

International Agreements involved:

Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters

Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters

The Accession Convention

The 1982 Accession Convention

The 1989 Accession Convention

The Brussels Conventions

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AN ACT TO MAKE FURTHER PROVISION ABOUT THE JURISDICTION OF COURTS AND TRIBUNALS IN GIBRALTAR AND ABOUT THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS GIVEN IN GIBRALTAR OR ELSEWHERE AND TO PROVIDE FOR THE MODIFICATION OF ASSOCIATED LEGISLATION.

Title and commencement.

1.(1) This Act may be cited as the Civil Jurisdiction and Judgments Act 1993 and shall come into effect on such day as the Governor may, by notice in the Gazette, appoint and different days may be so appointed for different purposes.

(2) Notices made under sub-section (1) may make such transitional provisions as the Governor shall, in respect of the implementation of any section, determine.

Interpretation.

2.(1) In this Act–

“the 2005 Hague Convention” means the Convention on Choice of Court Agreements concluded on 30 June 2005 at The Hague;

“the 2007 Hague Convention” means the Convention of 23 November 2007 on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague;

“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.

(2) *Deleted.*

(3) In this Act–

“Contracting State,” without more, in any provision means–

(a) *Deleted.*

(b) *Deleted.*

(c) in the application of the provision in relation to the 2005 Hague Convention, a 2005 Hague Convention State; and

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

and shall be taken to include any territory of such a state to which in accordance with the provisions of the Convention, the Contracting State has by declaration extended the application of the Convention;

“2005 Hague Convention State”, in any provision, in the application of that provision in relation to the 2005 Hague Convention, means a State bound by that Convention and for these purposes, Gibraltar shall be deemed a Convention State;

“2007 Hague Convention State”, in any provision, in the application of that provision in relation to the 2007 Hague Convention, means a State bound by that Convention and for these purposes Gibraltar shall be deemed to be a Convention State;

“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 for these purposes Gibraltar shall be deemed to be a Convention State.

(4) In this Act “judgment” means any judgement or order (by whatever name called) given or made by a court in any civil proceedings:

Provided that in Part I–

- (a) “judgment” has the meaning given by Article 4(1) of the 2005 Hague Convention or Article 3(1) of the 2019 Hague Convention; and
- (b) references to a judgment registered under section 6A, 6ZA, 8A or 8B include, to the extent of its registration, references to a judgment so registered to a limited extent only.

(5) In this Act, unless the context otherwise requires–

“association” means an unincorporated body of persons;

“corporation” means a body corporate;

“court”, without more, includes a tribunal;

“court of law” in relation to Gibraltar means any of the following courts–

- (a) the Judicial Committee of the Privy Council, as provided for in the Gibraltar (Appeals to Privy Council) Order, 1985;
- (b) the Court of Appeal;
- (c) the Supreme Court;

(d) the Court of First Instance; and

(e) the Magistrate's Court;

“declared enforceable” means that a court has made an enforcement order;

“enactment” includes an enactment comprised in the legislation of England and Wales only in so far as that enactment has been applied in Gibraltar;

“enforcement order” means an order that a judgment (including a maintenance order) may be enforced in Gibraltar;

“the 2007 Hague Convention” has the meaning given in subsection (1);

“2007 Hague Convention State” has the meaning given in subsection (3);

“modifications” includes additions, omissions and alterations;

“overseas country” means any country or territory outside Gibraltar and shall be taken to include any part of the United Kingdom (being England and Wales, Scotland or Northern Ireland);

“prescribed” means prescribed by rules of court;

“rules of court”, in relation to any court means rules, orders or regulations made by the authority having power to make rules, orders or regulations regulating the procedure of that court;

“statutory provisions” means any provision contained in any Act or in subordinate legislation or any instrument of a legislative character; and

“tribunal” means a tribunal of any description other than a court of law.

(6) *Deleted.*

PART I.
IMPLEMENTATION OF THE CONVENTIONS.

3. *Repealed.*

Conventions to have the force of law.

4. (1) - (4) *Deleted.*

(5) The 2005 Hague Convention shall have the force of law in Gibraltar and judicial notice shall be taken of it.

(6) For convenience of reference there is set out in Schedule 6A the English text of the 2005 Hague Convention.

(7) The 2007 Hague Convention shall have the force of law in Gibraltar and judicial notice shall be taken of it.

(8) The 2019 Hague Convention shall have the force of law in Gibraltar and judicial notice shall be taken of it.

(9) For the convenience of reference the English text of the 2019 Hague Convention is set out in Schedule 6B.

Interpretation of the 2019 Hague Convention.

4A. The Explanatory Report by Francisco Garcimartin and Genevieve Saumier on the 2019 Hague Convention may be considered for assistance in the interpretation of any provision of the 2019 Hague Convention, but is not binding in nature.

5. *Deleted.*

6. *Deleted.*

Registration and enforcement of judgments under the 2005 Hague Convention.

6A.(1) Any interested party seeking recognition or enforcement of a judgment under the 2005 Hague Convention in Gibraltar must apply to the Supreme Court in the prescribed manner for the judgment to be registered.

(2) On an application under subsection (1), the Supreme Court must register the judgment in the prescribed manner, without delay and without any review of whether a ground of refusal under the 2005 Hague Convention applies, if this 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 the recognition or enforcement under the 2005 Hague Convention.

(3) The party against whom enforcement is sought shall not be entitled to make any submission on the application for registration.

(4) 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.

(5) 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.

(6) Subsection (5) is subject to section 9 (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 2005 Hague Convention may be enforced.

Registration and enforcement of judgments under the 2019 Hague Convention.

6ZA.(1) Any interested party seeking recognition or enforcement of a judgment under the 2019 Hague Convention in Gibraltar must apply to the Supreme Court in the prescribed manner for the judgment to be registered.

(2) On an application under subsection (1), the Supreme Court must register the judgment in the prescribed manner, without delay and without any review of whether a ground of refusal under the 2019 Hague Convention applies, if this 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;
 - (ii) meets at least one of the requirements of Article 5 or Article 6 of the 2019 Hague Convention; and
 - (iii) otherwise meets the requirements for recognition or enforcement under the 2019 Hague Convention.

(3) The party against whom enforcement is sought is not entitled to make any submission on the application for registration.

(4) Where a judgment is given against more than one party, the requirements in Article 5 must be assessed as against each party individually.

(5) Where a judgment has been registered under this section, the reasonable costs of and incidental to its registration is recoverable as if they were sums recoverable under the judgment.

(6) A judgment registered under this section must, for the purposes of its enforcement, be of the same force and effect, the registering court has 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 9 (Interest on registered judgments) and to any provision made by the rules of court as to the manner in which and the conditions subject to which a judgment is registered under the 2019 Hague Convention may be enforced.

Jurisdiction on rights in rem in immovable property.

6ZB.(1) For the purposes of Article 6 of the 2019 Hague Convention, the Supreme Court has exclusive jurisdiction in proceedings over immovable property situated in Gibraltar, where those proceedings have as their main object rights in rem in relation to that immovable property.

(2) Where there is a judgment from a 2019 Hague Convention State that concerns immovable property situated in a state or territory, which is not a 2019 Hague Convention State that judgment-

- (a) cannot be recognised or enforced by the Supreme Court under section 6ZA;
- (b) is not prevented from recognition or enforcement where other provision is made under Gibraltar law.

Assignment, transfer or succession.

6ZC.(1) Where-

- (a) there is an application under section 6ZA(1);
- (b) the judgment from the other 2019 Hague Convention State is against a person (A),
the judgment can be recognised and enforced against a person (B) provided that B has validly assumed the obligations of A.

(2) The issue of whether B has validly assumed the obligations of A will be a matter to be determined by the Supreme Court in accordance with Gibraltar law.

Article 5(1)(g) of the 2019 Hague Convention.

6ZD.(1) Where there is an application under section 6ZA, and the Supreme Court has to determine the validity of contractual conditions on the place of performance, or the law governing the contract, the Court must apply Gibraltar law.

(2) Where the contract on which the judgment is based contains different and severable obligations for one party, the Court needs to apply the rule in Article 5(1)(g) separately to each obligation.

Res judicata.

6ZE.(1) Where-

- (a) the court of origin in another 2019 Hague Convention State determines rights or obligations asserted in a claim before it;
- (b) that judgment is recognised in accordance with section 6ZA,

the judgment can be relied on by a party, should the other party to the judgment commence proceedings in Gibraltar between the same parties with the same subject matter.

(2) Where in accordance with section 38C, a judicial settlement is recognised under this Act, the Supreme Court may grant res judicata effect to that judicial settlement.

Recognition and enforcement under Gibraltar law.

6ZF. Where the Supreme Court refuses an application under section 6ZA, the Court may, subject to the provisions of Article 6, recognise and enforce the same judgment under any other provision under Gibraltar law, or under any other international convention or agreement that has effect in Gibraltar.

6B. *Deleted.*

7. *Deleted.*

7A. - 7B. *Deleted.*

8. *Deleted.*

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

8A.(1) Either party may apply to set aside the decision on an application under section 6A(1).

(2) An application under subsection (1) must be made to the Supreme Court.

(3) Where an application under subsection (1) is brought against a decision to register a judgment, the Supreme 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.

(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 6A(5) and (6) apply in relation to registration under this section as they apply in relation to registration under section 6A.

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

8B.(1) Either party may apply to set aside a decision on an application under section 6ZA(1).

(2) An application under subsection (1) must be made to the Supreme Court.

(3) Where an application under subsection (1) is brought against a decision to register a judgment, the Supreme 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 a judgment if it is satisfied that one or more 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 Supreme 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 6ZA(5) and (6) apply in relation to registration under this section as it applies in relation to registration under section 6ZA.

Grounds of refusal.

8C. The grounds of refusal referred to in section 8B(3)(b) or 8B(4)(a)(iv) or (b)(iii) include-

- (a) where the recognition or enforcement of a judgment would be manifestly incompatible with public policy in Gibraltar under Article 7(1)(c); or
- (b) the specific defences under Article 7(1)(a),(b), (d), (e) and (f), Article 7(2) and Article 10.

Interest on registered judgments.

9.(1) Where in connection with an application for an enforcement order in respect of a judgment under section 6A, 6ZA, 8A or 8B the applicant shows-

- (a) that the judgment provides for the payment of a sum of money; and
- (b) in accordance with the law of the Contracting State in which the judgment was given interest on that sum is recoverable under the judgment from a particular date or time,

the rate of interest and the date or time from which it is so recoverable shall be declared enforceable with the judgment and, subject to any provision made under sub-section (2), the debt resulting from the enforcement order in respect of the judgment shall carry interest in accordance with that enforcement order.

(2) Provision may be made by rules of court as to the manner in which and the periods by reference to which any interest payable by virtue of sub-section (1) is to be calculated and paid, including provision for such interest to cease to accrue as from a prescribed date.

(3) - (4) *Deleted.*

(5) Debts under judgments declared enforceable under section 6A, 6ZA, 8A or 8B shall carry interest only as provided for by this section.

Provisions supplementary to Article 26 of the Hague Convention and Article 23 of the 2019 Hague Convention.

9A. Article 26 of the 2005 Hague Convention 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) shall have effect in relation to –

- (a) any provision, whenever enacted, implementing any other convention in Gibraltar; and
- (b) any rule of law so far as it has the effect of so implementing any other convention, as they have effect in relation to that other convention itself.

10. - 11. *Deleted*

Proof and admissibility of certain judgments and related documents for the purposes of the 2005 Hague Convention.

11A. (1) For the purposes of the 2005 Hague Convention -

- (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a 2005 Hague Convention State other than Gibraltar 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 2005 Hague Convention State of origin, in the form recommended for use under the 2005 Hague Convention and published by the Hague Conference on Private International Law, as referred to in Article 13(3) of the 2005 Hague Convention shall be evidence as to whether the judgment has effect or is enforceable in the 2005 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.

Copies of, and certificates in connection with Gibraltar judgments.

12. Rules of court may make provision for enabling any interested party wishing to secure under the 2005 Hague Convention the recognition and enforcement in another Contracting State of a judgment given by a court in Gibraltar to obtain, subject to any conditions specified in the rules,–

- (a) a copy of the judgment; and
- (b) a certificate giving particulars relating to the judgment and the proceedings in which it was given.

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

12A.(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 Gibraltar is without further proof to be deemed to be a true copy, unless the contrary is shown; and
- (b) a certificate issued by the court of a 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, is 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 a court referred to 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 must prejudice the admission in evidence of any document which is admissible apart from this section.

13. *Deleted.*

13A. *Deleted.*

14. - 15. *Deleted.*

PART II.
PROVISIONS RELATING TO JURISDICTION.

Interim relief and protective measures in case of doubtful jurisdiction.

16.(1) Any power of a court in Gibraltar to grant interim relief pending trial or pending the determination of an appeal shall extend to a case where the issue to be tried, or which is the subject of the appeal, relates to the jurisdiction of the court to entertain the proceedings.

(2) Sub-section (1) shall not be construed as restricting any power to grant interim relief or protective measures which a court may have apart from this section.

Interim relief in the absence of substantive proceedings.

17.(1) The Supreme Court shall have power to grant interim relief where—

- (a) proceedings have been or are to be commenced in a 2005 Hague Convention State other than Gibraltar; and
- (b) they are or will be proceedings whose subject-matter is within scope of the 2005 Hague Convention as determined by Articles 1 and 2 of the 2005 Hague Convention (whether or not the 2005 Hague Convention has effect in relation to the proceedings).

(2) On any application for interim relief under sub-section (1), the court may refuse to grant relief if, in the opinion of the court, the fact that the court has no jurisdiction apart from this section in relation to the subject matter of the proceedings in question, makes it inexpedient for the court to grant it.

(3) The Minister responsible for justice may, by notice in the Gazette, extend the power to grant interim relief conferred by sub-section (1) so as to make it exercisable in relation to proceedings of any of the following descriptions, namely—

- (a) *Repealed.*
- (b) *Repealed.*
- (c) arbitration proceedings.

(3A) The Supreme Court shall have power to grant interim relief under section 17(1) in relation to proceedings of the following descriptions, namely—

- (a) proceedings commenced or to be commenced otherwise than in a 2005 Hague Convention State;
 - (b) proceedings whose subject-matter is not within the scope of the 2005 Hague Convention as determined by Articles 1 and 2 of the 2005 Hague Convention.
- (4) A notice under sub-section (3)–
- (a) may confer power to grant only specified descriptions of interim relief;
 - (b) may make different provision for different classes of proceedings, for proceedings pending in different countries or courts outside Gibraltar and for other different circumstances; and
 - (c) may impose conditions or restrictions on the exercise of any power conferred by the notice.
- (5) A notice under sub-section (3) which confers power to grant interim relief in relation to arbitration proceedings may provide for the repeal of any provision of section 32 of the Arbitration Act³ to the extent that it is superseded by the provisions of the notice.
- (6) In this section “interim relief” in relation to the Supreme Court means interim relief of any kind which that court has power to grant in proceedings relating to matters within its jurisdiction other than–
- (a) a warrant for the arrest of property; or
 - (b) provision for obtaining evidence.

Proceedings in Gibraltar for torts to immovable property.

18. (1) The jurisdiction of any court in Gibraltar to entertain proceedings for trespass to, or any other tort affecting, immovable property shall extend to cases in which the property in question is situated outside Gibraltar unless the proceedings are principally concerned with the question of the title to, or the right to possession of, that property.

(2) *Deleted.*

Security in Admiralty proceedings in Gibraltar.

19. (1) Where in Gibraltar a court stays or dismisses Admiralty proceedings on the ground that the dispute in question should be submitted to arbitration or to the determination of the courts

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of an overseas country, the court may, if in those proceedings property has been arrested or bail or other security has been given to prevent or obtain release from arrest—

- (a) order that the property arrested be retained as security for the satisfaction of any award or judgment which—
 - (i) is given in respect of the dispute in the arbitration or legal proceedings in favour of which those proceedings are stayed or dismissed; and
 - (ii) is enforceable in Gibraltar; or
- (b) order that the stay or dismissal of those proceedings be conditional on the provision of equivalent security for the satisfaction of any such award or judgment.

(2) Where a court makes an order under sub-section (1), it may attach such conditions to the order as it thinks fit, in particular, conditions with respect to the institution or prosecution of the relevant arbitration or legal proceedings.

(3) Subject to any provision made by rules of court and to any necessary modifications, the same law and practice shall apply in relation to property retained in pursuance of an order made by a court under sub-section (1) as would apply if it were held for the purposes of proceedings in that court.

PART III.
PROVISIONS RELATING TO RECOGNITION AND
ENFORCEMENT OF JUDGMENTS.

Overseas judgments given against states, etc.

20. (1) A judgment given by a court of an overseas country against a state other than Gibraltar or the state to which that court belongs, shall be recognised and enforced in Gibraltar only if—

- (a) it would be so recognised and enforced if it had not been given against the state; and
- (b) that court would have had jurisdiction in the matter if it had applied rules corresponding to those applicable and to such matters in Gibraltar in accordance with sections 2 to 11 of the State Immunity Act 1978 or an order made under section 13 of the Supreme Court Act⁴ having similar effect.

(2) References in sub-section (1) to a judgment given against a state include references to judgments of any of the following descriptions given in relation to a state—

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- (a) judgments against the government, or a department of the government, of the state but not (except as mentioned in paragraph (c)) judgments against an entity which is distinct from the executive organs of government;
 - (b) judgment against the sovereign or head of state in his public capacity;
 - (c) judgments against any such separate entity as is mentioned in paragraph (a) and given in proceedings relating to anything done by it in the exercise of the sovereign authority of the state.
- (3) Nothing in sub-section (1) shall affect the recognition or enforcement in Gibraltar of a judgment to which Part I of the Judgments (Reciprocal Enforcement) Act applies by virtue of—
- (a) section 17(4) of the Nuclear Installations Act 1965 as extended by the Nuclear Installations (Gibraltar) Orders 1970 and 1985;
 - (b) the Admiralty Jurisdiction (Gibraltar) Order, 1987;
 - (c) section 4 of the Carriage of Goods by Road Act 1965 as extended by the Carriage of Goods by Road (Gibraltar) Order, 1967, as amended by the 1981 Order.
- (4) Sections 12, 13 and 14 (3) and (4) of the State Immunity Act 1978 (service of process and procedure or privileges) shall apply to proceedings for a recognition or enforcement in Gibraltar of a judgment given by a court of an overseas country (whether or not that judgment is within sub-section (1)) as they apply to other proceedings.
- (5) In this section—
- “state”, in the case of a federal state, includes any of its constituent territories;
- “State Immunity Act 1978” means that Act as extended to Gibraltar.

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

21. (1) Subject to the following provisions of this section, a judgment given by a court of an overseas country in any proceedings shall not be recognised and enforced in Gibraltar if—
- (a) the bringing of those proceedings in the court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the court of that country; and
 - (b) those proceedings were not brought in that court by, or with the agreement of, the person against whom the judgment was given; and

(c) the person did not counterclaim in the proceedings or otherwise submit to the jurisdiction of that court.

(2) Sub-section (1) does not apply where the agreement referred to in paragraph (a) of that sub-section was illegal, void or unenforceable or was incapable of being performed for reasons not attributable to the fault of the party bringing the proceedings in which the judgment was given.

(3) In determining whether a judgment given by a court of an overseas country should be recognised or enforced in Gibraltar, a court in Gibraltar shall not be bound by any decision of the overseas court relating to any of the matters mentioned in sub-section (1) or (2).

(4) Nothing in sub-section (1) shall affect the recognition or enforcement in Gibraltar of—

(a) a judgment which is required to be recognised or enforced there under the 2005 Hague Convention, the 2007 Hague Convention or the 2019 Hague Convention;

(b) a judgment to which Part I of the Judgments (Reciprocal Enforcement) Act⁶ applies by virtue of—

(i) section 17 (4) of the Nuclear Installations Act 1965 as extended by the Nuclear Installations (Gibraltar) Orders 1970 and 1985;

(ii) the Admiralty Jurisdiction (Gibraltar) Order 1987;

(iii) section 4 of the Carriage of Goods by Road Act 1965 as extended by the Carriage of Goods by Road (Gibraltar) Order 1967, as amended by the 1981 Order.

Certain steps not to amount to submission to a jurisdiction of overseas court.

22. (1) For the purposes of determining whether a judgment given by a court of an overseas country should be recognised or enforced in Gibraltar, the person against whom the judgment was given shall not be regarded as having submitted to the jurisdiction of the Court by reason only of the fact that he appeared (conditionally or otherwise) in the proceedings for all or any one or more of the following purposes, namely—

(a) to contest the jurisdiction of the court;

⁶ 1935-04

- (b) to ask the court to dismiss or stay the proceedings on the ground that the dispute in question should be submitted to arbitration or to the determination of the courts of another country;
- (c) to protect, or obtain the release of, the property seized or threatened with seizure in the proceedings.

(2) Nothing in this section shall affect the recognition or enforcement in Gibraltar of a judgment which is required to be recognised or enforced there under the 2005 Hague Convention or the 2007 Hague Convention.

Certain judgments a bar to further proceedings in the same cause of action.

23. No proceedings may be brought by a person in Gibraltar on a cause of action in respect of which a judgment has been given in his favour in proceedings between the same parties, or their privies, in a court in Gibraltar or in a court of an overseas country unless that judgment is not enforceable or entitled to recognition in Gibraltar.

PART IV.
SUPPLEMENTARY AND GENERAL PROVISIONS.

Domicile of individuals.

24. (1) The following provisions of this section determine for the purposes of this Act whether an individual is domiciled in Gibraltar.

- (2) An individual is domiciled in Gibraltar if and only if—
 - (a) he is resident in Gibraltar; and
 - (b) the nature and circumstances of his residence indicate that he has a substantial connection with Gibraltar.
- (3) *Deleted.*

Domicile and seat of a corporation or association.

25. (1) For the purposes of this Act the seat of a corporation or association (as determined by this section) shall be treated as its domicile.

- (2) The following provisions of this section determine where a corporation or association has its seat, for the purposes of this Act.
- (3) A corporation or association has its seat in Gibraltar if and only if—

- (a) it was incorporated or formed under the law of Gibraltar and has its registered office or some other official address in Gibraltar; or
- (b) its central management and control is exercised in Gibraltar.

(4) - (5) *Deleted.*

(6) In this section “official address” in relation to a corporation or association means an address which it is required by law to register, notify or maintain for the purpose of receiving notices or other communications.

26. - 27. *Deleted.*

Domicile of Trusts.

28. (1) The following provisions of this section determine, for the purposes of this Act, where a trust is domiciled.

(2) A trust is domiciled in Gibraltar if and only if the system of law of Gibraltar is the system of law with which the trust has its closest and most real connection.

Domicile and seat of the Crown.

29. (1) For the purposes of this Act the seat of the Crown (as determined by this section) shall be treated as its domicile.

(2) The following provisions of this section determine where the Crown has its seat.

(3) The Crown in right of Her Majesty’s Government in Gibraltar has its seat in Gibraltar.

30. *Deleted.*

Availability of legal assistance.

31. The provisions of the Legal Aid and Assistance Act⁵ shall apply to applications and proceedings under this Act.

Matters for which rules of court may provide.

32.(1) Rules of court may make provision for regulating the procedure to be followed in any court in connection with any provision of this Act, the 2005 Hague Convention or the 2007 Hague Convention.

⁵ 1960-23

(2) Rules of court may make provision as to the manner in which the conditions subject to which a certificate or judgment enforceable by any court under any provision of this Act or the 2007 Hague Convention may be enforced including provision for enabling the court, subject to any conditions specified in the rules, to give directions about such matters.

(3) Without prejudice to the generality of sub-sections (1) and (2), the power to make rules of court for the magistrates' court shall include power to make such provision as the rule making authority considers necessary or expedient for the purposes of the provisions of the 2007 Hague Convention and this Act relating to maintenance proceedings and the recognition and enforcement of maintenance orders, and shall in particular include power to make provision for any of the following matters—

- (a) authorising the service in another 2007 Hague Convention State of process issued by or for the purposes of the magistrates' court and the service and execution in Gibraltar of process issued in another 2007 Hague Convention State;
- (b) requesting courts in other 2007 Hague Regulation States to take evidence there for the purposes of proceedings in Gibraltar;
- (c) the taking of evidence in Gibraltar in response to similar request received from such courts;
- (d) the circumstances in which and the conditions subject to which any powers conferred under paragraphs (a) to (c) are to be exercised;
- (e) the admission in evidence, subject to such conditions as may be prescribed in the rules, of statements contained in documents purporting to be made or authenticated by a court in another 2007 Hague Convention State, or by a judge or official of such a court, which purports—
 - (i) to set out or summarise evidence given in proceedings in that court or to be documents received in evidence in such proceedings or copies of such documents, or
 - (ii) to set out or summarise evidence taken for the purposes of proceedings in Gibraltar whether or not in response to any such request as is mentioned in paragraph (b), or
 - (iii) to record information relating to the payments made under an order of that court;
- (f) the circumstances and manner in which the magistrates' court may or must vary or revoke a maintenance order registered in that court, cancel the registration of, or refrain from enforcing, such an order;

- (g) the cases and manner in which courts in other 2007 Hague Convention States are to be informed of orders made, or other things done, by or for the purposes of the magistrate's court;
 - (h) the circumstances and manner in which the magistrates' court may communicate for other purposes with such courts;
 - (i) the giving of notice of such matters as may be prescribed in the rules to such persons as may be so prescribed and the manner in which such notice is to be given.
- (4) Nothing in this section shall be taken as derogating from the generality of any power to make rules of court conferred by any other enactment.
- (5) Section 15 of the Supreme Court Act⁴ shall apply to the exercise by the Supreme Court of the jurisdiction of that court under this Act.
- (6) Section 33 of the Magistrates' Court Act² shall apply as if the reference in that section to section 24 of that Act were a reference to the provisions of this Act which give jurisdiction to the magistrate's court.

Maintenance Arrangements.

32A.(1) Section 32 of this Act applies in relation to maintenance arrangements as if they were maintenance decisions to which the 2007 Hague Convention applies.

(2) The reference in subsection (1) to maintenance arrangements is to those maintenance arrangements which are to be recognised and enforceable in the same way as maintenance decisions by virtue of Article 30 of the 2007 Hague Convention.

(3) In this section-

“maintenance arrangement” has the meaning given in Article 3(e) of the 2007 Hague Convention; and

“maintenance decision” means a decision, or part of a decision, to which Chapter V of the 2007 Hague Convention applies by virtue of Article 19(1) of that Convention.

Saving of power to stay, strike out or dismiss proceedings.

⁴ 1960-02

² 1961-23

33. Nothing in this Act shall prevent any court in Gibraltar from staying, striking out or dismissing any proceedings before it on the ground of forum non-conveniens or otherwise, where to do so is not inconsistent with the 2005 Hague Convention.

Application to Crown.

34. (1) This Act binds the Crown.

(2) In this section and elsewhere in this Act any reference to the Crown does not include references to Her Majesty in Her Private Capacity.

Amendments to the Maintenance Orders (Reciprocal Enforcement) Act⁷.

35. The Maintenance Orders (Reciprocal Enforcement) Act is amended as provided for in Schedule 7.

Amendments to the Magistrates' Court Act²

36. The Magistrates' Court Act is amended as provided for in Schedule 8.

Amendments to the Judgments (Reciprocal Enforcement) Act⁶.

37. The Judgments (Reciprocal Enforcement) Act is amended as provided for in Schedule 9.

38. *Deleted.*

38A. *Deleted*

Application of provisions of the Civil Jurisdiction and Judgments Act 1993 to judicial settlements under the 2005 Hague Convention.

38B.(1) In this section “judicial settlements” means judicial settlements referred to in Article 12 of the 2005 Hague Convention.

(2) Sections 6A, 8A and 11A apply to judicial settlements as if they were judgments.

(3) Section 32 applies to judicial settlements as if they were judgments to which the 2005 Hague Convention applies.

Application of this Act to judicial settlements under the 2019 Hague Convention.

⁷ 1973-23

² 1961-23

⁶ 1935-04

38C.(1) In this section, “judicial settlements” means judicial settlements referred to in Article 11 of the 2019 Hague Convention.

(2) Subject to the modification in subsection (3), sections 6ZA, 8B, 9 and 12A apply to judicial settlements as if they were judgments.

(3) In the application of section 6ZA(6) 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) Section 32 of this Act applies to judicial settlements as if they were judgments to which the 2019 Hague Convention applies.

PART V

JURISDICTION AND THE ENFORCEMENT OF JUDGMENTS BETWEEN THE UNITED KINGDOM AND GIBRALTAR

Arrangements between the United Kingdom and Gibraltar.

39.(1) Provision corresponding to that made by the provisions of the 1968 Convention specified in subsection (2), as they had effect immediately before IP completion day, shall apply, so far as relevant, for the purpose of regulating, as between Gibraltar and the United Kingdom, the jurisdiction of courts and the recognition and enforcement of judgments.

(2) Those provisions are-

- (a) Titles I–V;
- (b) Articles 54 and 57; and
- (c) Article 65 and the Protocol referred to therein.

(3) For the purpose stated in subsection (1), Gibraltar and the United Kingdom shall be treated as if each were a separate Contracting State and the relevant provisions of the 1968 Convention shall be construed accordingly.

(4) In determining any question as to the meaning or effect of the provision (or any part of it) made by subsection (1)–

- (a) regard shall be had to any relevant principles laid down by the European Court in connection with Title II of the Convention and to any relevant decision of that court before IP completion day as to the meaning or effect of any provision of that Title; and

- (b) without prejudice to the generality of paragraph (a), the expert reports relating to the 1968 Convention referred to in section 47 of the Act may be considered and shall, so far as relevant, be given such weight as is appropriate in the circumstances.

(5) For ease of reference, the text of the provisions referred to in subsection (2) are set out in Schedule 1.

Registration and enforcement of judgments from the United Kingdom pursuant to section 39.

40.(1) A judgment, other than a maintenance order, which is the subject of an application under Article 31 for its enforcement in Gibraltar shall, to the extent that its enforcement is authorized by the Supreme Court, be registered in the prescribed manner in the Supreme Court.

(2) Where a judgment is 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.

(3) A judgment registered under this section –

- (a) shall be of the same force and effect, as if it had been originally made by the Supreme Court;
- (b) may be enforced in the same way as if it had been originally made by the Supreme Court.

(4) Subsection (3) is subject to-

- (a) Article 39 (restriction on enforcement where appeal pending or time for appeal unexpired);
- (b) section 43; and
- (c) any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under this section may be enforced.

Recognition and enforcement of United Kingdom maintenance orders.

41.(1) The function of transmitting to the appropriate court an application under Article 31 for the recognition or enforcement in Gibraltar of a United Kingdom maintenance order shall be discharged by the Minister responsible for justice.

(2) In this section “the appropriate court” means the Magistrates’ Court.

(3) Such an application shall be determined by the Magistrates’ Court.

(4) Where on such an application the enforcement of the order is authorized to any extent, the order shall to that extent be registered in the prescribed manner in that court.

(5) A maintenance order registered under this section shall, for the purposes of its enforcement-

- (a) be of the same force and effect as if the order had been originally made by the Magistrates' Court; and
- (b) may be enforced in the same way as if the order had originally been made by the Magistrates' Court.

(6) Subsection (5) is subject to Article 39 (restriction on enforcement where appeal pending or time for appeal unexpired), to section 43 and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under this section may be enforced.

(7) The payer under a maintenance order registered under this section shall give notice of any change of address to the clerk of the Magistrates' Court.

(8) A person who without reasonable excuse fails to comply with subsection (7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Appeals.

42. The single further appeal on a point of law referred to in Articles 37 and 41 in relation to the recognition or enforcement of a judgment lies to the Court of Appeal in accordance with the Court of Appeal Act, and in the case of a maintenance order, to the Supreme Court in accordance with section 62 of the Magistrates Court Act.

Interest on registered judgments.

43.(1) Where in connection with an application for a registration order in respect of a judgment (including a maintenance order) under this Part the applicant shows-

- (a) that the judgment provides for the payment of a sum of money; and
- (b) in accordance with the law of the relevant part of the United Kingdom in which the judgment was given interest on that sum is recoverable under the judgment from a particular date or time,

the rate of interest and the date or time from which it is so recoverable shall be declared enforceable with the judgment and, subject to any provision made under subsection (2),

the debt resulting, apart from section 40(2), from the registration order in respect of the judgment shall carry interest in accordance with that order.

(2) Provision may be made by rules of court as to the manner in which and the periods by reference to which any interest payable by virtue of subsection (1) is to be calculated and paid, including provision for such interest to cease to accrue as from a prescribed date.

(3) Costs or expenses recoverable by virtue of section 6(2) shall carry interest as if they were the subject of an order for the payment of costs or expenses made by the court making the enforcement order on the date of that order.

(4) Interest on arrears of sums payable under a maintenance order registered under section 41 in the Magistrate's Court shall be recoverable in that court as a civil debt notwithstanding the provisions of section 40(2)(a) of the Magistrates Court Act.

(5) Debts under judgments registered under section 40 or 41 shall carry interest only as provided for by this section.

Proof and admissibility of judgments and related documents.

44.(1) For the purposes of this Part-

(a) a document duly authenticated which purports to be a copy of a judgment given by a court of the United Kingdom shall without further proof be deemed to be a true copy, unless the contrary is shown; and

(b) the original or a copy of any such document as is mentioned in Article 46(2) or 47 (supporting documents to be produced by a party seeking recognition or enforcement of a judgment) shall be evidence of any matter to which it relates.

(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 his capacity as a 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 submission in evidence of any document which is admissible apart from this section.

Copies of, and certificates in connection with judgments to be enforced.

45.(1) Rules of court may make provision for enabling any interested party wishing to secure under the provisions of this Part the recognition and enforcement in Gibraltar of a United Kingdom judgment.

(2) Rules of court may make provision for enabling any interested party wishing to secure under the Civil Jurisdiction and Judgments Act 1982 (Gibraltar) Order 1997 the recognition and enforcement in the United Kingdom of a judgment given by a court in Gibraltar to obtain, subject to any conditions specified in the rules-

- (a) a certified copy of the judgment; and
- (b) a certificate giving particulars relating to the judgment and the proceedings in which it was given.

Modifications to cover authentic instruments and court settlements.

46. The Minister responsible for justice may, by notice in the Gazette, provide that any provision of this Act relating to the recognition or enforcement in Gibraltar of judgments to which the provisions specified in section 39 apply shall apply, with such modifications as may be specified in the notice, in relation to documents and settlements within Title IV of the 1968 Convention as if they were judgments to which those provisions apply.

Interpretation.

47.(1) In this Part-

“the expert reports relating to the 1968 Convention” means-

- (a) the reports by Mr P.Jenard on the 1968 Convention and the 1971 Protocol;
- (b) the report by Professor Peter Schlosser on the Accession Convention; and
- (c) the report by Professor Demetrios Evirigenis and Professor D. Kerameus on the 1982 Accession Convention; and
- (d) the report by Mr Martinho de Almeida Cruz, Mr Manuel Desantes Real and Mr P. Jenard on the 1989 Accession Convention;

“the 1968 Convention” means the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (including the Protocol annexed to that Convention) signed at Brussels on 27th September 1968;

“the 1971 Protocol” means the Protocol on the interpretation of the 1968 Convention by the European Court signed, at Luxembourg on the 3rd June 1971;

“the Accession Convention” means the Convention on the accession to the 1968 Convention and the 1971 Protocol of Denmark, the Republic of Ireland and the United Kingdom signed at Luxembourg on the 9th October 1978;

“the 1982 Accession Convention” means the Convention on the accession of the Hellenic Republic to the 1968 Convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention, signed at Luxembourg on the 25th October 1982;

“the 1989 Accession Convention” means the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the 1968 Convention and the 1971 Protocol with the adjustments made to them by the Accession Convention and the 1982 Accession Convention, signed at Donostia San Sebastian on 26th May 1989;

“judgment” has the meaning given by Article 25 of the 1968 Convention;

“maintenance order” means a maintenance judgment within the meaning of the 1968 Convention;

“payer”, in relation to a maintenance order, means the person liable to make the payment for which the order provides.

(2) A reference in this Part to a numbered Article is a reference to the Article so numbered of the 1968 Convention.

PART VI

PRIVATE INTERNATIONAL LAW - IMPLEMENTATION OF AGREEMENTS

Regulations.

48.(1) The Minister may make regulations for the purpose of, or in connection with-

- (a) implementing any international agreement as it has effect from time to time, so far as it relates to private international law (“a relevant international agreement”);
- (b) giving effect to any arrangements made between His Majesty’s Government in the United Kingdom and Gibraltar for applying a relevant international agreement, with or without modifications, as between the United Kingdom and Gibraltar;
- (c) implementing any international obligations or standards concerned with the relevant international agreement; or

- (d) implementing the recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of any obligations or standards under a relevant international agreement.
- (2) Regulations under this section may amend this Act and its Schedules for any of the purposes in subsection (1)(a) to (d).
- (3) Regulations under this section may –
 - (a) make consequential, supplementary, incidental, transitional or saving provision;
 - (b) make different provision for different purposes.
- (4) Regulations under this section may (among other things) be exercised by modifying any provision made by or under an enactment including this Act.
- (5) Regulations under this section may include provision about-
 - (a) enforcement of obligations arising under or by virtue of the regulations;
 - (b) sharing of information;
 - (c) any international obligations or standards relating to the relevant international agreement.

Interpretation of Part VI.

49. In this Part-

“Minister” means the Minister with responsibility for Justice;

“international agreement” means a convention, treaty or other agreement which is extended to Gibraltar, or in respect of which Gibraltar will be seeking extension;

“private international law” includes rules and provisions about –

- (a) jurisdiction and applicable law, or jurisdictional filters
- (b) recognition and enforcement in one country or territory of any of the following that originate in another country or territory –
 - (i) a judgment, judicial settlement, order or arbitral award;
 - (ii) an agreement, decision or authentic instrument determining or otherwise relating to rights and obligations;

- (c) co-operation between judicial or other authorities in different countries or territories in relation to –
 - (i) service of documents, taking of evidence and other procedures; or
 - (ii) anything within paragraph (a) or (b).

“relevant international agreement” has the meaning given in section 48(1).

Rules of court.

50. The Chief Justice may make rules of court in respect of a relevant international agreement on the same basis and to the same extent as described in section 12 and section 32.

SCHEDULE 1.

Section 4 (2)

TEXT OF THE 1968 CONVENTION, AS AMENDED

ARRANGEMENT OF PROVISIONS

TITLE I.	SCOPE (Article 1)
TITLE II.	JURISDICTION
Section 1.	General provisions (Article 2-4).
Section 2.	Special jurisdiction (Articles 5-6A).
Section 3.	Jurisdiction in matters relating to insurance (Articles 7-12A).
Section 4.	Jurisdiction over consumer contracts (Articles 13-15).
Section 5.	Exclusive jurisdiction (Article 16).
Section 6.	Prorogation of jurisdiction (Articles 17 and 18).
Section 7.	Examination as to jurisdiction and admissibility (Articles 19-20).
Section 8.	Lis pendens - Related actions (Articles 21-23).
Section 9.	Provisions, including protective measures (Article 24).
TITLE III.	RECOGNITION AND ENFORCEMENT
	Definition of “judgment” (Article 25).
Section 1.	Recognition (Articles 26-30).
Section 2.	Enforcement (Articles 31-45).
Section 3.	Common Provision (Articles 46-49).
TITLE IV.	AUTHENTIC INSTRUMENTS AND COURT SETTLEMENTS. (Articles 50-51).
TITLE V.	GENERAL PROVISIONS (Articles 52-53).
TITLE VI.	TRANSITIONAL PROVISIONS (Articles 54-54A).
TITLE VII.	RELATIONSHIP TO OTHER CONVENTIONS (Articles 55-59).
TITLE VIII.	FINAL PROVISIONS (Articles 60 (deleted) -68).

**CONVENTION ON JURISDICTION AND THE ENFORCEMENT OF JUDGMENTS
IN CIVIL AND COMMERCIAL MATTERS****Preamble**

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

Desiring to implement the provisions of Article 220 of that Treaty by virtue of which they undertook to secure the simplification of formalities governing the reciprocal recognition and enforcement of judgments of courts or tribunals;

Anxious to strengthen in the Community the legal protection of persons therein established;

Considering that it is necessary for this purpose to determine the international jurisdiction of their courts, to facilitate recognition and to introduce an expeditious procedure for securing the enforcement of judgments, authentic instruments and court settlements;

Have decided to conclude this Convention and to this end have designated as their Plenipotentiaries;

(Designation of Plenipotentiaries of the original six Contracting States).

Who, meeting with the Council, having exchanged their Full Powers, found in good and due form,

Have agreed as follows:

TITLE I.**SCOPE****ARTICLE 1**

This Convention shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs, or administrative matters.

The Convention shall not apply to:

- (1) the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills and succession;
- (2) bankruptcy, proceedings relating to the winding up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
- (3) social security;

(4) arbitration.

TITLE II

JURISDICTION

Section 1

General provisions

ARTICLE 2

Subject to the provisions of this Convention, persons domiciled in a Contracting State shall, whatever their nationality, be sued in the courts of that State.

Persons who are not nationals of the State in which they are domiciled shall be governed by the rules of jurisdiction applicable to nationals of that State.

ARTICLE 3

Persons domiciled in a Contracting State may be sued in the courts of another Contracting State only by virtue of the rules set out in Sections 2 to 6 to this Title.

In particular the following provisions shall not be applicable as against them:

- | | |
|-------------------------------------|---|
| in Belgium: | Article 15 of the civil code (Code civil - Burgerlijk Wetboek) and Article 638 of the Judicial code (Code judiciaire Gerechtelijk Wetboek); |
| in Denmark: | Article 246 (2) and (3) of the law on civil procedure (Lov om retsens pleje); |
| in the Federal Republic of Germany: | Article 23 of the code of civil procedure (Zivilprozessordnung); |
| in France: | Articles 14 and 15 of the civil code (Code civil); |
| in Ireland: | the rules which enable jurisdiction to be founded on the document instituting the proceedings having been served on the defendant during his temporary presence in Ireland; |

- in Italy: Article 2 and Article 4, Nos 1 and 2 of the code of civil procedure (Codice di procedura civile);
- in Luxembourg: Articles 14 and 15 of the civil code (Code Civil);
- in the Netherlands: Article 126 (3) and Article 127 of the code of civil procedure (Wetboek van Burgerlijke Rechtsvordering);
- in Portugal: Article 65 (1) (c) and 65 (2) and 65A (c) of the Code of Civil Procedure (codigo de processo civil) and Article 11 of the code of labour procedure (codigo de proceso de trabalho);
- in the United Kingdom: the rules which enable jurisdiction to be founded on:
- (a) the document instituting the proceedings having been served on the defendant during his temporary presence in the United Kingdom; or
 - (b) the presence within the United Kingdom of property belonging to the defendant; or
 - (c) the seizure by the plaintiff of property situated in the United Kingdom.

ARTICLE 4

If the defendant is not domiciled in a Contracting State, the jurisdiction of the courts of each Contracting State shall, subject to the provisions of Article 16, be determined by the law of that State.

As against such a defendant, any person domiciled in a Contracting State may, whatever his nationality, avail himself in that State of the rules of jurisdiction there in force, and in particular those specified in the second paragraph of Article 3, in the same way as the nationals of that State.

Section 2

Special jurisdiction

ARTICLE 5

A person domiciled in a Contracting State may, in another Contracting State, be sued:

- (1) in matters relating to a contract, in the courts for the place of performance of the obligation in question; in matters relating to individual contracts of employment, this place is that where

the employee habitually carries out his work, or if the employee does not habitually carry out his work in any one country, the employer may also be sued in the courts for the place where the business which engaged the employee was or is now situated;

(2) in matters relating to maintenance, in the courts for the place where the maintenance creditors is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which, according to its own law, has jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties;

(3) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred;

(4) as regards a civil claim for damages or restitution which is based on an act giving rise to criminal proceedings, in the court seised of those proceedings, to the extent that that court has jurisdiction under its own law to entertain civil proceedings;

(5) as regards a dispute arising out of the operations of a branch, agency or other establishment, in the courts for the place in which the branch, agency, or other establishment is situated;

(6) in his capacity as settlor, trustee or beneficiary of a trust created by the operation of a statute, or by a written instrument, or created orally and evidenced in writing, in the courts of the Contracting State in which the trust is domiciled;

(7) as regards a dispute concerning the payment of remuneration claimed in respect of the salvage of a cargo or freight, in the court under the authority of which the cargo or freight in question:

(a) has been arrested to secure such payment; or

(b) could have been so arrested, but bail or other security has been given:

Provided that this provision shall apply only if it is claimed that the defendant has an interest in the cargo or freight or had such an interest at the time of salvage.

ARTICLE 6

A person domiciled in a Contracting State may also be sued:

(1) where he is one of a number of defendants, in the courts for the place where any one of them is domiciled;

(2) as a third party in an action on a warranty or guarantee or in any other third party proceedings, in the court seised of the original proceedings, unless these were instituted solely

with the object of removing him from the jurisdiction of the court which would be competent in his case;

(3) on a counterclaim arising from the same contract or facts on which the original claim was based, in the court in which the original claim is pending;

(4) in matters relating to a contract, if the action may be combined with an action against the same defendant in matters relating to rights in rem in immovable property, in the court of the Contracting State in which the property is situated.

ARTICLE 6A

Where by virtue of this Convention a court of a Contracting State has jurisdiction in actions relating to liability arising from the use or operation of a ship, that court, or any other court substituted for this purpose by the internal law of that State, shall also have jurisdiction over claims for limitation of such liability.

Section 3

Jurisdiction in matters relating to insurance.

ARTICLE 7

In matters relating to insurance, jurisdiction shall be determined by this section, without prejudice to the provisions of Articles 4 and 5 (5).

ARTICLE 8

An insurer domiciled in a Contracting State may be sued:

(1) in the courts of the State where he is domiciled; or

(2) in another Contracting State, in the courts for the place where the policy-holder is domiciled; or

(3) if he is a co-insurer, in the courts of a Contracting State in which proceedings are brought against the leading insurer.

An insurer who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State.

ARTICLE 9

In respect of liability insurance or insurance of immovable property, the insurer may in addition be sued in the courts for the place where the harmful event occurred. The same applies if movable and immovable property are covered by the same insurance policy and both are adversely affected by the same contingency.

ARTICLE 10

In respect of liability insurance, the insurer may also, if the law of the court permits it, be joined in proceedings which the injured party has brought against the insured.

The provisions of Articles 7, 8 and 9 shall apply to actions brought by the injured party directly against the insurer, where such direct actions are permitted.

If the law governing such direct actions provides that the policy-holder or the insured may be joined as a party to the action, the same court shall have jurisdiction over them.

ARTICLE 11

Without prejudice to the provisions of the third paragraph of Article 10, an insurer may bring proceedings only in the courts of the Contracting State in which the defendant is domiciled, irrespective of whether he is the policy-holder, the insured or a beneficiary.

The provisions of this section shall not affect the right to bring a counterclaim in the court in which, in accordance with this section, the original claim is pending.

ARTICLE 12

The provisions of this section may be departed from only by an agreement on jurisdiction:

- (1) which is entered into after the dispute has arisen; or
- (2) which allows the policy-holder, the insured or a beneficiary to bring proceedings in courts other than those indicated in this section; or
- (3) which is concluded between a policy-holder and an insurer, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same Contracting State, and which has the effect of conferring jurisdiction on the courts of that State even if the harmful event were to occur abroad, provided that such an agreement is not contrary to the law of that State; or
- (4) which is concluded with a policy-holder who is not domiciled in a Contracting State, except in so far as the insurance is compulsory or relates to immovable property in a Contracting State; or

(5) which relates to a contract of insurance in so far as it covers one or more of the risks set out in Article 12A.

ARTICLE 12A

The following are risks referred to in Article 12 (5):

- (1) Any loss of or damage to:
 - (a) sea-going ships, installations situated offshore or on the high seas, or aircraft, arising from perils which relate to their use for commercial purposes;
 - (b) goods in transit other than passengers' baggage where the transit consists of or includes carriage by such ships or aircraft.
- (2) Any liability, other than for bodily injury to passengers or loss of or damage to their baggage,
 - (a) arising out of the use or operation of ships, installations or aircraft as referred to in (1)(a) above in so far as the law of the Contracting State in which such aircraft are registered does not prohibit agreements on jurisdiction regarding insurance of such risks,
 - (b) for loss or damage caused by goods in transit as described in (1) (b) above;
- (3) Any financial loss connected with the use or operation of ships, installations or aircraft as referred to in (1)(a) above, in particular loss of freight or charter-hire;
- (4) Any risk or interest connected with any of those referred to in (1) to (3) above.

Section 4

Jurisdiction over consumer contracts

ARTICLE 13

In proceedings concerning a contract concluded by a person for a purpose which can be regarded as being outside his trade or profession, hereinafter called the "consumer", jurisdiction shall be determined by this section, without prejudice to the provisions of Articles 4 and 5(5), if it is:

- (1) a contract for the sale of goods on instalment credit terms, or
- (2) a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods, or

- (3) any other contract for the supply of goods or a contract for the supply of services and
- (a) in the State of the consumer's domicile the conclusion of the contract was preceded by a specific invitation addressed to him or by advertising, and
 - (b) the consumer took in that State the steps necessary for the conclusion of the contract.

Where a consumer enters into a contract with a party who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States, that party shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State.

This section shall not apply to contracts of transport.

ARTICLE 14

A consumer may bring proceedings against the other party to a contract either in the courts of the Contracting State in which that party is domiciled or in the courts of the Contracting State in which he is himself domiciled.

Proceedings may be brought against a consumer by the other party to the contract only in the courts of the Contracting State in which the consumer is domiciled.

These provisions shall not affect the right to bring a counterclaim in the court in which, in accordance with this section, the original claim is pending.

ARTICLE 15

The provisions of this section may be departed from only by an agreement:

- (1) which is entered into after the dispute has arisen, or
- (2) which allows the consumer to bring proceedings in courts other than those indicated in this section, or
- (3) which is entered into by the consumer and the other party to the contract, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same Contracting State, and which confers jurisdiction on the courts of that State, provided that such an agreement is not contrary to the law of that State.

Section 5

Exclusive jurisdiction

ARTICLE 16

The following courts shall have exclusive jurisdiction, regardless of domicile:

- (1)
 - (a) in proceedings which have as their object rights in rem in immovable property or tenancies of immovable property, the courts of the Contracting State in which the property is situated;
 - (b) however, in proceedings which have as their object tenancies of immovable property concluded for temporary private use for a maximum period of six consecutive months, the courts of the Contracting State in which the defendant is domiciled shall also have jurisdiction, provided that the landlord and the tenant are natural persons and are domiciled in the same Contracting State;
- (2) in proceedings which have as their object the validity of the constitution, the nullity or the dissolution of companies or other legal persons or associations of natural or legal persons, or the decisions of their organs, the courts of the Contracting State in which the company, legal person or association has its seat;
- (3) in proceedings which have as their object the validity of entries in public registers, the courts of the Contracting State in which the register is kept;
- (4) in proceedings concerned with the registration or validity of patents, trade marks, designs, or other similar rights required to be deposited or registered, the courts of the Contracting State in which the deposit or registration has been applied for, has taken place or is under the terms of an international convention deemed to have taken place;
- (5) in proceedings concerned with the enforcement of judgments, the courts of the Contracting State in which the judgment has been or is to be enforced.

Section 6**Prorogation of jurisdiction****ARTICLE 17**

If the parties, one or more of whom is domiciled in a Contracting State, have agreed that a court or the courts of a Contracting State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have exclusive jurisdiction. Such an agreement conferring jurisdiction shall be either—

- (a) in writing or evidenced in writing, or

- (b) in a form which accords with practices which the parties have established between themselves, or
- (c) in international trade or commerce, in a form which accords with a usage of which the parties are or ought to have been aware and which in such trade or commerce is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade or commerce concerned.

Where such an agreement is concluded by parties, none of whom is domiciled in a Contracting State, the courts of other Contracting States shall have no jurisdiction over their disputes unless the court or courts chosen have declined jurisdiction.

The court or courts of a Contracting State on which a trust instrument has conferred jurisdiction shall have exclusive jurisdiction in any proceedings brought against a settlor, trustee or beneficiary, if relations between these persons or their rights or obligations under the trust are involved.

Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of Articles 12 or 15 or if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of Article 16.

If an agreement conferring jurisdiction was concluded for the benefit of only one of the parties, that party shall retain the right to bring proceedings in any other court which has jurisdiction by virtue of the Convention.

In matters relating to individual contracts of employment an agreement conferring jurisdiction shall have legal force only if it is entered into after the dispute has arisen or if the employee invokes it to seise courts other than those for the defendant's domicile or those specified in Article 5(1).

ARTICLE 18

Apart from jurisdiction derived from other provisions of this Convention, a court of a Contracting State before whom a defendant enters an appearance shall have jurisdiction. This rule shall not apply where appearance was entered solely to contest the jurisdiction, or where another court has exclusively jurisdiction by virtue of Article 16.

Section 7

Examination as to jurisdiction and admissibility

ARTICLE 19

Where a court of a Contracting State is seised of a claim which is principally concerned with a matter over which the courts of another Contracting State have exclusive jurisdiction by virtue of Article 16, it shall declare of its own motion that it has no jurisdiction.

ARTICLE 20

Where a defendant domiciled in one Contracting State is sued in a court of another Contracting State and does not enter an appearance, the court shall declare of its own motion that it has no jurisdiction unless its jurisdiction is derived from the provisions of this Convention.

The court shall stay the proceedings so long as it is not shown that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end.

The provisions of the foregoing paragraphs shall be replaced by those of Article 15 of the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, if the document instituting the proceedings or notice thereof had to be transmitted abroad in accordance with that Convention.

Section 8

Lis Pendens -Related actions

ARTICLE 21

Where proceedings involving the same cause of action and between the same parties are brought in the courts of different Contracting States, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.

ARTICLE 22

Where related actions are brought in the courts of different Contracting States, any court other than the court first seised may, while the actions are pending at first instance, stay its proceedings.

A court other than the court first seised may also, on the application of one of the parties, decline jurisdiction if the law of that court permits the consolidation of related actions and the court first seised has jurisdiction over both actions.

For the purposes of this Article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.

ARTICLE 23

Where actions come within the exclusive jurisdiction of several courts, any court other than the court first seised shall decline jurisdiction in favour of that court.

Section 9

Provisional, including protective measures

ARTICLE 24

Application may be made to the courts of a Contracting State for such provisional, including protective measures as may be available under the law of that State, even if, under this Convention, the courts of another Contracting State have jurisdiction as to the substance of the matter.

TITLE III.

RECOGNITION AND ENFORCEMENT

ARTICLE 25

For the purposes of this Convention, “judgment” means any judgment given by a court or tribunal of a Contracting State, whatever the judgment may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court.

Section 1

Recognition

ARTICLE 26

A judgment given in a Contracting State shall be recognised in the other Contracting State without any special procedure being required.

Any interested party who raises the recognition of a judgment as the principal issue in a dispute may, in accordance with the procedures provided for in sections 2 and 3 of this Title, apply for a decision that the judgment be recognised.

If the outcome of proceedings in a court of a Contracting State depends on the determination of an incidental question of recognition that court shall have jurisdiction over that question.

ARTICLE 27

A judgment shall not be recognised:

- (1) if such recognition is contrary to public policy in the State in which recognition is sought;
- (2) where it was given in default of appearance, if the defendant was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him to arrange for his defence;
- (3) if the judgment is irreconcilable with a judgment given in a dispute between the same parties in the State in which recognition is sought;
- (4) if the court of the State in which the judgment was given, in order to arrive at its judgment, has decided a preliminary question concerning the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills or succession in a way that conflicts with a rule of the private international law of the State in which the recognition is sought, unless the same result would have been reached by the application of the rules of private international law of that State;
- (5) if the judgment is irreconcilable with an earlier judgment given in a non-Contracting State involving the same cause of action and between the same parties, provided that this latter judgment fulfils the conditions necessary for its recognition in the State addressed.

ARTICLE 28

Moreover, a judgment shall not be recognised if it conflicts with the provisions of sections 3, 4 or 5 of Title II, or in a case provided for in Article 59.

In its examination of the grounds of jurisdiction referred to in the foregoing paragraph, the court or authority applied to shall be bound by the findings of fact on which the court of the State in which the judgment was given based its jurisdiction.

Subject to the provisions of the first paragraph, the jurisdiction of the court of the State in which the judgment was given may not be reviewed; the test of public policy referred to in Article 27(1) may not be applied to the rules relating to jurisdiction.

ARTICLE 29

Under no circumstances may a foreign judgment be reviewed.

ARTICLE 30

A court of a Contracting State in which recognition is sought of a judgment given in another Contracting State may stay the proceedings if an ordinary appeal against the judgment has been lodged.

A court of a Contracting State in which recognition is sought of a judgment given in Ireland or the United Kingdom may stay the proceedings if enforcement is suspended in the State of origin, by reason of an appeal.

Section 2

Enforcement

ARTICLE 31

A judgment given in a Contracting State and enforceable in that State shall be enforced in another Contracting State when, on the application of any interested party, it has been declared enforceable there.

However, in the United Kingdom, such a judgment shall be enforced in England and Wales, in Scotland, or in Northern Ireland when, on the application of any interested party, it has been registered for enforcement in that part of the United Kingdom.

ARTICLE 32

(1) The application shall be submitted—

- in Belgium, to the *tribunal de premiere instance or rechtbank van eerste aanleg*,
- in Denmark, to the *byret*,
- in the Federal Republic of Germany, to the presiding judge of a chamber of the *Landgericht*,
- in Greece, to the *Μουομελεζ Πρωτοδικείο*,
- in Spain, to the *Juzgado de Primera Instancia*,
- in France, to the presiding judge of the *tribunal de grande instance*,
- in Ireland, to the High Court,
- in Italy, to the *corte d'appello*
- in Luxembourg, to the presiding judge of the *tribunal d'arrondissement*,

- in the Netherlands, to the presiding judge of the arrondissementsrechtbank,
- in Portugal, to the Tribunal Judicial de Circulo,
- In the United Kingdom–
 - (a) in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State;
 - (b) in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court on transmission by the Secretary of State;
 - (c) in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State.

(2) The jurisdiction of local courts shall be determined by reference to the place of domicile of the party against whom enforcement is sought. If he is not domiciled in the State in which enforcement is sought, it shall be determined by reference to the place of enforcement.

ARTICLE 33

The procedure for making the application shall be governed by the law of the State in which enforcement is sought.

The applicant must give an address for service of process within the area of jurisdiction of the court applied to. However, if the law of the State in which enforcement is sought does not provide for the furnishing of such an address, the applicant shall appoint a representative ad litem.

The documents referred to in Article 46 and 47 shall be attached to the application.

ARTICLE 34

The court applied to shall give its decision without delay; the party against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application.

The application may be refused only for one of the reasons specified in Articles 27 and 28.

Under no circumstances may the foreign judgment be reviewed as to its substance.

ARTICLE 35

The appropriate officer of the court shall without delay bring the decision given on the application to the notice of the applicant in accordance with the procedure laid down by the law of the State in which enforcement is sought.

ARTICLE 36

If enforcement is authorised, the party against whom enforcement is sought may appeal against the decision within one month of service thereof.

If that party is domiciled in a Contracting State other than that in which the decision authorising enforcement was given, the time for appealing shall be two months and shall run from the date of service, either on him in person or at his residence. No extension of time may be granted on account of distance.

ARTICLE 37

(1) An appeal against the decision authorizing enforcement shall be lodged in accordance with the rules governing procedure in contentious matters—

- in Belgium, with the tribunal de premiere instance or rechtbank van eerste aanleg,
- in Denmark, with the landsret,
- in the Federal Republic of Germany, with the Oberlandesgericht,
- in Greece, with the εφετειο,
- in Spain, with the Audiencia Provincial,
- in France, with the cour d'appel,
- in Ireland, with the High Court,
- in Italy, with the corte d'appello,
- in Luxembourg, with the Cour superieure de justice sitting as a court of civil appeal,
- in the Netherlands, with the arrondissemensrechtbank,
- in Portugal, with the Tribunal de Relacao,
- in the United Kingdom—
 - (a) in England and Wales, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court;

- (b) in Scotland, with the Court of Session, or in the case of a maintenance judgment with the Magistrates' Court;
- (c) in Northern Ireland, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court.

(2) The judgment given on the appeal may be contested only–

- in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
- in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,
- in the Federal Republic of Germany, by a Rechtsbeschwerde,
- in Ireland, by an appeal on a point of law to the Supreme Court,
- in Portugal, by an appeal on a point of law,
- in the United Kingdom, by a single further appeal on a point of law.

ARTICLE 38

The court with which the appeal under Article 37 (1) is lodged may, on the application of the appellant, stay the proceedings if an ordinary appeal has been lodged against the judgment in the State of origin or if the time for such an appeal has not yet expired; in the latter case, the court may specify the time within which such an appeal is to be lodged.

Where the judgment was given in Ireland or in the United Kingdom, any form of appeal available in the State of origin shall be treated as an ordinary appeal for the purposes of the first paragraph.

The court may also make enforcement conditional on the provision of such security as it shall determine.

ARTICLE 39

During the time specified for an appeal pursuant to Article 36 and until any such appeal has been determined, no measures of enforcement may be taken other than protective measures taken against the property of the party against whom enforcement is sought.

The decision authorising enforcement shall carry with it the power to proceed to any such protective measures.

ARTICLE 40

(1) If the application for enforcement is refused, the applicant may appeal—

- in Belgium, to the cour d'appel or hof van beroep,
- in Denmark, to the landsret,
- in the Federal Republic of Germany, to the Oberlandesgericht,
- in Greece, to the εφετειο,
- in Spain, to the Audiencia Provincial,
- in France, to the cour d'appel,
- in Ireland, to the High Court,
- in Italy, to the corte d'appello,
- in Luxembourg, to the Cour superieure de justice sitting as a court of civil appeal,
- in the Netherlands, to the gerechtshof,
- in Portugal, to the Tribunal da Relacao,
- in the United Kingdom—
 - (a) in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court;
 - (b) in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court;
 - (c) in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court.

(2) The party against whom enforcement is sought shall be summoned to appear before the appellate court. If he fails to appear, the provisions of the second and third paragraphs of Article 20 shall apply even where he is not domiciled in any of the Contracting States.

ARTICLE 41

A judgment given on an appeal provided for in Article 40 may be contested only—

- in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
- in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,
- in the Federal Republic of Germany, by a Rechtsbeschwerde,
- in Ireland, by an appeal on a point of law to the Supreme Court,
- in Portugal, by an appeal on a point of law,
- in the United Kingdom, by a single further appeal on a point of law.

ARTICLE 42

Where a foreign judgment has been given in respect of several matters and enforcement cannot be authorised for all of them, the court shall authorise enforcement for one or more of them.

An applicant may request partial enforcement of a judgment.

ARTICLE 43

A foreign judgment which orders a periodic payment by way of a penalty shall be enforceable in the State in which enforcement is sought only if the amount of the payment has been finally determined by the courts of the State of origin.

ARTICLE 44

An applicant who, in the State in which the judgment was given, has benefitted from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in the procedures provided for in Articles 32 to 35, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed.

An applicant who requests the enforcement of a decision given by an administrative authority in Denmark in respect of a maintenance order may, in the State addressed, claim the benefits referred to in the first paragraph if he presents a statement from the Danish Ministry of Justice to the effect that he fulfils the economic requirements to qualify for the grant of complete or partial legal aid or exemption from costs or expenses.

ARTICLE 45

No security, bond or deposit, however described, shall be required of a party who in one Contracting State applies for enforcement of a judgment given in another Contracting State on the ground that he is a foreign national or that he is not domiciled or resident in the State in which enforcement is sought.

Section 3

Common provisions

ARTICLE 46

A party seeking recognition or applying for enforcement of a judgment shall produce:

- (1) a copy of the judgment which satisfies the conditions necessary to establish its authenticity;
- (2) in the case of a judgment given in default, the original or a certified true copy of the document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document.

ARTICLE 47

A party applying for enforcement shall also produce—

- (1) documents which establish that, according to the law of the State of origin the judgment is enforceable and has been served;
- (2) where appropriate, a document showing that the applicant is in receipt of legal aid in the State of origin.

ARTICLE 48

If the documents specified in Article 46(2) and Article 47(2) are not produced, the court may specify a time for their production, accept equivalent documents or, if it considers that it has sufficient information before it, dispense with their production.

If the court so requires, a translation of the documents shall be produced; the translation shall be certified by a person qualified to do so in one of the Contracting States.

ARTICLE 49

No legislation or other similar formality shall be required in respect of the documents referred to in Articles 46 or 47 or the second paragraph of Article 48, or in respect of a document appointing a representative ad litem.

TITLE IV.

AUTHENTIC INSTRUMENTS AND COURT SETTLEMENTS

ARTICLE 50

A document which has been formally drawn up or registered as an authentic instrument and is enforceable in one Contracting State shall, in another Contracting State, be declared enforceable there, on application made in accordance with the procedures provided for in Article 31 et seq. The application may be refused only if enforcement of the instrument is contrary to public policy in the State addressed.

The instrument produced must satisfy the conditions necessary to establish its authenticity in the State of origin.

The provisions of section 3 of Title III shall apply as appropriate.

ARTICLE 51

A settlement which has been approved by a court in the course of proceedings and is enforceable in the State in which it was concluded, shall be enforceable in the State addressed under the same condition as authentic instruments.

TITLE V.

GENERAL PROVISIONS

ARTICLE 52

In order to determine whether a party is domiciled in the Contracting State whose courts are seised of the matter, the court shall apply its internal law.

If a party is not domiciled in the State whose courts are seised of the matter, then, in order to determine whether the party is domiciled in another Contracting State, the court shall apply the law of that State.

ARTICLE 53

For the purposes of this Convention, the seat of a company or other legal person or association of natural or legal persons, shall be treated as its domicile. However, in order to determine that seat, the court shall apply its rules of private international law.

In order to determine whether a trust is domiciled in the Contracting State whose courts are seised of the matter, the court shall apply its rules of private international law.

TITLE VI.

TRANSITIONAL PROVISIONS

ARTICLE 54

The provisions of this Convention shall apply only to legal proceedings instituted and to documents formally drawn up or registered as authentic instruments after its entry into force in the State of origin and, where recognition or enforcement of a judgment or authentic instruments is sought, in the State addressed.

However, judgments given after the date of entry into force of this Convention between the State of origin and the State addressed in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III if jurisdiction was founded upon rules which accorded with those provided for either in Title II of this Convention or in a convention included between the State of origin and the State addressed which was in force when the proceedings were instituted.

If the parties to a dispute concerning a contract had agreed in writing before 1st June 1988 for Ireland or before 1st January 1987 for the United Kingdom that the contract was to be governed by the law of Ireland or of a part of the United Kingdom, the courts of Ireland or of that part of the United Kingdom shall retain the right to exercise jurisdiction in the dispute.

ARTICLE 54A

(Deleted)

TITLE VII.

RELATIONSHIP TO OTHER CONVENTIONS

ARTICLE 55

(Deleted)

ARTICLE 56

(Deleted)

ARTICLE 57

(1) This Convention shall not affect any conventions to which the Contracting States are or will be parties and which in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments.

(2) With a view to its uniform interpretation, paragraph 1 shall be applied in the following manner—

- (a) this Convention shall not prevent a court of a Contracting State which is a party to a convention on a particular matter from assuming jurisdiction in accordance with that Convention, even where the defendant is domiciled in another Contracting

State which is not a party to that Convention. The court hearing the action shall in any event, apply Article 20 of this Convention;

- (b) judgments given in a Contracting State by a court in the exercise of jurisdiction provided for in a convention on a particular matter shall be recognized and enforced in the other Contracting State in accordance with his Convention.

Where a convention on a particular matter to which both the State of origin and the State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of this Convention which concern the procedure for recognition and enforcement of judgments may be applied.

(3) This Convention shall not affect the application of provisions which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments and which are or will be contained in acts of the institutions of the European Communities or in national laws harmonized in implementation of such acts.

ARTICLE 58

(Deleted)

ARTICLE 59

(Deleted)

TITLE VIII**FINAL PROVISIONS****ARTICLE 60**

(Deleted)

ARTICLE 61

(Deleted)

ARTICLE 62

(Deleted)

ARTICLE 63

(Deleted)

ARTICLE 64

(Deleted)

ARTICLE 65

The Protocol annexed to this Convention by common accord of the Contracting States shall form an integral part thereof.

ARTICLE 66

(Deleted)

ARTICLE 67

(Deleted)

ARTICLE 68

(Deleted)

ANNEXED PROTOCOL

The High Contracting Parties have agreed upon the following provisions which shall be annexed to the Convention.

ARTICLE I

Any person domiciled in Luxembourg who is sued in a court of another Contracting State pursuant to Article 5 (1) may refuse to submit to the jurisdiction of that court. If the defendant does not enter an appearance the court shall declare of its own motion that it has no jurisdiction.

An agreement conferring jurisdiction, within the meaning of Article 17, shall be valid with respect to a person domiciled in Luxembourg only if that person has expressly and specifically so agreed.

ARTICLE II

Without prejudice to any more favourable provisions of national laws, persons domiciled in a Contracting State who are being prosecuted in the criminal courts of another Contracting State of which they are not nationals for an offence which was not intentionally committed, may be defended by persons qualified to do so, even if they do not appear in person.

However, the court seised of the matter may order appearance in person; in the case of failure to appear, a judgment given in the civil action without the person concerned having had the opportunity to arrange for his defence need not be recognised or enforced in the other Contracting States.

ARTICLE III

In proceedings for the issue of an order for enforcement, no charge, duty or fee calculated by reference to the value of the matter in issue may be levied in the State in which enforcement is sought.

ARTICLE IV

Judicial and extrajudicial documents drawn up in one Contracting State which have to be served on persons in another Contracting State shall be transmitted in accordance with the procedures laid down in the conventions and agreements concluded between the Contracting States.

Unless the State in which service is to take place objects by declaration to the Secretary-General of the Council of the European Communities, such documents may also be sent by the appropriate public officers of the State in which the document has been drawn up directly to the appropriate public officers of the State in which the addressee is to be found. In this case the officer of the State of origin shall send a copy of the document to the officer of the State addressed who is competent to forward it to the addressee. The document shall be forwarded in the manner specified by the law of the State addressed. The forwarding shall be recorded by a certificate sent directly to the officer of the State of origin.

ARTICLE V

The jurisdiction specified in Article 6 (2) and Article 10 in actions on a warranty or guarantee or in any other third party proceedings may not be resorted to in the Federal Republic of Germany. In that State, any person domiciled in another Contracting State may be sued in the courts in pursuance of Articles 68, 72, 73 and 74 of the code of civil procedure (Zivilprozessordnung) concerning third party notices.

Judgments given in the other Contracting States by virtue of Article 6(2) or Article 10 shall be recognised and enforced in the Federal Republic of Germany in accordance with Title III. Any effects which judgments given in that State may have on third parties by application of Articles 68, 72, 73 and 74 on the code of civil procedure (Zivilprozessordnung) shall also be recognised in the other Contracting States.

ARTICLE V A

In matters relating to maintenance, the expression “court” includes the Danish administrative authorities.

ARTICLE V B

In proceedings involving a dispute between the master and a member of the crew of a sea-going ship registered in Denmark or in Ireland or in Portugal, concerning remuneration or other conditions of service, a court in a Contracting State shall establish whether the diplomatic or consular officer responsible for the ship has been notified of the dispute. It shall stay the proceedings so long as he has not been notified. It shall of its own motion decline jurisdiction if the officer, having been duly notified, has exercised the powers accorded to him in the matter by a consular convention, or in the absence of such a convention, has, within the time allowed, raised any objection to the exercise of such jurisdiction.

ARTICLE V C

Articles 52 and 53 of this Convention shall, when applied by Article 69(5) of the Convention for the European Patent for the Common Market, signed at Luxembourg on 15 December 1975, to the provisions relating to “residence” in the English text of that Convention, operate as if “residence” in that text were the same as “domicile” in Articles 52 and 53.

ARTICLE V D

Without prejudice to the jurisdiction of the European Patent Office under the Convention on the Grant of European Patents, signed at Munich on 5 October 1973, the courts of each Contracting State shall have exclusive jurisdiction, regardless of domicile, in proceedings concerned with the registration or validity of any European patent granted for that State which is not a Community patent by virtue of the provisions of Article 86 of the Convention for the European Patent for the Common Market, signed at Luxembourg on 15 December 1975.

ARTICLE VI

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the text of any provisions of their laws which amend either those articles of their laws mentioned in the Convention or the lists of courts specified in section 2 of Title III of the Convention.

(Signatures of Plenipotentiaries of the original six Contracting States).

SCHEDULE 2.

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SCHEDULE 6A.

Section 4(6)

CONVENTION ON CHOICE OF COURT AGREEMENTS

(Concluded on 30 June 2005)

The States Parties to the present Convention,
Desiring to promote international trade and investment through enhanced judicial co-operation, Believing that such co-operation can be enhanced by uniform rules on jurisdiction and on recognition and enforcement of foreign judgments in civil or commercial matters, Believing that such enhanced co-operation requires in particular an international legal regime that provides certainty and ensures the effectiveness of exclusive choice of court agreements between parties to commercial transactions and that governs the recognition and enforcement of judgments resulting from proceedings based on such agreements,
Have resolved to conclude this Convention and have agreed upon the following provisions –

CHAPTER I – SCOPE AND DEFINITIONS

Article 1

Scope

- (1) This Convention shall apply in international cases to exclusive choice of court agreements concluded in civil or commercial matters.
- (2) For the purposes of Chapter II, a case is international unless the parties are resident in the same Contracting State and the relationship of the parties and all other elements relevant to the dispute, regardless of the location of the chosen court, are connected only with that State.
- (3) For the purposes of Chapter III, a case is international where recognition or enforcement of a foreign judgment is sought.

Article 2

Exclusions from scope

- (1) This Convention shall not apply to exclusive choice of court agreements –
 - a)* to which a natural person acting primarily for personal, family or household purposes (a consumer) is a party;
 - b)* relating to contracts of employment, including collective agreements.
- (2) 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 and analogous matters;
 - f)* the carriage of passengers and goods;

- g)* marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage;
 - h)* anti-trust (competition) matters;
 - i)* liability for nuclear damage;
 - j)* claims for personal injury brought by or on behalf of natural persons;
 - k)* tort or delict claims for damage to tangible property that do not arise from a contractual relationship;
 - l)* rights *in rem* in immovable property, and tenancies of immovable property;
 - m)* the validity, nullity, or dissolution of legal persons, and the validity of decisions of their organs;
 - n)* the validity of intellectual property rights other than copyright and related rights;
 - o)* infringement of intellectual property rights other than copyright and related rights, except where infringement proceedings are brought for breach of a contract between the parties relating to such rights, or could have been brought for breach of that contract;
 - p)* the validity of entries in public registers.
- (3) Notwithstanding paragraph 2, proceedings are not excluded from the scope of this Convention where a matter excluded under that paragraph arises merely as a preliminary question and not as an object of the proceedings. In particular, the mere fact that a matter excluded under paragraph 2 arises by way of defence does not exclude proceedings from the Convention, if that matter is not an object of the proceedings.
- (4) This Convention shall not apply to arbitration and related proceedings.
- (5) Proceedings are 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, is a party thereto.
- (6) 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

Exclusive choice of court agreements

For the purposes of this Convention-

- a)* “exclusive choice of court agreement” means an agreement concluded by two or more parties that meets the requirements of paragraph *c)* and designates, for the purpose of deciding disputes which have arisen or may arise in connection with a particular legal relationship, the courts of one Contracting State or one or more specific courts of one Contracting State to the exclusion of the jurisdiction of any other courts;
- b)* a choice of court agreement which designates the courts of one Contracting State or one or more specific courts of one Contracting State shall be deemed to be exclusive unless the parties have expressly provided otherwise;
- c)* an exclusive choice of court agreement must be concluded or documented –

- i) in writing; or
- i) by any other means of communication which renders information accessible so as to be usable for subsequent reference;
- d) an exclusive choice of court agreement that forms part of a contract shall be treated as an agreement independent of the other terms of the contract. The validity of the exclusive choice of court agreement cannot be contested solely on the ground that the contract is not valid.

Article 4
Other definitions

- (1) In this Convention, “judgment” means any decision on the merits given by a court, whatever it may be called, including a decree or order, and a determination of costs or expenses 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) For the purposes of this Convention, an entity or person other than a natural person shall be considered to be resident in the State-

- a) where it has its statutory seat;
- b) under whose law it was incorporated or formed;
- c) where it has its central administration; or
- d) where it has its principal place of business.

CHAPTER II- JURISDICTION

Article 5
Jurisdiction on the chosen court

- (1) The court or courts of a Contracting State designated in an exclusive choice of court agreement shall have jurisdiction to decide a dispute to which the agreement applies, unless the agreement is null and void under the law of that State.
- (2) A court that has jurisdiction under paragraph 1 shall not decline to exercise jurisdiction on the ground that the dispute should be decided in a court of another State.
- (3) The preceding paragraphs shall not affect rules-
- a) on jurisdiction related to subject matter or to the value of the claim;
 - b) on the internal allocation of jurisdiction among the courts of a Contracting State.

However, where the chosen court has discretion as to whether to transfer a case, due consideration should be given to the choice of the parties.

Article 6

Obligations of a court not chosen

A court of a Contracting State other than that of the chosen court shall suspend or dismiss proceedings to which an exclusive choice of court agreement applies unless-

- a) the agreement is null and void under the law of the State of the chosen court;
- b) a party lacked the capacity to conclude the agreement under the law of the State of the court seised;
- c) giving effect to the agreement would lead to a manifest injustice or would be manifestly contrary to the public policy of the State of the court seised;
- d) for exceptional reasons beyond the control of the parties, the agreement cannot reasonably be performed; or
- e) the chosen court has decided not to hear the case.

Article 7

Interim measures of protection

Interim measures of protection are not governed by this Convention. This Convention neither requires nor precludes the grant, refusal or termination of interim measures of protection by a court of a Contracting State and does not affect whether or not a party may request or a court should grant, refuse or terminate such measures.

CHAPTER III- RECOGNITION AND ENFORCEMENT

Article 8

Recognition and enforcement

- (1) A judgment given by a court of a Contracting State designated in an exclusive choice of court agreement shall be recognised and enforced in other Contracting States in accordance with this Chapter. Recognition or enforcement may be refused only on the grounds specified in this Convention.
- (2) Without prejudice to such review as is necessary for the application of the provisions of this Chapter, there shall be no review of the merits of the judgment given by the court of origin. The court addressed shall be bound by the findings of fact on which the court of origin based its jurisdiction, unless the judgment was given by default.
- (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 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 and enforcement of the judgment.
- (5) This Article shall also apply to a judgment given by a court of a Contracting State pursuant to a transfer of the case from the chosen court in that Contracting State as permitted by Article 5, paragraph 3. However, where the chosen court had discretion as to whether to transfer the

case to another court, recognition or enforcement of the judgment may be refused against a party who objected to the transfer in a timely manner in the State of origin.

Article 9

Refusal of recognition or enforcement

Recognition or enforcement may be refused if-

- a)* the agreement was null and void under the law of the State of the chosen court, unless the chosen court has determined that the agreement is valid;
- b)* a party lacked the capacity to conclude the agreement under the law of the requested State;
- c)* the document which instituted the proceedings or an equivalent document, including the essential elements of the claim,
 - i)* was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence, unless the defendant entered an appearance and presented his 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;
- d)* the judgment was obtained by fraud in connection with a matter of procedure;
- e)* 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;
- f)* the judgment is inconsistent with a judgment given in the requested State in a dispute between the same parties; or
- g)* the judgment is inconsistent with an earlier judgment given in another State between the same parties on the same cause of action, provided that the earlier judgment fulfils the conditions necessary for its recognition in the requested State.

Article 10

Preliminary questions

- (1) Where a matter excluded under Article 2, paragraph 2, or under Article 21, arose as a preliminary question, the ruling on that question shall not be recognised or enforced under this Convention.
- (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 excluded under Article 2, paragraph 2.

(3) However, in the case of a ruling on the validity of an intellectual property right other than copyright or a related right, recognition or enforcement of a judgment may be refused or postponed under the preceding paragraph only where-

- a) that ruling is inconsistent with a judgment or a decision of a competent authority on that matter given in the State under the law of which the intellectual property right arose; or
- b) proceedings concerning the validity of the intellectual property right are pending in that State.

(4) 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 excluded pursuant to a declaration made by the requested State under Article 21.

Article 11
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 12
Judicial settlements (transactions judiciaires)

Judicial settlements (*transactions judiciaires*) which a court of a Contracting State designated in an exclusive choice of court agreement has approved, or which have been concluded before that court in the course of proceedings, 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 13
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) the exclusive choice of court agreement, a certified copy thereof, or other evidence of its existence;
 - c) 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;
 - d) any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the State of origin;

- e) in the case referred to in Article 12, a certificate of a court of the State of origin 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, 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 14 Procedure

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 addressed shall act expeditiously.

Article 15 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.

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.

Article 18
No legislation

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-
- 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.

Article 26

Relationship with other legal 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.

CHAPTER V- FINAL CLAUSES

Article 27

Signature, ratification, acceptance, approval or accession

- (1) This Convention is open for signature by all States.
- (2) This Convention is subject to ratification, acceptance or approval by the signatory States.
- (3) This Convention is 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 28

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 at the time of signature, ratification, acceptance, approval or accession declare that the Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
- (2) A declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.
- (3) If a State makes no declaration under this Article, the Convention shall extend to all territorial units of that State.
- (4) This Article shall not apply to a Regional Economic Integration Organisation.

Article 29

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 similarly 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 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 30 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 that is a Party to it.

Article 30

Accession by a Regional Economic Integration Organisation 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 31
Entry into force

- (1) This Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the second instrument of ratification, acceptance, approval or accession referred to in Article 27.
- (2) Thereafter this Convention shall enter into force-
- a) for each State or Regional Economic Integration Organisation subsequently ratifying, accepting, approving or acceding to it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;
 - b) for a territorial unit to which this Convention has been extended in accordance with Article 28, paragraph 1, 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 32
Declarations

- (1) Declarations referred to in Articles 19, 20, 21, 22 and 26 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 after the date on which the notification is received by the depositary.
- (5) A declaration under Articles 19, 20, 21 and 26 shall not apply to exclusive choice of court agreements concluded before it takes effect.

Article 33
Denunciation

- (1) This Convention may be denounced by notification in writing 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 twelve 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 34
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 in accordance with Articles 27, 29 and 30 of the following-

- a)* the signatures, ratifications, acceptances, approvals and accessions referred to in Articles 27, 29 and 30;
- b)* the date on which this Convention enters into force in accordance with Article 31;
- c)* the notifications, declarations, modifications and withdrawals of declarations referred to in Articles 19, 20, 21, 22, 26, 28, 29 and 30;
- d)* the denunciations referred to in Article 33.

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

Done at The Hague, on 30 June 2005, 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 Member States of the Hague Conference on Private International Law as of the date of its Twentieth Session and to each State which participated in that Session.

SCHEDULE 6B

Section 4(9)

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.

SCHEDULE 7

Section 35

AMENDMENT TO THE MAINTENANCE ORDERS
(RECIPROCAL ENFORCEMENT) ACT.

Paragraph (a) amends section 2.

Paragraph (b) amends section 4.

Paragraph (c) amends section 7.

Paragraph (d) amends section 9.

Paragraph (e) amends section 10.

Paragraph (f) amends sub-section 11(2).

Paragraph (g) amends sub-section 12(1).

SCHEDULE 8

Section 36

AMENDMENTS TO THE MAGISTRATES' COURT
ACT.

Paragraph (a) amends section 45(d).

Paragraph (b) inserts new section 45(e).

Paragraph (c) amends section 45.

SCHEDULE 9

Section 37

AMENDMENT TO THE JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT.

*Paragraph (a) inserts a new definition of “court” in section 2.**Paragraph (b) replaces section 3.**Paragraph (c) replaces section 10.**Paragraph (d) replaces section 11 and inserts a new section 11A.*

SCHEDULE 10*Deleted*