

CHAPTER 122

PUBLIC DOCUMENTS (EXEMPTION FROM DIPLOMATIC OR CONSULAR LEGALISATION)

ARRANGEMENT OF SECTIONS

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CHAPTER 122

PUBLIC DOCUMENTS (EXEMPTION FROM
DIPLOMATIC OR CONSULAR LEGALISATION)1965-44.
1997-9.*An Act to abolish the requirement of diplomatic or consular legalisation
for certain foreign public documents.*[26th July, 1965] Commence-
ment.

1. This Act may be cited as the *Public Documents (Exemption from
Diplomatic or Consular Legalisation) Act*. Short title.

2. For the purposes of this Act, the expression Interpretation.

"Convention" means the Convention set out in the *First Schedule*; First
Schedule.

"scheduled countries" means the countries the Governments of which
have signed the Convention and which are set out in the *Second
Schedule*. Second
Schedule.

3. Notwithstanding anything contained in Part V of the *Evidence
Act* or any other Act, the provisions of the Convention shall have the
force of law in relation to public documents executed in scheduled
countries. Convention
to have the
force of law.
Cap. 121.

4. The persons specified in the *Third Schedule* may, subject to this
Act, issue a certificate referred to in Article 3 of the Convention. Issue of
certificates.
Third
Schedule.
1997-9.

5. The fee for the issue of a certificate referred to in section 4 is set
out in the *Fourth Schedule*. Fees for
certificates.
Fourth
Schedule.
1997-9.

6. Subject to the Convention, the Governor-General may by order
published in the *Official Gazette* amend the *Second, Third and Fourth
Schedules*. Power to
amend
Schedules.
1997-9.

FIRST SCHEDULE

(Section 2)

*Convention abolishing the requirement of Legalisation for Foreign
Public Documents*

The Hague, 5th October, 1961

The States signatory to the present Convention,

Desiring to abolish the requirement of diplomatic or consular legalisation for foreign public documents,

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

Article 1

The present Convention shall apply to public documents which have been executed in the territory of one contracting State and which have to be produced in the territory of another contracting State.

For the purposes of the present Convention, the following are deemed to be public documents:

- (a) documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process server ("*huissier de justice*");
- (b) administrative documents;
- (c) notarial acts;
- (d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

However, the present Convention shall not apply

- (a) to documents executed by diplomatic or consular agents;
- (b) to administrative documents dealing directly with commercial or customs operations.

Article 2

Each contracting State shall exempt from legalisation documents to which the present Convention applies and which have to be produced in its territory. For the purposes of the present Convention, legalisation means only the formality by which the diplomatic or consular agents of the country in which the document has to be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.

Article 3

The only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in Article 4, issued by the competent authority of the State from which the document emanates.

However, the formality mentioned in the preceding paragraph cannot be required when either the laws, regulations, or practice in force in the State where the document is produced or an agreement between two or more contracting States have abolished or simplified it, or exempt the document itself from legalisation.

Article 4

The certificate referred to in the first paragraph of Article 3 shall be placed on the document itself or on an "*allonge*"; it shall be in the form of the model annexed to the present Convention.

It may, however, be drawn up in the official language of the authority which issues it. The standard terms appearing therein may be in a second language also. The title "*Apostille (Convention de la Haye du 5 octobre 1961)*" shall be in the French language.

Article 5

The certificate shall be issued at the request of the person who has signed the document or of any bearer.

When properly filled in, it will certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which the document bears.

The signature, seal and stamp on the certificate are exempt from all certification.

Article 6

Each contracting State shall designate by reference to their official function, the authorities who are competent to issue the certificate referred to in the first paragraph of Article 3.

It shall give notice of such designation to the Ministry of Foreign Affairs of the Netherlands at the time it deposits its instrument of ratification or of accession or its declaration of extension. It shall also give notice of any change in the designated authorities.

Article 7

Each of the authorities designated in accordance with Article 6 shall keep a register or card index in which it shall record the certificates issued, specifying—

- (a) the number and date of the certificate,

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- (b) the name of the person signing the public document and the capacity in which he has acted or, in the case of unsigned documents, the name of the authority which has affixed the seal or stamp.

At the request of any interested person, the authority which has issued the certificate shall verify whether the particulars in the certificate correspond with those in the register or card index.

Article 8

When a treaty, convention or agreement between two or more contracting States contains provisions which subject the certification of a signature, seal or stamp to certain formalities, the present Convention will only override such provisions if those formalities are more rigorous than the formality referred to in Articles 3 and 4.

Article 9

Each contracting State shall take the necessary steps to prevent the performance of legalisation by its diplomatic or consular agents in cases where the present Convention provides for exemption.

Article 10

The present Convention shall be open for signature by the States represented at the Ninth session of the Hague Conference on Private International Law and Iceland, Ireland, Liechtenstein and Turkey.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 11

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 10.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 12

Any State not referred to in Article 10 may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 11. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Such accession shall have effect only as regards the relations between the acceding State and those contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in sub-paragraph (d) of Article 15. Any such objection shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force as between the acceding State and the States which have raised no objection to its accession on the sixtieth day after the expiry of the period of six months mentioned in the preceding paragraph.

Article 13

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the International relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

When the declaration of extension is made by a State which has signed and ratified, the Convention shall enter into force for the territories concerned in accordance with Article 11. When the declaration of extension is made by a State which has acceded, the Convention shall enter into force for the territories concerned in accordance with Article 12.

Article 14

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 11, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, the Convention shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five-year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation will only have effect as regards the State which has notified it. The Convention shall remain in force for the other contracting States.

Article 15

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 10, and to the States which have acceded in accordance with Article 12, of the following—

- (a) the notifications referred to in the second paragraph of Article 6;
- (b) the signatures and ratifications referred to in Article 10;
- (c) the date on which the present Convention enters into force in accordance with the first paragraph of Article 11;

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- (d) the accessions and objections referred to in Article 12 and the date on which such accessions take effect;
- (e) the extensions referred to in Article 13 and the date on which they take effect;
- (f) the denunciations referred to in the third paragraph of Article 14.

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

Done at The Hague the 5th October, 1961, in French and in English, the French text prevailing in case of divergence between the two texts, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Ninth session of the Hague Conference on Private International Law and also to Iceland, Ireland, Liechtenstein and Turkey.

For the Federal Republic of Germany,
Dr. J. LONS.

For Austria,
Dr. GEORG AFUHS.

For Belgium,

For Denmark,

For Spain,

For Finland,

For France,
ETIENNE COIDAN.

For Greece,
P. A. VERYKIOS.

For Ireland,

For Iceland,

For Italy,

For Japan,

For Liechtenstein,

For Luxembourg,
J. KREMER.

For Norway,

For the Netherlands,

For Portugal,

For the United Kingdom of Great Britain and Northern Ireland,
A. N. NOBLE. 19th October, 1961.

For Sweden,

For Switzerland,

M. SCHERLER.

For Turkey,

For Yugoslavia,

RADE LUKIC.

ANNEX TO THE CONVENTION

Model of Certificate

The certificate will be in the form of a square with sides at least 9 centimetres long.

APOSTILLE

(Convention de La Haye du 5 Octobre, 1961)

1. Country

This public document

2. has been signed by

3. acting in the capacity of

4. bears the seal/stamp of

.....

Certified

5. at 6. the

7. by

.....

8. No

9. Seal/stamp: 10. Signature:

.....

SECOND SCHEDULE

(Section 2)

Scheduled Countries

The Federal Republic of Germany.
Austria.
France.
Greece.
Luxembourg.
Switzerland
Yugoslavia.
The United Kingdom of Great Britain and Northern Ireland.

1997-9.

THIRD SCHEDULE

(Section 4)

Persons Who May Issue Certificates

- (a) Solicitor-General
- (b) Deputy Solicitor-General
- (c) Registrar of the Supreme Court
- (d) Registrar of Corporate Affairs
- (e) Permanent Secretary in the Ministry responsible for Foreign Affairs
- (f) Chief of Protocol

1997-9.

FOURTH SCHEDULE

(Section 5)

Fee for Certificates

The fee for the issue of a certificate is \$50.