurance and reinsurance

- (1) Proceedings under a contract of insurance or reinsurance are not excluded from the scope of this Convention on the ground that the contract of insurance or reinsurance relates to a matter to which this Convention does not apply.
- (2) Recognition and enforcement of a judgment in respect of liability under the terms of a contract of insurance or reinsurance may not be limited or refused on the ground that the liability under that contract includes liability to indemnify the insured or reinsured in respect of—
 - (a) a matter to which this Convention does not apply; or
 - (b) an award of damages to which Article 11 might apply.

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Article 18

No legalisation

All documents forwarded or delivered under this Convention shall be exempt from legalisation or any analogous formality, including an Apostille.

Article 19

Declarations limiting jurisdiction

A State may declare that its courts may refuse to determine disputes to which an exclusive choice of court agreement applies if, except for the location of the chosen court, there is no connection between that State and the parties or the dispute.

Article 20

Declarations limiting recognition and enforcement

A State may declare that its courts may refuse to recognise or enforce a judgment given by a court of another Contracting State if the parties were resident in the requested State, and the relationship of the parties and all other elements relevant to the dispute, other than the location of the chosen court, were connected only with the requested State.

Article 21

Declarations with respect to specific matters

- (1) Where a State has a strong interest in not applying this Convention to a specific matter, that State may declare that it will not apply the Convention to that matter. The State making such a declaration shall ensure that the declaration is no broader than necessary and that the specific matter excluded is clearly and precisely defined.
- (2) With regard to that matter, the Convention shall not apply—
 - (a) in the Contracting State that made the declaration;
 - (b) in other Contracting States, where an exclusive choice of court agreement designates the courts, or one or more specific courts, of the State that made the declaration.

Article 22

Reciprocal declarations on non-exclusive choice of court agreements

- (1) A Contracting State may declare that its courts will recognise and enforce judgments given by courts of other Contracting States designated in a choice of court agreement concluded by two or more parties that meets the requirements of Article 3, paragraph (c), and designates, for the purpose of deciding disputes which have arisen or may arise in connection with a particular legal relationship, a court or courts of one or more Contracting States (a non-exclusive choice of court agreement).
- (2) Where recognition or enforcement of a judgment given in a Contracting State that has made such a declaration is sought in another Contracting State that has made such a declaration, the judgment shall be recognised and enforced under this Convention, if—

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- (a) the court of origin was designated in a non-exclusive choice of court agreement;
- (b) there exists neither a judgment given by any other court before which proceedings could be brought in accordance with the non-exclusive choice of court agreement, nor a proceeding pending between the same parties in any other such court on the same cause of action; and
- (c) the court of origin was the court first seised.

Article 23

Uniform interpretation

In the interpretation of this Convention, regard shall be had to its international character and to the need to promote uniformity in its application.

Article 24

Review of operation of the Convention

The Secretary General of the Hague Conference on Private International Law shall at regular intervals make arrangements for—

- (a) review of the operation of this Convention, including any declarations; and
- (b) consideration of whether any amendments to this Convention are desirable.

Article 25

Non-unified legal systems

- (1) In relation to a Contracting State in which two or more systems of law apply in different territorial units with regard to any matter dealt with in this Convention—
 - (a) any reference to the law or procedure of a State shall be construed as referring, where appropriate, to the law or procedure in force in the relevant territorial unit;
 - (b) any reference to residence in a State shall be construed as referring, where appropriate, to residence in the relevant territorial unit;
 - (c) any reference to the court or courts of a State shall be construed as referring, where appropriate, to the court or courts in the relevant territorial unit;
 - (d) any reference to a connection with a State shall be construed as referring, where appropriate, to a connection with the relevant territorial unit.
- (2) Notwithstanding the preceding paragraph, a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to apply this Convention to situations which involve solely such different territorial units.
- (3) A court in a territorial unit of a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to recognise or enforce a judgment from another Contracting State solely because the judgment has been recognised or enforced in another territorial unit of the same Contracting State under this Convention.
- (4) This Article shall not apply to a Regional Economic Integration Organisation.

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Article 26

Relationship with other international instruments

- (1) This Convention shall be interpreted so far as possible to be compatible with other treaties in force for Contracting States, whether concluded before or after this Convention.
- (2) This Convention shall not affect the application by a Contracting State of a treaty, whether concluded before or after this Convention, in cases where none of the parties is resident in a Contracting State that is not a Party to the treaty.
- (3) This Convention shall not affect the application by a Contracting State of a treaty that was concluded before this Convention entered into force for that Contracting State, if applying this Convention would be inconsistent with the obligations of that Contracting State to any non-Contracting State. This paragraph shall also apply to treaties that revise or replace a treaty concluded before this Convention entered into force for that Contracting State, except to the extent that the revision or replacement creates new inconsistencies with this Convention.
- (4) This Convention shall not affect the application by a Contracting State of a treaty, whether concluded before or after this Convention, for the purposes of obtaining recognition or enforcement of a judgment given by a court of a Contracting State that is also a Party to that treaty. However, the judgment shall not be recognised or enforced to a lesser extent than under this Convention.
- (5) This Convention shall not affect the application by a Contracting State of a treaty which, in relation to a specific matter, governs jurisdiction or the recognition or enforcement of judgments, even if concluded after this Convention and even if all States concerned are Parties to this Convention. This paragraph shall apply only if the Contracting State has made a declaration in respect of the treaty under this paragraph. In the case of such a declaration, other Contracting States shall not be obliged to apply this Convention to that specific matter to the extent of any inconsistency, where an exclusive choice of court agreement designates the courts, or one or more specific courts, of the Contracting State that made the declaration.
- (6) This Convention shall not affect the application of the rules of a Regional Economic Integration Organisation that is a Party to this Convention, whether adopted before or after this Convention—
 - (a) where none of the parties is resident in a Contracting State that is not a Member State of the Regional Economic Integration Organisation;
 - (b) as concerns the recognition or enforcement of judgments as between Member States of the Regional Economic Integration Organisation.]

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