

2000 No. 1825

CONTRACTS

**The Contracts (Applicable Law) Act 1990 (Amendment)
Order 2000**

Made - - - *12th July 2000*

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 12th day of July 2000

Present,

The Queen's Most Excellent Majesty in Council

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

And whereas a Convention on the accession of the Hellenic Republic to the Rome Convention ("the Luxembourg Convention")**(b)** was signed by Her Majesty's 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")**(c)** was signed by Her Majesty's Government on 19th December 1988:

And whereas the Contracts (Applicable Law) Act 1990**(d)** gave the force of law to the Rome Convention and the Luxembourg Convention 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 Majesty's Government in the United Kingdom have 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 consequential modifications of that Act as Her Majesty considers appropriate:

And whereas a Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Rome Convention**(e)** was signed on 29th November 1996, and in consequence Her Majesty's Government in the United Kingdom have agreed to a revision of the Rome Convention:

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

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:

(a) OJ No. L266, 9.10.1980.

(b) OJ No. L146, 31.5.1984.

(c) OJ No. L48, 20.2.1981.

(d) 1990 c. 36; amended by S.I. 1994/1900 consequent on the Convention on the accession of Spain and Portugal to the Rome Convention and Brussels Protocol signed by the United Kingdom in Funchal on 18th May 1992.

(e) OJ No. C15, 15.1.1997, p. 10.

1. This Order may be cited as the Contracts (Applicable Law) Act 1990 (Amendment) Order 2000 and shall come into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden 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 and a reference to a section or Schedule by number alone means the section or Schedule so numbered in that Act.

3. After section 1(d) insert—

“(e) “the 1996 Accession Convention” means the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Rome Convention and the Brussels Protocol, with the adjustments made to the Rome Convention by the Luxembourg Convention and the Funchal Convention, signed by the United Kingdom in Brussels on 29th November 1996;”.

4. In section 2(4)—

(a) for “and 3A” substitute “, 3A and 3B”; and

(b) for sub-paragraph (d) substitute—

“(d) the Funchal Convention; and

(e) the 1996 Accession Convention”.

5. For the Protocol at the end of Schedule 1 substitute—

“PROTOCOL

The High Contracting Parties have agreed upon the following provision which shall be annexed to the Convention:

Notwithstanding the provisions of the Convention, Denmark, Sweden and Finland may retain national provisions concerning the law applicable to questions relating to the carriage of goods by sea and may amend such provisions without following the procedure provided for in Article 23 of the Convention of Rome. The national provisions applicable in this respect are the following:

- in Denmark, paragraphs 252 and 321(3) and (4) of the “Sølov” (maritime law);
- in Sweden, Chapter 13, Article 2(1) and (2), and Chapter 14, Article 1(3), of “sjölagen” (maritime law);
- in Finland, Chapter 13, Article 2(1) and (2), and Chapter 14, Article 1(3) of “merilaki”/“sjölagen” (maritime law).”

6. In Schedule 3, in paragraph (a) of Article 2—

(a) after the entry relating to Luxembourg insert—

“– in Austria:

the Oberste Gerichtshof, the Verwaltungsgerichtshof and the Verfassungsgerichtshof”

and

(b) after the entry relating to Portugal insert—

“– in Finland:

korkein oikeus/högsta domstolen, korkein hallinto-oikeus/högsta förvaltningsdomstolen, markkinatuomioistuin/marknadsdomstolen and työtuomioistuin/arbetsdomstolen,

– Sweden:

Högsta domstolen, Regeringsrätten, Arbetsdomstolen and Marknadsdomstolen.”.

7. Insert the text set out in the Schedule to this Order after Schedule 3A.

A. K. Galloway
Clerk of the Privy Council

THE 1996 ACCESSION CONVENTION

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

Considering that the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, in becoming Members of the European Union, undertook to accede to the Convention on the Law applicable to Contractual Obligations, opened for signature in Rome on 19th June 1980, and to the First and Second Protocols on its interpretation by the Court of Justice,

Have agreed as follows:

TITLE I

General Provisions

ARTICLE I

The Republic of Austria, the Republic of Finland and the Kingdom of Sweden hereby accede to:

- (a) the Convention on the Law applicable to Contractual Obligations, opened for signature in Rome on 19th June 1980, hereinafter referred to as “the Convention of 1980”, as it stands following incorporation of all the adjustments and amendments made thereto by:
 - the Convention signed in Luxembourg on 10th April 1984, hereinafter referred to as “the Convention of 1984”, on the accession of the Hellenic Republic to the Convention on the Law applicable to Contractual Obligations;
 - the Convention signed in Funchal on 18th May 1992, hereinafter referred to as “the Convention of 1992”, on the accession of the Kingdom of Spain and the Portuguese Republic to the Convention on the Law applicable to Contractual Obligations;
- (b) the First Protocol, signed on 19th December 1988, hereinafter referred to as “the First Protocol of 1988”, on the interpretation by the Court of Justice of the European Communities of the Convention on the Law applicable to Contractual Obligations;
- (c) the Second Protocol, signed on 19th December 1988, hereinafter referred to as “the Second Protocol of 1988”, conferring on the Court of Justice of the European Communities certain powers to interpret the Convention on the Law applicable to Contractual Obligations.

TITLE II

Adjustments to the Protocol annexed to the Convention of 1980

ARTICLE 2

The Protocol annexed to the Convention of 1980 is hereby replaced by the following:

“Notwithstanding the provisions of the Convention, Denmark, Sweden and Finland may retain national provisions concerning the law applicable to questions relating to the carriage of goods by sea and may amend such provisions without following the procedure provided for in Article 23 of the Convention of Rome. The national provisions applicable in this respect are the following:

- in Denmark, paragraphs 252 and 321(3) and (4) of the “Sølov” (maritime law);
- in Sweden, Chapter 13, Article 2(1) and (2), and Chapter 14, Article 1(3), of “sjölagen” (maritime law);
- in Finland, Chapter 13, Article 2(1) and (2), and Chapter 14, Article 1(3), of “merilaki”/“sjölagen” (maritime law).”

TITLE III

Adjustments to the First Protocol of 1988

ARTICLE 3

The following indents shall be inserted in Article 2(a) of the First Protocol of 1988:

(a) between the tenth and eleventh indents:

“– in Austria:

the Oberste Gerichtshof, the Verwaltungsgerichtshof and the Verfassungsgerichtshof,”

(b) between the eleventh and twelfth indents:

“– in Finland:

Korkein oikeus/högsta domstolen, korkein hallinto-oikeus/högsta förvaltningsdomstolen, markkinatuomioistuim/marknadsdomstolen and työtuomioistuim/arbetsdomstolen,

– in Sweden:

Högsta domstolen, Regeringsrätten, Arbetsdomstolen and Marknadsdomstolen,”.

TITLE IV

Final Provisions

ARTICLE 4

1. The Secretary-General of the Council of the European Union shall transmit a certified copy of the Convention of 1980, the Convention of 1984, the First Protocol of 1988, the Second Protocol of 1988 and the Convention of 1992 in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Spanish and Portuguese languages to the Governments of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

2. The text of the Convention of 1980, the Convention of 1984, the First Protocol of 1988, the Second Protocol of 1988 and the Convention of 1992 in the Finnish and Swedish languages shall be authentic under the same conditions as the other texts of the Convention of 1980, the Convention of 1984, the First Protocol of 1988, the Second Protocol of 1988 and the Convention of 1992.

ARTICLE 5

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 Union.

ARTICLE 6

1. This Convention shall enter into force, as between the States which have ratified it, on the first day of the third month following the deposit of the last instrument of ratification by the Republic of Austria, the Republic of Finland or the Kingdom of Sweden and by one Contracting State which has ratified the Convention on the Law applicable to Contractual Obligations.

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

ARTICLE 7

The Secretary-General of the Council of the European Union 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 8

This Convention, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, all twelve texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Union. 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. That Act gives effect, in the United Kingdom, to the 1980 Convention on the law applicable to contractual obligations (the Rome Convention) and the Luxembourg Convention of 1984 (by which Greece acceded to the Rome Convention). The Rome Convention harmonises the private international law rules of the Member States of the European Union on the law applicable to contracts.

This Order makes minor amendments to the 1990 Act to reflect the revisions made to the Rome Convention on the accession of Austria, Finland and Sweden. The text of the Convention, signed at Brussels, by which Austria, Finland and Sweden acceded to the Rome Convention is set out in the Schedule to the Order which is incorporated as Schedule 3B to the Act. The effect of this Order will be to enable the United Kingdom to ratify that Convention.

The 1990 Act has been previously amended by S.I. 1994/1900 which reflected the revisions made to the Rome Convention by the Funchal Convention, the Convention whereby Spain and Portugal acceded to the Rome Convention.

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