
STATUTORY INSTRUMENTS

2018 No. 1124

The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) (EU Exit) Regulations 2018

PART 2

The rights etc deriving from the 2005 Hague Convention

Rights etc deriving from the 2005 Hague Convention

3.—(1) The section 4 rights have effect in the United Kingdom on and after exit day—

- (a) subject to and in accordance with regulations 4 to 6, and
- (b) subject to paragraph (2).

(2) If a declaration made by the EU under Article 21 has effect immediately before exit day, the section 4 rights are to continue not to apply on and after exit day with regard to a matter specified in the declaration.

(3) In these Regulations, the section 4 rights are the rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

- (a) are derived from the 2005 Hague Convention, and
- (b) continue to be recognised in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018 (saving for rights etc. under s2(1) of the ECA).

(4) The Articles of, and the declarations under, the 2005 Hague Convention from which the section 4 rights are derived are—

- (a) Articles 1 to 18, 23, 25(1) and (3) and 26;
- (b) any declaration made by the EU under Article 21 which has effect immediately before exit day.

Choice of court agreements concluded before exit day

4.—(1) This regulation applies in the case of an exclusive choice of court agreement which is concluded—

- (a) after the 2005 Hague Convention entered into force for the United Kingdom by virtue of being a member State, but
- (b) before exit day.

(2) The section 4 rights have effect as regards the agreement as if—

- (a) the United Kingdom remained without interruption a State bound by the 2005 Hague Convention on and after exit day, and
- (b) Article 26(6) operated as it would have operated if the United Kingdom had also continued to be a member State on and after exit day.

(3) Notwithstanding the effect that Article 26(2) to (5) would produce if the United Kingdom were a State bound by the 2005 Hague Convention, the section 4 rights do not have effect as regards the agreement if and to the extent that their having effect would conflict with an obligation of the United Kingdom under another treaty.

Choice of court agreements concluded before the 2005 Hague Convention again enters into force for the United Kingdom

5.—(1) This regulation applies in the case of an exclusive choice of court agreement which is concluded—

- (a) on or after exit day, but
 - (b) before the 2005 Hague Convention again enters into force for the United Kingdom.
- (2) The section 4 rights have effect as regards the agreement as if—
- (a) the United Kingdom were a State bound by the 2005 Hague Convention on and after exit day, and
 - (b) Article 26(6) operated accordingly (and not as if the United Kingdom were also a member State).

(3) Notwithstanding the effect that Article 26(2) to (5) would produce if the United Kingdom were a State bound by the 2005 Hague Convention, the section 4 rights do not have effect as regards the agreement if and to the extent that their having effect would conflict with an obligation of the United Kingdom under another treaty.

Choice of court agreements concluded after the 2005 Hague Convention again enters into force for the United Kingdom

6.—(1) This regulation applies if the 2005 Hague Convention again enters into force for the United Kingdom on or after exit day.

(2) The section 4 rights are to have effect as regards the exclusive choice of court agreements indicated by Article 16, as it applies to the United Kingdom on that new entry into force.

(3) Paragraph (2) is not to be read as requiring Article 26(6) to operate as if the United Kingdom were a member State after that entry into force.