
STATUTORY INSTRUMENTS

1994 No. 1900

CONTRACTS

**The Contracts (Applicable Law)
Act 1990 (Amendment) Order 1994**

Made - - - - 19th July 199

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 19th day of July 1994

Present,

The Queens Most Excellent Majesty in Council

Whereas a Convention on the law applicable to contractual obligations (the Rome Convention)(1)was opened for signature on 19th June 1980 and signed by Her Majestys Government on 7th December 1981:

And whereas a Convention on the accession of the Hellenic Republic to the Rome Convention (the Luxembourg Convention)(2)was signed by Her Majestys Government on 10th April 1984:

And whereas a Protocol on the Interpretation of the Rome Convention by the Court of Justice of the European Communities (the Brussels Protocol)(3)was signed by Her Majestys Government on 19th December 1988:

And whereas the Contracts (Applicable Law) Act 1990(4)gave the force of law to these Conventions and to the Brussels Protocol in the United Kingdom:

And whereas by section 4(1) of that Act, if at any time it appears to Her Majesty in Council that Her Majestys Government in the United Kingdom has agreed to a revision of any of these Conventions, including, in particular, any revision connected with the accession to the Rome Convention of any state, Her Majesty may by Order in Council make such modifications of that Act as Her Majesty considers appropriate in consequence of that revision:

And whereas a Convention on the accesson of the Kingdom of Spain and the Portuguese Republic to the Rome Convention(5)was signed on 18th May 1992, and in consequence Her Majestys Government in the United Kingdom has agreed to a revision of the Rome Convention:

And whereas each House of Parliament has by a resolution approved a draft of this Order:

(1) OJNo. L 266, 9.10.1980.

(2) OJ No. L 146, 31.5.1984.

(3) OJ No. L 48, 20.2.1981.

(4) [1990 c. 36](#).

(5) OJ No. L 333, 18.11.92 p.1.

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 4(1) of the Contracts (Applicable Law) Act 1990, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Contracts (Applicable Law) Act 1990 (Amendment) Order 1994. It shall come into force on the date on which the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Rome Convention and to the Brussels Protocol enters into force in respect of the United Kingdom, which date shall be notified in the London, Edinburgh and Belfast Gazettes.

2. In this Order “the Act” means the Contracts (Applicable Law) Act 1990.

3. The following shall be inserted after paragraph (c) of section 1 of the Act—

“(d) “the Funchal Convention” means the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Rome Convention and the Brussels Protocol, with adjustments made to the Rome Convention by the Luxembourg Convention, signed by the United Kingdom in Funchal on 18th May 1992;”.

4. The following shall be substituted for the words “the Rome Convention, the Luxembourg Convention and the Brussels Protocol” in section 1 of the Act—

“these Conventions and this Protocol”.

5. The following shall be substituted for the words “Schedules 1, 2 and 3” in section 2(4) of the Act—

“Schedules 1, 2, 3 and 3A”.

6. The word “and” shall be deleted from paragraph (b) of section 2(4) of the Act and the following shall be inserted at the end of that subsection—

“; and

(d) the Funchal Convention.”.

7. In Schedule 1 to the Act paragraph 2 of Article 22, Article 27 and the second sentence of the third paragraph of Article 30 shall be deleted.

8. In Schedule 1 to the Act the following shall be substituted for Article 31(d)—

“(d) communications made in pursuance of Articles 23, 24, 25, 26 and 30;”.

9. The text set out in the Schedule to this Order shall be inserted after Schedule 3 to the Act.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

Article 9

“SCHEDULE 3A

Section 2

THE FUNCHAL CONVENTION

The High Contracting Parties to the Treaty establishing the European Economic Community.

Considering that the Kingdom of Spain and the Portuguese Republic, in becoming Members of the Community, undertook to accede to the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19th June 1980.

Have decided to conclude this Convention, and to this end have designated as their plenipotentiaries:
(Designation of plenipotentiaries)

Who, meeting within the Council, having exchanged their full powers, found in good and due form.

Have agreed as follows:

Article 1

The Kingdom of Spain and the Portuguese Republic hereby accede to the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19th June 1980.

Article 2

The Convention on the law applicable to contractual obligations is hereby amended as follows:

(1) Article 22(2), Article 27 and the second sentence of Article 30(3)
shall be deleted.

(2) The reference to Article 27 in Article 31(d)
shall be deleted.

Article 3

The Secretary-General of the Council of the European Communities shall transmit a certified copy of the Convention on the law applicable to contractual obligations in the Danish, Dutch, English, French, German, Greek, Irish and Italian languages to the Governments of the Kingdom of Spain and the Portuguese Republic.

Article 4

This Convention shall be ratified by the Signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 5

This Convention shall enter into force, as between the States which have ratified it, on the first day of the third month following deposit of the last instrument of ratification by the Kingdom of Spain or the Portuguese Republic and by one State which has ratified the Convention on the law applicable to contractual obligations.

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This Convention shall enter into force for each Contracting State which subsequently ratifies it on the first day of the third month following that of deposit of its instrument of ratification.

Article 6

The Secretary-General of the Council of the European Communities shall notify the Signatory States of:

- (a) the deposit of each instrument of ratification;
- (b) the dates of entry into force of this Convention for the Contracting States.

Article 7

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages, all ten texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each Signatory State.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Contracts (Applicable Law) Act 1990, in consequence of a revision of the Rome Convention of 1980 on the law applicable to contractual obligations. This revision was carried out in connection with the accession to the Convention of the Kingdom of Spain and the Portuguese Republic. The effect of this Order will be to enable the United Kingdom to ratify the convention (the Funchal Convention) whereby those countries acceded to the Rome Convention.

The purpose of the Rome Convention is to harmonise the private international law rules of the Member States of the European Union on the law applicable to contracts. The United Kingdom signed it in 1981, enacted the Contracts (Applicable Law) Act in 1990, giving effect in United Kingdom Law to the Rome Convention (and also to the Luxembourg Convention of 1984 whereby Greece acceded to the Rome Convention), and ratified the Rome Convention in 1991. It came into force on 1st April 1991. The convention on the accession of the two remaining States, Spain and Portugal, was signed in Funchal on 18th May 1992. Article 5 of this Convention provides for its entry into force as between those States which have ratified it three months after ratification by Spain or Portugal and by one other Contracting State; thereafter it will come into force for other States on the first day of the third month after they ratify. It came into force on 1st March 1994 in relation to Spain, the Netherlands and Italy.

This Order makes minor amendments to the 1990 Act incorporating references to the Funchal Convention and adds a new Schedule to that Act containing the text of that Convention. Among the changes made by the Funchal Convention is the deletion of the provision in Article 27 of the Rome Convention on territorial extent. This Order gives effect to these changes by amending the text of the Rome Convention in Schedule 1 of the 1990 Act.

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