

Draft Regulations laid before Parliament under paragraph 4(2)(a) and (d) of Schedule 6 to the Private International Law (Implementation of Agreements) Act 2020 (c. 24), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No. XXXX

PRIVATE INTERNATIONAL LAW

The Recognition and Enforcement of Judgments (2019 Hague Convention etc.) Regulations 2024

Made - - - -

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(1), (9), (10)(a) and (12) of, and paragraph 4(2)(d) of Schedule 6 to, the Private International Law (Implementation of Agreements) Act 2020(a) (“the 2020 Act”), and with the consent of the Scottish Ministers and the Department of Justice for Northern Ireland.

The Secretary of State is an appropriate national authority for the purposes of section 2 of the 2020 Act(b).

In accordance with paragraph 2 of Schedule 6 to the 2020 Act, the Secretary of State has consulted such persons as the Secretary of State thinks appropriate.

In accordance with paragraph 4(2)(a) and (d) of Schedule 6 to the 2020 Act, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Recognition and Enforcement of Judgments (2019 Hague Convention etc.) Regulations 2024.

(2) These Regulations come into force on the date on which the 2019 Hague Convention enters into force in respect of the United Kingdom, as determined under Article 28(2)(a) of that Convention, which date will be notified in the London, Edinburgh and Belfast Gazettes.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

(a) 2020 c. 24.

(b) See section 2(12) of the 2020 Act for the definition of “appropriate national authority”.

“the 1982 Act” means the Civil Jurisdiction and Judgments Act 1982(a);

“the 2019 Hague Convention” means the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters concluded on 2nd July 2019 at The Hague.

Amendments to the Civil Jurisdiction and Judgments Act 1982

3. The 1982 Act is amended in accordance with regulations 4 to 18.

Interpretation of references to the 2019 Hague Convention and its Contracting States

4.—(1) Section 1 (interpretation of references to the Conventions and Contracting States)(b) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “the 2005 Hague Convention”, for “the Hague” substitute “The Hague”, and

(b) after the definition of “the 2007 Hague Convention” insert—

““the 2019 Hague Convention” means the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters concluded on 2nd July 2019 at The Hague;”.

(3) In subsection (3)—

(a) after the definition of “2007 Hague Convention State” insert—

““2019 Hague Convention State”, in any provision, in the application of that provision in relation to the 2019 Hague Convention, means a State bound by that Convention;”, and

(b) in the definition of “Contracting State”, after paragraph (c) insert—

“and

(d) in the application of the provision in relation to the 2019 Hague Convention, a 2019 Hague Convention State.”.

Incorporation of the 2019 Hague Convention

5.—(1) After section 3E(c) insert—

“3F The 2019 Hague Convention to have the force of law

(1) The 2019 Hague Convention shall have the force of law in the United Kingdom.

(2) For convenience of reference the English text of the 2019 Hague Convention is set out in Schedule 3H.”.

(2) After Schedule 3GA insert new Schedule 3H which is set out in the Schedule to these Regulations.

(a) 1982 c. 27.

(b) Section 1 was amended by section 2 of the Civil Jurisdiction and Judgments Act 1991 (c. 12) and S.I. 1989/1346, 1990/2591, 2000/1824, 2001/3929, 2007/1655, 2009/3131, 2011/1215, 2012/1770, 2012/1809, 2014/2947, 2019/479 and 2019/519.

(c) Section 3E was inserted by section 1(2) of the Private International Law (Implementation of Agreements) Act 2020 (c. 24).

Registration and enforcement of judgments under the 2005 Hague Convention

6.—(1) Section 4B (registration and enforcement of judgments under the 2005 Hague Convention)(a) is amended as follows.

(2) For subsection (1) substitute—

“(1) Any interested party seeking recognition or enforcement of a judgment under the 2005 Hague Convention in any part of the United Kingdom must apply to the appropriate court in the prescribed(b) manner for the judgment to be registered.”.

(3) For subsection (3) substitute—

“(3) On an application under subsection (1), the court must register the judgment in the prescribed manner, without delay and without any review of whether a ground for refusal under the 2005 Hague Convention applies, if the court considers that—

(a) the requirements of Article 13 of the 2005 Hague Convention have been met, and

(b) the judgment—

(i) meets the condition in Article 8(3) of the 2005 Hague Convention, and

(ii) otherwise meets the requirements for recognition or enforcement under the 2005 Hague Convention.”.

(4) In subsection (5)—

(a) omit the words from “which” to “Convention”, and

(b) after “registered” insert “under this section”.

(5) In subsection (6), for the words from “which” to “Convention” substitute “registered under this section”.

Registration and enforcement of judgments under the 2019 Hague Convention

7. After section 4B insert—

“4C Registration and enforcement of judgments under the 2019 Hague Convention

(1) Any interested party seeking recognition or enforcement of a judgment under the 2019 Hague Convention in any part of the United Kingdom must apply to the appropriate court in the prescribed manner for the judgment to be registered.

(2) In subsection (1) “the appropriate court” means—

(a) in England and Wales or Northern Ireland, the High Court;

(b) in Scotland, the Court of Session.

(3) On an application under subsection (1), the court must register the judgment in the prescribed manner, without delay and without any review of whether a ground for refusal under the 2019 Hague Convention applies, if the court considers that—

(a) the requirements of Article 12 of the 2019 Hague Convention have been met, and

(b) the judgment—

(i) meets the condition in Article 4(3) of the 2019 Hague Convention,

(a) Section 4B was inserted by S.I. 2015/1644.

(b) “Prescribed” is defined in section 15 of the 1982 Act.

- (ii) meets at least one of the requirements of Articles 5 or 6 of the 2019 Hague Convention, and
 - (iii) otherwise meets the requirements for recognition or enforcement under the 2019 Hague Convention.
- (4) The party against whom enforcement is sought shall not be entitled to make any submission on the application for registration.
- (5) Where a judgment has been registered under this section, the reasonable costs or expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.
- (6) A judgment registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the judgment had been originally given by the registering court and had (where relevant) been entered.
- (7) Subsection (6) is subject to section 7 (interest on registered judgments) and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under the 2019 Hague Convention may be enforced.”.

Applications to set aside decisions on registration of judgments under the 2005 Hague Convention

8. For section 6B (appeals in relation to registration of judgments under the 2005 Hague Convention)(a) substitute—

“6B Applications to set aside decisions on registration of judgments under the 2005 Hague Convention

- (1) Either party may apply to set aside the decision on an application under section 4B(1).
- (2) An application under subsection (1) must be made—
 - (a) in England and Wales or Northern Ireland, to the High Court;
 - (b) in Scotland, to the Court of Session.
- (3) Where an application under subsection (1) is brought against a decision to register a judgment, the court—
 - (a) must set aside the decision and refuse to register the judgment if it is satisfied that—
 - (i) the condition in Article 8(3) of the 2005 Hague Convention is not met, or
 - (ii) the judgment otherwise does not meet the requirements of the 2005 Hague Convention;
 - (b) may set aside the decision and refuse to register the judgment if it is satisfied that one or more of the grounds for refusal or postponement of recognition or enforcement of a judgment specified in the 2005 Hague Convention applies.

(a) Section 6B was inserted by S.I. 2015/1644.

- (4) Where an application under subsection (1) is brought against a decision not to register a judgment, the court—
- (a) must set aside the decision and register the judgment in the prescribed manner if it is satisfied that—
 - (i) the condition in Article 8(3) of the 2005 Hague Convention is met,
 - (ii) the judgment otherwise meets the requirements of the 2005 Hague Convention, and
 - (iii) none of the grounds for refusal or postponement of recognition or enforcement of a judgment specified in the 2005 Hague Convention applies;
 - (b) may set aside the decision and register the judgment in the prescribed manner if it is satisfied that—
 - (i) the condition in paragraph (a)(i) is met,
 - (ii) the requirements referred to in paragraph (a)(ii) are met, and
 - (iii) one or more of the grounds for refusal or postponement of recognition or enforcement of a judgment specified in the 2005 Hague Convention applies, but that the judgment should nonetheless be registered,or otherwise considers that it is appropriate to do so.
- (5) Section 4B(5) and (6) apply in relation to registration under this section as they apply in relation to registration under section 4B.”.

Applications to set aside registration of judgments under the 2019 Hague Convention

9. After section 6B insert—

“6C Applications to set aside decisions on registration of judgments under the 2019 Hague Convention

- (1) Either party may apply to set aside a decision on an application under section 4C(1).
- (2) An application under subsection (1) must be made—
 - (a) in England and Wales or Northern Ireland, to the High Court;
 - (b) in Scotland, to the Court of Session.
- (3) Where an application under subsection (1) is brought against a decision to register a judgment, the court—
 - (a) must set aside the decision and refuse to register the judgment if it is satisfied that—
 - (i) the condition in Article 4(3) of the 2019 Hague Convention is not met,
 - (ii) none of the requirements specified in Articles 5 or 6 of the 2019 Hague Convention is met, or
 - (iii) the judgment otherwise does not meet the requirements of the 2019 Hague Convention;
 - (b) may set aside the decision and refuse to register the judgment if it is satisfied that one or more of the grounds for refusal or postponement of recognition or enforcement of a judgment specified in the 2019 Hague Convention applies.

- (4) Where an application under subsection (1) is brought against a decision not to register a judgment, the court—
- (a) must set aside the decision and register the judgment in the prescribed manner if it is satisfied that—
 - (i) the condition in Article 4(3) of the 2019 Hague Convention is met,
 - (ii) at least one of the requirements specified in Articles 5 or 6 of the 2019 Hague Convention is met,
 - (iii) the judgment otherwise meets the requirements of the 2019 Hague Convention, and
 - (iv) none of the grounds for refusal or postponement of recognition or enforcement of a judgment specified in the 2019 Hague Convention applies;
 - (b) may set aside the decision and register the judgment in the prescribed manner if it is satisfied that—
 - (i) the condition in paragraph (a)(i) is met,
 - (ii) the requirements referred to in sub-paragraphs (ii) and (iii) of paragraph (a) are met, and
 - (iii) one or more of the grounds for refusal or postponement of recognition or enforcement of a judgment specified in the 2019 Hague Convention applies, but that the judgment should nonetheless be registered,or otherwise considers that it is appropriate to do so.
- (5) Section 4C(5) and (6) apply in relation to registration under this section as they apply in relation to registration under section 4C.”.

Interest on registered judgments under the 2019 Hague Convention

10. In subsections (1) and (5) of section 7 (interest on registered judgments)(a), after “4B” insert “, 4C, 6B or 6C”.

Provisions supplementary to Article 23 of the 2019 Hague Convention

11.—(1) Section 9 (provisions supplementary to Article 26 of the 2005 Hague Convention)(b) is amended as follows.

(2) At the end of the heading insert “and Article 23 of the 2019 Hague Convention”.

(3) In subsection (1), for the words from “relationship” to “parties” (including the parentheses around those words) substitute “and Article 23 of the 2019 Hague Convention (which make provision for the relationship between those Conventions and other conventions to which Contracting States are or may become parties)”.

Proof and admissibility of certain judgments and related documents for the purposes of the 2019 Hague Convention

12. After section 11B(c) insert—

(a) Relevant amendments to section 7 were made by S.I. 2015/1644 and 2019/479.
(b) Relevant amendments to section 9 were made by S.I. 2001/3929, 2009/3131, 2015/1644 and 2019/479.
(c) Section 11B was inserted by S.I. 2015/1644.

“11C Proof and admissibility of certain judgments and related documents for the purposes of the 2019 Hague Convention

- (1) For the purposes of the 2019 Hague Convention—
 - (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a 2019 Hague Convention State other than the United Kingdom shall without further proof be deemed to be a true copy, unless the contrary is shown, and
 - (b) a certificate issued by the court of the 2019 Hague Convention State of origin, in the form recommended for use under the 2019 Hague Convention and published by the Hague Conference on Private International Law, as referred to in Article 12(3) of the 2019 Hague Convention, shall be evidence, and in Scotland sufficient evidence, as to whether the judgment has effect or is enforceable in the 2019 Hague Convention State of origin.
- (2) A document purporting to be a copy of a judgment given by any such court as is mentioned in subsection (1)(a) is duly authenticated for the purposes of this section if it purports—
 - (a) to bear the seal of that court, or
 - (b) to be certified by any person in their capacity as judge or officer of that court to be a true copy of a judgment given by that court.
- (3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible apart from this section.”.

Provision for issue of copies of, and certificates in connection with, United Kingdom judgments

13. In section 12 (provision for issue of copies of, and certificates in connection with, UK judgments)(a), after “the 2005 Hague Convention” insert “or the 2019 Hague Convention”.

Interpretation of Part 1 of the Civil Jurisdiction and Judgments Act 1982

14.—(1) Section 15 (interpretation of Part 1 and consequential amendments)(b) is amended as follows.

(2) In subsection (1), at the end of the definition of “judgment” insert “or, as the case may be, Article 3(1) of the 2019 Hague Convention”.

(3) In subsection (2), after “4B” insert “, 4C, 6B or 6C”.

Judgments registered under 2005 and 2019 Hague Conventions not to be enforced in other parts of UK as though UK judgments

15. In section 18 (enforcement of UK judgments in other parts of UK), at the end of subsection (7)(c) insert “, or section 4B, 4C, 6B or 6C of this Act”.

(a) Relevant amendments to section 12 were made by S.I. 2015/1644 and 2019/479.

(b) Relevant amendments to section 15 were made by Part 1 of Schedule 9 to the Justice Act (Northern Ireland) 2015 (c. 9) and S.I. 2009/3131, 2015/1644 and 2019/479.

(c) Relevant amendments to section 18(7) were made by S.I. 2012/2814, 2019/479 and 2019/519.

Overseas judgments given in proceedings brought in breach of agreement for settlement of disputes

16. In section 32 (overseas judgments given in proceedings brought in breach of agreement for settlement of disputes), in subsection (4)(a)(a), for “or the 2007 Hague Convention” substitute “, the 2007 Hague Convention or the 2019 Hague Convention”.

Matters for which rules of court may provide

17. In section 48(1) (matters for which rules of court may provide)(b), for “the 2007 Hague Convention or the 2005 Hague Convention” substitute “the 2005 Hague Convention, the 2007 Hague Convention or the 2019 Hague Convention”.

Interpretation: general

18. In section 50 (interpretation: general)(c), at the appropriate place insert—

““the 2019 Hague Convention” has the meaning given by section 1(1);

“2019 Hague Convention State” has the meaning given by section 1(3);”.

Application of provisions of the Civil Jurisdiction and Judgments Act 1982 to judicial settlements under the 2019 Hague Convention

19.—(1) In this regulation, “judicial settlements” means judicial settlements referred to in Article 11 of the 2019 Hague Convention.

(2) Subject to the modification specified in paragraph (3), sections 4C(d), 6C(e), 7 and 11C(f) of the 1982 Act apply to judicial settlements as if they were judgments.

(3) In the application of section 4C(6) of the 1982 Act to judicial settlements, for “as if the judgment had been originally given” substitute “as if it were a judgment which had been originally given”.

(4) The disapplication of section 18 of the 1982 Act (enforcement of United Kingdom judgments in other parts of the United Kingdom) by section 18(7) extends to judicial settlements enforceable in a 2019 Hague Convention State outside the United Kingdom which fall to be treated for the purposes of their enforcement as judgments of a court of law in the United Kingdom by virtue of registration under the 1982 Act.

(5) Section 48 of the 1982 Act (matters for which rules of court may provide) applies to judicial settlements as if they were judgments to which the 2019 Hague Convention applies.

Saving provision

20. Where an application was made under section 4B of the 1982 Act before the date on which these Regulations come into force, sections 4B, 6B and 18 of the 1982 Act shall continue to apply to proceedings relating to that application as if the amendments made to those sections by these Regulations had not been made.

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- (a) Relevant amendments to section 32(4)(a) were made by S.I. 2012/2814, 2015/1644, 2019/479 and 2019/519.
- (b) Relevant amendments to section 48 were made by paragraph 1 to Schedule 5 of the Private International Law (Implementation of Agreements) Act 2020 and S.I. 2015/1644, 2019/479 and 2019/519.
- (c) Relevant amendments to section 50 were made by section 3 of, and paragraph 25 of Schedule 2 to, the Civil Jurisdiction and Judgments Act 1991, section 145 of, and paragraph 23 of Schedule 17 to, the Constitutional Reform Act 2005 (c. 4), section 17 of, and paragraph 86 of Schedule 11 to, the Crime and Courts Act 2013 (c. 22), S.I. 1990/2591, 2000/1824, 2001/3929, 2009/3131, 2012/1770, 2015/1644, 2019/479 and 2019/519.
- (d) Section 4C is inserted by regulation 6.
- (e) Section 6C is inserted by regulation 8.
- (f) Section 11C is inserted by regulation 11.

Signature

Signatory
Ministry of Justice

SCHEDULE

Regulation 5

SCHEDULE TO BE INSERTED AS SCHEDULE 3H TO THE CIVIL JURISDICTION AND JUDGMENTS ACT 1982

“SCHEDULE 3H

TEXT OF THE 2019 HAGUE CONVENTION

CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS IN CIVIL OR COMMERCIAL MATTERS (Concluded 2 July 2019)

The Contracting Parties to the present Convention,

Desiring to promote effective access to justice for all and to facilitate rule-based multilateral trade and investment, and mobility, through judicial co-operation,

Believing that such co-operation can be enhanced through the creation of a uniform set of core rules on recognition and enforcement of foreign judgments in civil or commercial matters, to facilitate the effective recognition and enforcement of such judgments,

Convinced that such enhanced judicial co-operation requires, in particular, an international legal regime that provides greater predictability and certainty in relation to the global circulation of foreign judgments, and that is complementary to the Convention of 30 June 2005 on Choice of Court Agreements,

Have resolved to conclude this Convention to this effect and have agreed upon the following provisions—

CHAPTER I - SCOPE AND DEFINITIONS

Article 1

Scope

1. This Convention shall apply to the recognition and enforcement of judgments in civil or commercial matters. It shall not extend in particular to revenue, customs or administrative matters.
2. This Convention shall apply to the recognition and enforcement in one Contracting State of a judgment given by a court of another Contracting State.

Article 2

Exclusions from scope

1. This Convention shall not apply to the following matters—
 - (a) the status and legal capacity of natural persons;
 - (b) maintenance obligations;
 - (c) other family law matters, including matrimonial property regimes and other rights or obligations arising out of marriage or similar relationships;

- (d) wills and succession;
 - (e) insolvency, composition, resolution of financial institutions, and analogous matters;
 - (f) the carriage of passengers and goods;
 - (g) transboundary marine pollution, marine pollution in areas beyond national jurisdiction, ship-source marine pollution, limitation of liability for maritime claims, and general average;
 - (h) liability for nuclear damage;
 - (i) the validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs;
 - (j) the validity of entries in public registers;
 - (k) defamation;
 - (l) privacy;
 - (m) intellectual property;
 - (n) activities of armed forces, including the activities of their personnel in the exercise of their official duties;
 - (o) law enforcement activities, including the activities of law enforcement personnel in the exercise of their official duties;
 - (p) anti-trust (competition) matters, except where the judgment is based on conduct that constitutes an anti-competitive agreement or concerted practice among actual or potential competitors to fix prices, make rigged bids, establish output restrictions or quotas, or divide markets by allocating customers, suppliers, territories or lines of commerce, and where such conduct and its effect both occurred in the State of origin;
 - (q) sovereign debt restructuring through unilateral State measures.
2. A judgment is not excluded from the scope of this Convention where a matter to which this Convention does not apply arose merely as a preliminary question in the proceedings in which the judgment was given, and not as an object of the proceedings. In particular, the mere fact that such a matter arose by way of defence does not exclude a judgment from the Convention, if that matter was not an object of the proceedings.
 3. This Convention shall not apply to arbitration and related proceedings.
 4. A judgment is not excluded from the scope of this Convention by the mere fact that a State, including a government, a governmental agency or any person acting for a State, was a party to the proceedings.
 5. Nothing in this Convention shall affect privileges and immunities of States or of international organisations, in respect of themselves and of their property.

Article 3

Definitions

1. In this Convention—
 - (a) “defendant” means a person against whom the claim or counterclaim was brought in the State of origin;

- (b) “judgment” means any decision on the merits given by a court, whatever that decision may be called, including a decree or order, and a determination of costs or expenses of the proceedings by the court (including an officer of the court), provided that the determination relates to a decision on the merits which may be recognised or enforced under this Convention. An interim measure of protection is not a judgment.
- 2. An entity or person other than a natural person shall be considered to be habitually resident in the State—
 - (a) where it has its statutory seat;
 - (b) under the law of which it was incorporated or formed;
 - (c) where it has its central administration; or
 - (d) where it has its principal place of business.

CHAPTER II - RECOGNITION AND ENFORCEMENT

Article 4

General provisions

- 1. A judgment given by a court of a Contracting State (State of origin) shall be recognised and enforced in another Contracting State (requested State) in accordance with the provisions of this Chapter. Recognition or enforcement may be refused only on the grounds specified in this Convention.
- 2. There shall be no review of the merits of the judgment in the requested State. There may only be such consideration as is necessary for the application of this Convention.
- 3. A judgment shall be recognised only if it has effect in the State of origin, and shall be enforced only if it is enforceable in the State of origin.
- 4. Recognition or enforcement may be postponed or refused if the judgment referred to under paragraph 3 is the subject of review in the State of origin or if the time limit for seeking ordinary review has not expired. A refusal does not prevent a subsequent application for recognition or enforcement of the judgment.

Article 5

Bases for recognition and enforcement

- 1. A judgment is eligible for recognition and enforcement if one of the following requirements is met—
 - (a) the person against whom recognition or enforcement is sought was habitually resident in the State of origin at the time that person became a party to the proceedings in the court of origin;
 - (b) the natural person against whom recognition or enforcement is sought had their principal place of business in the State of origin at the time that person became a party to the proceedings in the court of origin and the claim on which the judgment is based arose out of the activities of that business;
 - (c) the person against whom recognition or enforcement is sought is the person that brought the claim, other than a counterclaim, on which the judgment is based;

- (d) the defendant maintained a branch, agency, or other establishment without separate legal personality in the State of origin at the time that person became a party to the proceedings in the court of origin, and the claim on which the judgment is based arose out of the activities of that branch, agency, or establishment;
- (e) the defendant expressly consented to the jurisdiction of the court of origin in the course of the proceedings in which the judgment was given;
- (f) the defendant argued on the merits before the court of origin without contesting jurisdiction within the timeframe provided in the law of the State of origin, unless it is evident that an objection to jurisdiction or to the exercise of jurisdiction would not have succeeded under that law;
- (g) the judgment ruled on a contractual obligation and it was given by a court of the State in which performance of that obligation took place, or should have taken place, in accordance with
 - (i) the agreement of the parties, or
 - (ii) the law applicable to the contract, in the absence of an agreed place of performance,

unless the activities of the defendant in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State;

- (h) the judgment ruled on a lease of immovable property (tenancy) and it was given by a court of the State in which the property is situated;
- (i) the judgment ruled against the defendant on a contractual obligation secured by a right *in rem* in immovable property located in the State of origin, if the contractual claim was brought together with a claim against the same defendant relating to that right *in rem*;
- (j) the judgment ruled on a non-contractual obligation arising from death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of origin, irrespective of where that harm occurred;
- (k) the judgment concerns the validity, construction, effects, administration or variation of a trust created voluntarily and evidenced in writing, and—
 - (i) at the time the proceedings were instituted, the State of origin was designated in the trust instrument as a State in the courts of which disputes about such matters are to be determined; or
 - (ii) at the time the proceedings were instituted, the State of origin was expressly or impliedly designated in the trust instrument as the State in which the principal place of administration of the trust is situated.

This sub-paragraph only applies to judgments regarding internal aspects of a trust between persons who are or were within the trust relationship;

- (l) the judgment ruled on a counterclaim—
 - (i) to the extent that it was in favour of the counterclaimant, provided that the counterclaim arose out of the same transaction or occurrence as the claim; or

- (ii) to the extent that it was against the counterclaimant, unless the law of the State of origin required the counterclaim to be filed in order to avoid preclusion;
- (m) the judgment was given by a court designated in an agreement concluded or documented in writing or by any other means of communication which renders information accessible so as to be usable for subsequent reference, other than an exclusive choice of court agreement.

For the purposes of this sub-paragraph, an “exclusive choice of court agreement” means an agreement concluded by two or more parties that designates, for the purpose of deciding disputes which have arisen or may arise in connection with a particular legal relationship, the courts of one State or one or more specific courts of one State to the exclusion of the jurisdiction of any other courts.

2. If recognition or enforcement is sought against a natural person acting primarily for personal, family or household purposes (a consumer) in matters relating to a consumer contract, or against an employee in matters relating to the employee’s contract of employment—
 - (a) paragraph 1(e) applies only if the consent was addressed to the court, orally or in writing;
 - (b) paragraph 1(f), (g) and (m) do not apply.
3. Paragraph 1 does not apply to a judgment that ruled on a residential lease of immovable property (tenancy) or ruled on the registration of immovable property. Such a judgment is eligible for recognition and enforcement only if it was given by a court of the State where the property is situated.

Article 6

Exclusive basis for recognition and enforcement

Notwithstanding Article 5, a judgment that ruled on rights *in rem* in immovable property shall be recognised and enforced if and only if the property is situated in the State of origin.

Article 7

Refusal of recognition and enforcement

1. Recognition or enforcement may be refused if—
 - (a) the document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim—
 - (i) was not notified to the defendant in sufficient time and in such a way as to enable them to arrange for their defence, unless the defendant entered an appearance and presented their case without contesting notification in the court of origin, provided that the law of the State of origin permitted notification to be contested; or
 - (ii) was notified to the defendant in the requested State in a manner that is incompatible with fundamental principles of the requested State concerning service of documents;
 - (b) the judgment was obtained by fraud;
 - (c) recognition or enforcement would be manifestly incompatible with the public policy of the requested State, including situations where the specific proceedings leading to the judgment were incompatible with fundamental principles of

procedural fairness of that State and situations involving infringements of security or sovereignty of that State;

- (d) the proceedings in the court of origin were contrary to an agreement, or a designation in a trust instrument, under which the dispute in question was to be determined in a court of a State other than the State of origin;
 - (e) the judgment is inconsistent with a judgment given by a court of the requested State in a dispute between the same parties; or
 - (f) the judgment is inconsistent with an earlier judgment given by a court of another State between the same parties on the same subject matter, provided that the earlier judgment fulfils the conditions necessary for its recognition in the requested State.
2. Recognition or enforcement may be postponed or refused if proceedings between the same parties on the same subject matter are pending before a court of the requested State, where—
- (a) the court of the requested State was seised before the court of origin; and
 - (b) there is a close connection between the dispute and the requested State.

A refusal under this paragraph does not prevent a subsequent application for recognition or enforcement of the judgment.

Article 8

Preliminary questions

1. A ruling on a preliminary question shall not be recognised or enforced under this Convention if the ruling is on a matter to which this Convention does not apply or on a matter referred to in Article 6 on which a court of a State other than the State referred to in that Article ruled.
2. Recognition or enforcement of a judgment may be refused if, and to the extent that, the judgment was based on a ruling on a matter to which this Convention does not apply, or on a matter referred to in Article 6 on which a court of a State other than the State referred to in that Article ruled.

Article 9

Severability

Recognition or enforcement of a severable part of a judgment shall be granted where recognition or enforcement of that part is applied for, or only part of the judgment is capable of being recognised or enforced under this Convention.

Article 10

Damages

1. Recognition or enforcement of a judgment may be refused if, and to the extent that, the judgment awards damages, including exemplary or punitive damages, that do not compensate a party for actual loss or harm suffered.
2. The court addressed shall take into account whether and to what extent the damages awarded by the court of origin serve to cover costs and expenses relating to the proceedings.

Article 11

Judicial settlements (transactions judiciaires)

Judicial settlements (*transactions judiciaires*) which a court of a Contracting State has approved, or which have been concluded in the course of proceedings before a court of a Contracting State, and which are enforceable in the same manner as a judgment in the State of origin, shall be enforced under this Convention in the same manner as a judgment.

Article 12

Documents to be produced

1. The party seeking recognition or applying for enforcement shall produce—
 - (a) a complete and certified copy of the judgment;
 - (b) if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party;
 - (c) any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the State of origin;
 - (d) in the case referred to in Article 11, a certificate of a court (including an officer of the court) of the State of origin stating that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the State of origin.
2. If the terms of the judgment do not permit the court addressed to verify whether the conditions of this Chapter have been complied with, that court may require any necessary documents.
3. An application for recognition or enforcement may be accompanied by a document relating to the judgment, issued by a court (including an officer of the court) of the State of origin, in the form recommended and published by the Hague Conference on Private International Law.
4. If the documents referred to in this Article are not in an official language of the requested State, they shall be accompanied by a certified translation into an official language, unless the law of the requested State provides otherwise.

Article 13

Procedure

1. The procedure for recognition, declaration of enforceability or registration for enforcement, and the enforcement of the judgment, are governed by the law of the requested State unless this Convention provides otherwise. The court of the requested State shall act expeditiously.
2. The court of the requested State shall not refuse the recognition or enforcement of a judgment under this Convention on the ground that recognition or enforcement should be sought in another State.

Article 14

Costs of proceedings

1. No security, bond or deposit, however described, shall be required from a party who in one Contracting State applies for enforcement of a judgment given by a court of

another Contracting State on the sole ground that such party is a foreign national or is not domiciled or resident in the State in which enforcement is sought.

2. An order for payment of costs or expenses of proceedings, made in a Contracting State against any person exempt from requirements as to security, bond, or deposit by virtue of paragraph 1 or of the law of the State where proceedings have been instituted, shall, on the application of the person entitled to the benefit of the order, be rendered enforceable in any other Contracting State.
3. A State may declare that it shall not apply paragraph 1 or designate by a declaration which of its courts shall not apply paragraph 1.

Article 15

Recognition and enforcement under national law

Subject to Article 6, this Convention does not prevent the recognition or enforcement of judgments under national law.

CHAPTER III - GENERAL CLAUSES

Article 16

Transitional provision

This Convention shall apply to the recognition and enforcement of judgments if, at the time the proceedings were instituted in the State of origin, the Convention had effect between that State and the requested State.

Article 17

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 court of origin, were connected only with the requested State.

Article 18

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 recognition or enforcement of a judgment given by a court of a Contracting State that made the declaration is sought.

Article 19

Declarations with respect to judgments pertaining to a State

1. A State may declare that it shall not apply this Convention to judgments arising from proceedings to which any of the following is a party—
 - (a) that State, or a natural person acting for that State; or

- (b) a government agency of that State, or a natural person acting for such a government agency.

The State making such a declaration shall ensure that the declaration is no broader than necessary and that the exclusion from scope is clearly and precisely defined. The declaration shall not distinguish between judgments where the State, a government agency of that State or a natural person acting for either of them is a defendant or claimant in the proceedings before the court of origin.

- 2. Recognition or enforcement of a judgment given by a court of a State that made a declaration pursuant to paragraph 1 may be refused if the judgment arose from proceedings to which either the State that made the declaration or the requested State, one of their government agencies or a natural person acting for either of them is a party, to the same extent as specified in the declaration.

Article 20

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 21

Review of operation of the Convention

The Secretary General of the Hague Conference on Private International Law shall at regular intervals make arrangements for review of the operation of this Convention, including any declarations, and shall report to the Council on General Affairs and Policy.

Article 22

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 the court or courts of a State shall be construed as referring, where appropriate, to the court or courts in the relevant territorial unit;
 - (c) any reference to a connection with a State shall be construed as referring, where appropriate, to a connection with the relevant territorial unit;
 - (d) any reference to a connecting factor in relation to a State shall be construed as referring, where appropriate, to that connecting factor in relation to the relevant territorial unit.
- 2. Notwithstanding paragraph 1, 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 Regional Economic Integration Organisations.

Article 23

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 that was concluded before this Convention.
3. This Convention shall not affect the application by a Contracting State of a treaty concluded after this Convention as concerns the recognition or enforcement of a judgment given by a court of a Contracting State that is also a Party to that treaty. Nothing in the other treaty shall affect the obligations under Article 6 towards Contracting States that are not Parties to that treaty.
4. This Convention shall not affect the application of the rules of a Regional Economic Integration Organisation that is a Party to this Convention as concerns the recognition or enforcement of a judgment given by a court of a Contracting State that is also a Member State of the Regional Economic Integration Organisation where—
 - (a) the rules were adopted before this Convention was concluded; or
 - (b) the rules were adopted after this Convention was concluded, to the extent that they do not affect the obligations under Article 6 towards Contracting States that are not Member States of the Regional Economic Integration Organisation.

CHAPTER IV - FINAL CLAUSES

Article 24

Signature, ratification, acceptance, approval or accession

1. This Convention shall be open for signature by all States.
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. This Convention shall be open for accession by all States.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

Article 25

Declarations with respect to non-unified legal systems

1. If a State has two or more territorial units in which different systems of law apply in relation to matters dealt with in this Convention, it may declare that the Convention shall extend to all its territorial units or only to one or more of them. Such a declaration shall state expressly the territorial units to which the Convention applies.
2. If a State makes no declaration under this Article, the Convention shall extend to all territorial units of that State.
3. This Article shall not apply to Regional Economic Integration Organisations.

Article 26

Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted solely by sovereign States and has competence over some or all of the matters governed by this Convention may sign, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that the Organisation has competence over matters governed by this Convention.
2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, notify the depositary in writing of the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Organisation shall promptly notify the depositary in writing of any changes to its competence as specified in the most recent notice given under this paragraph.
3. For the purposes of the entry into force of this Convention, any instrument deposited by a Regional Economic Integration Organisation shall not be counted unless the Regional Economic Integration Organisation declares in accordance with Article 27(1) that its Member States will not be Parties to this Convention.
4. Any reference to a "Contracting State" or "State" in this Convention shall apply equally, where appropriate, to a Regional Economic Integration Organisation.

Article 27

Regional Economic Integration Organisation as a Contracting Party without its Member States

1. At the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation may declare that it exercises competence over all the matters governed by this Convention and that its Member States will not be Parties to this Convention but shall be bound by virtue of the signature, acceptance, approval or accession of the Organisation.
2. In the event that a declaration is made by a Regional Economic Integration Organisation in accordance with paragraph 1, any reference to a "Contracting State" or "State" in this Convention shall apply equally, where appropriate, to the Member States of the Organisation.

Article 28

Entry into force

1. This Convention shall enter into force on the first day of the month following the expiration of the period during which a notification may be made in accordance with Article 29(2) with respect to the second State that has deposited its instrument of ratification, acceptance, approval or accession referred to in Article 24.
2. Thereafter this Convention shall enter into force—
 - (a) for each State subsequently ratifying, accepting, approving or acceding to it, on the first day of the month following the expiration of the period during which notifications may be made in accordance with Article 29(2) with respect to that State;

- (b) for a territorial unit to which this Convention has been extended in accordance with Article 25 after the Convention has entered into force for the State making the declaration, on the first day of the month following the expiration of three months after the notification of the declaration referred to in that Article.

Article 29

Establishment of relations pursuant to the Convention

1. This Convention shall have effect between two Contracting States only if neither of them has notified the depositary regarding the other in accordance with paragraph 2 or 3. In the absence of such a notification, the Convention has effect between two Contracting States from the first day of the month following the expiration of the period during which notifications may be made.
2. A Contracting State may notify the depositary, within 12 months after the date of the notification by the depositary referred to in Article 32(a), that the ratification, acceptance, approval or accession of another State shall not have the effect of establishing relations between the two States pursuant to this Convention.
3. A State may notify the depositary, upon the deposit of its instrument pursuant to Article 24(4), that its ratification, acceptance, approval or accession shall not have the effect of establishing relations with a Contracting State pursuant to this Convention.
4. A Contracting State may at any time withdraw a notification that it has made under paragraph 2 or 3. Such a withdrawal shall take effect on the first day of the month following the expiration of three months following the date of notification.

Article 30

Declarations

1. Declarations referred to in Articles 14, 17, 18, 19 and 25 may be made upon signature, ratification, acceptance, approval or accession or at any time thereafter, and may be modified or withdrawn at any time.
2. Declarations, modifications and withdrawals shall be notified to the depositary.
3. A declaration made at the time of signature, ratification, acceptance, approval or accession shall take effect simultaneously with the entry into force of this Convention for the State concerned.
4. A declaration made at a subsequent time, and any modification or withdrawal of a declaration, shall take effect on the first day of the month following the expiration of three months following the date on which the notification is received by the depositary.
5. A declaration made at a subsequent time, and any modification or withdrawal of a declaration, shall not apply to judgments resulting from proceedings that have already been instituted before the court of origin when the declaration takes effect.

Article 31

Denunciation

1. A Contracting State to this Convention may denounce it by a notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units of a non-unified legal system to which this Convention applies.
2. The denunciation shall take effect on the first day of the month following the expiration of 12 months after the date on which the notification is received by the depositary.

Where a longer period for the denunciation to take effect is specified in the notification, the denunciation shall take effect upon the expiration of such longer period after the date on which the notification is received by the depositary.

Article 32

Notifications by the depositary

The depositary shall notify the Members of the Hague Conference on Private International Law, and other States and Regional Economic Integration Organisations which have signed, ratified, accepted, approved or acceded to this Convention in accordance with Articles 24, 26 and 27 of the following—

- (a) the signatures, ratifications, acceptances, approvals and accessions referred to in Articles 24, 26 and 27;
- (b) the date on which this Convention enters into force in accordance with Article 28;
- (c) the notifications, declarations, modifications and withdrawals referred to in Articles 26, 27, 29 and 30; and
- (d) the denunciations referred to in Article 31.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the 2nd day of July 2019, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the Members of the Hague Conference on Private International Law at the time of its Twenty-Second Session and to each of the other States which have participated in that Session.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

The 2019 Hague Convention (“the 2019 Convention”) was signed on behalf of the United Kingdom on 12 January 2024. It will enter into force in respect of the UK on the first day of the month after the end of a period of one year beginning on the date when the UK ratifies it.

These Regulations amend the Civil Jurisdiction and Judgments Act 1982 (c. 27) (“the 1982 Act”) to give the 2019 Convention force of law in the UK and make further provision for the 2019 Convention’s operation in the UK. In particular, regulation 7 makes provision relating to the registration of judgments from states which are parties to the 2019 Convention for recognition or enforcement in a UK jurisdiction, and regulation 9 makes provision as to how a registration decision can be challenged.

These Regulations also amend certain sections of the 1982 Act which made provision for the operation of the 2005 Hague Convention on Choice of Court Agreements (“the 2005 Convention”) to make them consistent with the provisions being adopted for the 2019 Convention. In particular, regulation 8 changes the means by which a decision on an application for registration can be challenged, from an appeal to an application to set the decision aside. Regulation 20 provides that, if an application has been made to register a judgment under the 2005 Convention before these Regulations come into force, specified sections of the 1982 Act amended by these Regulations will continue to have effect as though the amendments had not been made in proceedings relating to that application.

A regulatory impact assessment has not been prepared for this instrument as it has no significant impact on business, charities or voluntary bodies.

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£8.14

<http://www.legislation.gov.uk/id/ukdsi/2024/9780348260960>

ISBN 978-0-34-826096-0



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