



STATUTORY INSTRUMENTS.

S.I. No. 238 of 2022



CHOICE OF COURT (HAGUE CONVENTION) ACT 2015 (SECTION 2)
ORDER 2022

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CHOICE OF COURT (HAGUE CONVENTION) ACT 2015 (SECTION 2)
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I, HELEN MCENTEE, Minister for Justice, in exercise of the powers conferred on me by section 2(1) of the Choice of Court (Hague Convention) Act 2015 (No. 38 of 2015) (as adapted by the Justice and Equality (Alteration of Name of Department and Title of Minister) Order (S.I. No. 452 of 2020)), hereby order as follows:

1. This Order may be cited as the Choice of Court (Hague Convention) Act 2015 (Section 2) Order 2022.

2. It is hereby declared that –

- (a) the states specified in Schedule 1 are Contracting States for the purposes of section 2 of the Choice of Court (Hague Convention) Act 2015 (No. 38 of 2015),
- (b) a declaration (the text of which in the English language is set out in Schedule 2) has been made to the Ministry of Foreign Affairs of the Kingdom of the Netherlands, by the Kingdom of Denmark, pursuant to Article 21 of the Convention,
- (c) a declaration (the text of which in the English language is set out in Schedule 3) has been made to the Ministry of Foreign Affairs of the Kingdom of the Netherlands, by the European Union, pursuant to Article 21 of the Convention, and
- (d) declarations (the text of which in the English language are set out in Schedule 4) have been made to the Ministry of Foreign Affairs of the Kingdom of the Netherlands, by the United Kingdom of Great Britain and Northern Ireland, pursuant to Article 21 of the Convention.

3. The Choice of Court (Hague Convention) Act 2015 (Section 2) Order 2018 (S.I. No.113 of 2018) is revoked.

SCHEDULE 1

Austria	Lithuania
Belgium	Luxembourg
Bulgaria	Malta
Croatia	Mexico
Cyprus	Montenegro
Czech Republic	Netherlands
Denmark	Poland
Estonia	Portugal
Finland	Romania
France	Singapore
Germany	Slovakia
Greece	Slovenia
Hungary	Spain
Ireland	Sweden
Italy	United Kingdom of Great Britain and Northern Ireland
Latvia	

SCHEDULE 2

Declaration by the Kingdom of Denmark at the time of accession to the Hague Convention of 30 June 2005 on Choice of Court Agreements ('the Convention') in accordance with Article 21 thereof –

“The objective of this declaration which excludes certain types of insurance contracts from the scope of the Convention is to protect certain policyholders, insured parties and beneficiaries who, according to internal EU law, receive special protection.

1. The Kingdom of Denmark declares, in accordance with Article 21 of the Convention, that it will not apply the Convention to insurance contracts, except as provided for in paragraph 2 below.

2. The Kingdom of Denmark will apply the Convention to insurance contracts in the following cases:

- (a) where the contract is a reinsurance contract;
- (b) where the choice of court agreement is entered into after the dispute has arisen;
- (c) where, without prejudice to Article 1 (2) of the Convention, the choice of court agreement is concluded between a policyholder and an insurer, both of whom are, at the time of the conclusion of the contract of insurance, domiciled or habitually resident in the same Contracting State, and that agreement 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;
- (d) where the choice of court agreement relates to a contract of insurance which covers one or more of the following risks considered to be large risks:
 - (i) any loss or damage arising from perils which relate to their use for commercial purposes, of, or to:
 - (a) seagoing ships, installations situated offshore or on the high seas or river, canal and lake vessels;
 - (b) aircraft;
 - (c) railway rolling stock;
 - (ii) any loss of or damage to goods in transit or baggage other than passengers' baggage, irrespective of the form of transport;

- (iii) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, arising out of the use or operation of:
 - (a) ships, installations or vessels as referred to in point i) a);
 - (b) aircraft, in so far as the law of the Contracting State in which such aircraft are registered does not prohibit choice of court agreements regarding the insurance of such risks;
 - (c) railway rolling stock;
- (iv) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, for loss or damage caused by goods in transit or baggage as referred to in point ii);
- (v) any financial loss connected with the use or operation of ships, installations, vessels, aircraft or railway rolling stock as referred to in point i), in particular loss of freight or charter-hire;
- (vi) any risk or interest connected with any of the risks referred to in points i) to v);
- (vii) any credit risk or suretyship risk where the policy holder is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risk relates to such activity;
- (viii) any other risks where the policy holder carries on a business of a size which exceeds the limits of at least two of the following criteria:
 - (a) a balance-sheet total of EUR 6,2 million;
 - (b) a net turnover of EUR 12,8 million;
 - (c) an average number of 250 employees during the financial year.”

Unilateral declaration by the Kingdom of Denmark at the time of accession to the Hague Convention of 30 June 2005 on Choice of Court Agreements (‘the Convention’)

“The Kingdom of Denmark makes the following unilateral declaration:

The Kingdom of Denmark declares that it may, at a later stage in the light of the experience acquired in the application of the Convention, reassess the need to maintain its declaration under Article 21 of the Convention.”

(Addition)

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The Convention shall not apply to the Faroe Islands and Greenland.

SCHEDULE 3

Declaration by the European Union at the time of approval of the Hague Convention of 30 June 2005 on Choice of Court Agreements ('the Convention') in accordance with Article 21 thereof—

“The objective of this declaration which excludes certain types of insurance contracts from the scope of the Convention is to protect certain policyholders, insured parties and beneficiaries who, according to internal EU law, receive special protection.

1. The European Union declares, in accordance with Article 21 of the Convention, that it will not apply the Convention to insurance contracts, except as provided for in paragraph 2 below.

2. The European Union will apply the Convention to insurance contracts in the following cases:

- (a) where the contract is a reinsurance contract;
- (b) where the choice of court agreement is entered into after the dispute has arisen;
- (c) where, without prejudice to Article 1 (2) of the Convention, the choice of court agreement is concluded between a policyholder and an insurer, both of whom are, at the time of the conclusion of the contract of insurance, domiciled or habitually resident in the same Contracting State, and that agreement 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;
- (d) where the choice of court agreement relates to a contract of insurance which covers one or more of the following risks considered to be large risks:
 - (i) any loss or damage arising from perils which relate to their use for commercial purposes, of, or to:
 - (a) seagoing ships, installations situated offshore or on the high seas or river, canal and lake vessels;
 - (b) aircraft;
 - (c) railway rolling stock;
 - (ii) any loss of or damage to goods in transit or baggage other than passengers baggage, irrespective of the form of transport;

- (iii) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, arising out of the use or operation of:
 - (a) ships, installations or vessels as referred to in point (i)(a);
 - (b) aircraft, in so far as the law of the Contracting State in which such aircraft are registered does not prohibit choice of court agreements regarding the insurance of such risks;
 - (c) railway rolling stock;
- (iv) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, for loss or damage caused by goods in transit or baggage as referred to in point (ii);
- (v) any financial loss connected with the use or operation of ships, installations, vessels, aircraft or railway rolling stock as referred to in point (i), in particular loss of freight or charter-hire;
- (vi) any risk or interest connected with any of the risks referred to in points (i) to (v);
- (vii) any credit risk or suretyship risk where the policy holder is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risk relates to such activity;
- (viii) any other risks where the policy holder carries on a business of a size which exceeds the limits of at least two of the following criteria:
 - (a) a balance-sheet total of EUR 6,2 million;
 - (b) a net turnover of EUR 12,8 million;
 - (c) an average number of 250 employees during the financial year.”

Unilateral declaration by the European Union at the time of the approval of the Hague Convention of 30 June 2005 on Choice of Court Agreements (‘the Convention’)—

“The European Union makes the following unilateral declaration:

The European Union declares that it may, at a later stage in the light: of the experience acquired in the application of the Convention, reassess the need to maintain its declaration under Article 21 of the Convention.”

SCHEDULE 4

Declarations by the United Kingdom of Great Britain and Northern Ireland on
28 September 2020

“Her Majesty’s Government hereby expresses its consent for the United Kingdom of Great Britain and Northern Ireland, and for Gibraltar, to be bound by the Convention subject to the following Declarations:

The United Kingdom of Great Britain and Northern Ireland declares, in accordance with Article 21 of the Convention, that it will not apply the Convention to insurance contracts, except as provided for in paragraph 1 below:

1. The United Kingdom of Great Britain and Northern Ireland will apply the Convention to insurance contracts in the following cases:

- (a) where the contract is a reinsurance contract;
- (b) where the choice of court agreement is entered into after the dispute has arisen;
- (c) where, without prejudice to Article 1 (2) of the Convention, the choice of court agreement is concluded between a policyholder and an insurer, both of whom are, at the time of the conclusion of the contract of insurance, domiciled or habitually resident in the same Contracting State, and that agreement 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;
- (d) where the choice of court agreement relates to a contract of insurance which covers one or more of the following risks considered to be large risks:
 - (i) any loss or damage arising from perils which relate to their use for commercial purposes, of, or to:
 - (a) seagoing ships, installations situated offshore or on the high seas or river, canal and lake vessels;
 - (b) aircraft;
 - (c) railway rolling stock;
 - (ii) any loss of or damage to goods in transit or baggage other than passengers' baggage, irrespective of the form of transport;
 - (iii) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, arising out of the use or operation of:

- (a) ships, installations or vessels as referred to in point (i)(a);
- (b) aircraft, in so far as the law of the Contracting State in which such aircraft are registered does not prohibit choice of court agreements regarding the insurance of such risks;
- (c) railway rolling stock;
- (iv) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, for loss or damage caused by goods in transit or baggage as referred to in point (ii);
- (v) any financial loss connected with the use or operation of ships, installations, vessels, aircraft or railway rolling stock as referred to in point (i), in particular loss of freight or charter-hire;
- (vi) any risk or interest connected with any of the risks referred to in points (i) to (v);
- (vii) any credit risk or suretyship risk where the policy holder is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risk relates to such activity;
- (viii) any other risks where the policy holder carries on a business of a size which exceeds the limits of at least two of the following criteria:
 - (a) a balance-sheet total of EUR 6,2 million;
 - (b) a net turnover of EUR 12,8 million;
 - (c) an average number of 250 employees during the financial year.

2. The United Kingdom of Great Britain and Northern Ireland declares that it may, at a later stage in the light of the experience acquired in the application of the Convention, reassess the need to maintain its declaration under Article 21 of the Convention.”

Note Verbale:

“Her Britannic Majesty’s Embassy presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and has the honour to refer to the instrument of accession (the “Instrument of Accession”) which it has today deposited to achieve the accession of the United Kingdom of Great Britain and Northern Ireland (the “United Kingdom”) to the Hague Convention of 30 June 2005 on Choice of Court Agreements (the “2005 Hague Convention”).

In accordance with Article 30 of the 2005 Hague Convention, the United Kingdom became bound by the Convention on 1 October 2015 by virtue of its

membership of the European Union, which approved the Convention on that date.

The Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the “Withdrawal Agreement”) entered into force on 1 February 2020. The Withdrawal Agreement includes provisions for a transition period, which started on 1 February 2020 and will end on 31 December 2020 (the “transition period”). In accordance with the Withdrawal Agreement, during the transition period, European Union law, including the 2005 Hague Convention, continues to be applicable to and in the United Kingdom and the United Kingdom is treated as a Member State for the purposes of international agreements concluded by the European Union, including the 2005 Hague Convention.

With the intention of ensuring continuity of application of the 2005 Hague Convention, the United Kingdom has submitted the Instrument of Accession in accordance with Article 27(4) of the 2005 Hague Convention. Whilst acknowledging that the Instrument of Accession takes effect at 00:00 CET on 1 January 2021, the United Kingdom considers that the 2005 Hague Convention entered into force for the United Kingdom on 1 October 2015 and that the United Kingdom is a Contracting State without interruption from that date.

Her Britannic Majesty’s Embassy has further the honour to refer to an instrument deposited on 31 July 2019, declaring that its accession to the 2005 Hague Convention would be also in respect of Gibraltar, and that this accession in respect of Gibraltar would be subject to declarations accompanying. The United Kingdom considers that this accession in respect of Gibraltar, and the accompanying declarations, were withdrawn by operation of the instrument deposited by the United Kingdom on 31 January 2020. The United Kingdom is, however, now acceding to the Convention also in respect of Gibraltar and so the declarations now accompanying the present Instrument of Accession apply also to Gibraltar, as specified. The United Kingdom intends to make further declarations with respect to Gibraltar in due course.

Her Britannic Majesty’s Embassy avails itself of the opportunity to renew to the Ministry of Foreign Affairs of the Kingdom of the Netherlands the assurances of its highest consideration.”



GIVEN under my Official Seal,
11 May, 2022.

HELEN MCENTEE,
Minister for Justice.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

This Order specifies the States which are Contracting States for the purposes of section 2 of the Choice of Court (Hague Convention) Act 2015 (No. 38 of 2015), and includes the text of Declarations made pursuant to Article 21 of the Convention by Denmark, the European Union and the United Kingdom. This Order revokes the Choice of Court (Hague Convention) Act 2015 (Section 2) Order 2018 (S.I. No.113 of 2018)

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