



Contracts (Applicable Law) Act 1990

1990 CHAPTER 36

An Act to make provision as to the law applicable to contractual obligations in the case of conflict of laws. [26th July 1990]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

- C1 Act applied (1.12.2001) by [S.I. 2001/2635](#), [regs. 1, 7](#) (subject to [regs. 4-6](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
Act applied (1.12.2001) by [S.I. 2001/2635](#), [regs. 1, 10](#) (subject to [regs. 8, 9](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

1 Meaning of “the Conventions”.

In this Act—

- (a) “[^{F1}these Conventions and this Protocol]” means the Convention on the law applicable to contractual obligations opened for signature in Rome on 19th June 1980 and signed by the United Kingdom on 7th December 1981;
- (b) “[^{F1}these Conventions and this Protocol]” means the Convention on the accession of the Hellenic Republic to the Rome Convention signed by the United Kingdom in Luxembourg on 10th April 1984; and
- (c) “[^{F1}these Conventions and this Protocol]” means the first Protocol on the interpretation of the Rome Convention by the European Court signed by the United Kingdom in Brussels on 19th December 1988;
- ^{F2}[(d) “the Funchal Convention” means the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Rome Convention and the Brussels Protocol, with adjustments made to the Rome Convention by the Luxembourg Convention, signed by the United Kingdom in Funchal on 18th May 1992;]
- ^{F3}(e) “the 1996 Accession Convention” means the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden

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to the Rome Convention and the Brussels Protocol, with the adjustments made to the Rome Convention by the Luxembourg Convention and the Funchal Convention, signed by the United Kingdom in Brussels on 29th November 1996;]

and the Rome Convention, the Luxembourg Convention and the Brussels Protocol are together referred to as “the Conventions”.

Textual Amendments

- F1** Words in s. 1 substituted (1.12.1997) by [S.I. 1994/1900, art. 4](#); (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).
- F2** S. 1(d) inserted (1.12.1997) by [S.I. 1994/1900, art. 3](#); (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).
- F3** S. 1(e) inserted (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2000/1825, art. 3](#)

Commencement Information

- I1** S. 1 wholly in force at 1.4.1991 see s. 7 and [S.I. 1991/707, art. 2](#)

2 Conventions to have force of law.

(1) Subject to subsections (2) and (3) below, the Conventions shall have the force of law in the United Kingdom.

[^{F4}(1A) The internal law for the purposes of Article 1(3) of the Rome Convention is whichever of the following are applicable, namely—

- (a) the provisions of Schedule 3A to the Insurance Companies Act 1982 (law applicable to certain contracts of insurance with insurance companies), and
- (b) the provisions of Schedule 20 to the Friendly Societies Act 1992 ^{F5} as applied by subsections (1)(a) and (2)(a) of section 101 of that Act (law applicable to certain contracts of insurance with friendly societies).]

(2) Articles 7(1) and 10(1)(e) of the Rome Convention shall not have the force of law in the United Kingdom.

(3) Notwithstanding Article 19(2) of the Rome Convention, the Conventions shall apply in the case of conflicts between the laws of different parts of the United Kingdom.

(4) For ease of reference there are set out in [^{F6}Schedules 1, 2, 3 [^{F7}, 3A and 3B]] to this Act respectively the English texts of—

- (a) the Rome Convention;
- (b) the Luxembourg Convention; ^{F8} . . .
- (c) the Brussels Protocol [^{F9}; and
- [^{F10}(d) the Funchal Convention; and
- (e) the 1996 Accession Convention]]

Textual Amendments

- F4** [S. 2\(1A\)](#) substituted (1.1.1994) by [S.I. 1993/2519, reg. 6\(5\)](#).
- F5** [1992 c.40](#).

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- F6** Words in s. 2(4) substituted (1.12.1997) by S.I. 1994/1900, art. 5; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).
- F7** Words in s. 2(4) substituted (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2000/1825, art. 4(a)
- F8** Word in s. 2(4)(b) deleted (1.12.1997) by virtue of S.I. 1994/1900, art. 6; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).
- F9** S. 2(4)(d) and the word immediately preceding it inserted (1.12.1997) by S.I. 1994/1900, art. 6; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).
- F10** S. 2(4)(d)(e) substituted (for s. 2(4)(d)) (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2000/1825, art. 4(b)

Commencement Information

- I2** S. 2 partly in force; s. 2(1) in force for certain purposes at 1.4.1991 and s. 2(2)-(4) fully in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

3 Interpretation of Conventions.

- (1) Any question as to the meaning or effect of any provision of the Conventions shall, if not referred to the European Court in accordance with the Brussels Protocol, be determined in accordance with the principles laid down by, and any relevant decision of, the European Court.
- (2) Judicial notice shall be taken of any decision of, or expression of opinion by, the European Court on any such question.
- (3) Without prejudice to any practice of the courts as to the matters which may be considered apart from this subsection—
 - (a) the report on the Rome Convention by Professor Mario Giuliano and Professor Paul Lagarde which is reproduced in the Official Journal of the ^{M1}Communities of 31st October 1980 may be considered in ascertaining the meaning or effect of any provision of that Convention; and
 - (b) any report on the Brussels Protocol which is reproduced in the Official Journal of the Communities may be considered in ascertaining the meaning or effect of any provision of that Protocol.

Commencement Information

- I3** S. 3 partly in force; s. 3(a) in force 1.4.1991 by s. 7 and S.I. 1991/707, art. 2

Marginal Citations

- M1** O.J.1980 No.C282/1.

4 Revision of Conventions etc.

- (1) If at any time it appears to Her Majesty in Council that Her Majesty's Government in the United Kingdom—
 - (a) have agreed to a revision of any of the Conventions (including, in particular, any revision connected with the accession to the Rome Convention of any state); or

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- (b) have given notification in accordance with Article 22(3) of the Rome Convention that either or both of the provisions mentioned in section 2(2) above shall have the force of law in the United Kingdom,

Her Majesty may by Order in Council make such consequential modifications of this Act or any other statutory provision, whenever passed or made, as Her Majesty considers appropriate.

- (2) An Order in Council under subsection (1) above shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House.

- (3) In subsection (1) above—

“modifications” includes additions, omissions and alterations;

“revision” means an omission from, addition to or alteration of any of the Conventions and includes replacement of any of the Conventions to any extent by another convention, protocol or other description of international agreement; and

“statutory provision” means any provision contained in an Act, or in any Northern Ireland legislation, or in—

- (a) subordinate legislation (as defined in section 21(1) of the ^{M2}Interpretation Act 1978); or
- (b) any instrument of a legislative character made under any Northern Ireland legislation.

Commencement Information

I4 [S. 4](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Marginal Citations

M2 [1978 c. 30](#).

5 Consequential amendments.

The enactments specified in Schedule 4 to this Act shall have effect subject to the amendments specified in that Schedule.

Commencement Information

I5 [S. 5](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

6 Application to Crown.

This Act binds the Crown.

Commencement Information

I6 [S. 6](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

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7 Commencement.

This Act shall come into force on such day as the Lord Chancellor and the Lord Advocate may by order made by statutory instrument appoint; and different days may be appointed for different provisions or different purposes.

Subordinate Legislation Made

P1 [S. 7](#) power of appointment conferred by s. 7 exercised by [S.I.1991/707](#)

Commencement Information

I7 [S. 7](#) wholly in force at 1.4.1991 see [S.I. 1991/707](#), art. 2

8 Extent.

- (1) This Act extends to Northern Ireland.
- (2) Her Majesty may by Order in Council direct that all or any of the provisions of this Act shall extend to any of the following territories, namely—
 - (a) the Isle of Man;
 - (b) any of the Channel Islands;
 - (c) Gibraltar;
 - (d) the Sovereign Base Areas of Akrotiri and Dhekelia (that is to say, the areas mentioned in section 2(1) of the ^{M3}Cyprus Act 1960).
- (3) An Order in Council under subsection (2) above may modify this Act in its application to any of the territories mentioned in that subsection and may contain such supplementary provisions as Her Majesty considers appropriate; and in this subsection “modify” shall be construed in accordance with section 4 above.

Commencement Information

I8 [S. 8](#) wholly in force at 1.4.1991 see s. 7 and [S.I. 1991/707](#), art. 2

Marginal Citations

M3 [1960 c. 52](#).

9 Short title.

This Act may be cited as the Contracts (Applicable Law) Act 1990.

Commencement Information

I9 [S. 9](#) wholly in force at 1.4.1991 see s. 7 and [S.I. 1991/707](#), art. 2

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Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 2.

THE ROME CONVENTION

Commencement Information

I10 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

The High Contracting Parties to the Treaty establishing the European Economic Community,
Anxious to continue in the field of private international law the work of unification of law
which has already been done within the Community, in particular in the field of jurisdiction and
enforcement of judgments,

Wishing to establish uniform rules concerning the law applicable to contractual obligations,

Have agreed as follows:

TITLE I

SCOPE OF THE CONVENTION

Commencement Information

I11 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 1

Scope of the Convention

- 1 The rules of this Convention shall apply to contractual obligations in any situation involving a choice between the laws of different countries.

Commencement Information

I12 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 2 They shall not apply to:
- (a) questions involving the status or legal capacity of natural persons, without prejudice to Article 11;
 - (b) contractual obligations relating to:
 - wills and succession,

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Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

- rights in property arising out of a matrimonial relationship,
- rights and duties arising out of a family relationship, parentage, marriage or affinity, including maintenance obligations in respect of children who are not legitimate;
- (c) obligations arising under bills of exchange, cheques and promissory notes and other negotiable instruments to the extent that the obligations under such other negotiable instruments arise out of their negotiable character;
- (d) arbitration agreements and agreements on the choice of court;
- (e) questions governed by the law of companies and other bodies corporate or unincorporate such as the creation, by registration or otherwise, legal capacity, internal organisation or winding up of companies and other bodies corporate or unincorporate and the personal liability of officers and members as such for the obligations of the company or body;
- (f) the question whether an agent is able to bind a principal, or an organ to bind a company or body corporate or unincorporate, to a third party;
- (g) the constitution of trusts and the relationship between settlors, trustees and beneficiaries;
- (h) evidence and procedure, without prejudice to Article 14.

Commencement Information

I13 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 3 The rules of this Convention do not apply to contracts of insurance which cover risks situated in the territories of the Member States of the European Economic Community. In order to determine whether a risk is situated in these territories the court shall apply its internal law.

Commencement Information

I14 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 4 The preceding paragraph does not apply to contracts of re–insurance.

Commencement Information

I15 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 2

Application of law of non–contracting States

Any law specified by this Convention shall be applied whether or not it is the law of a Contracting State.

Commencement Information

I16 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

TITLE II

UNIFORM RULES

Commencement Information

I17 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 3

Freedom of choice

- 1 A contract shall be governed by the law chosen by the parties. The choice must be express or demonstrated with reasonable certainty by the terms of the contract or the circumstances of the case. By their choice the parties can select the law applicable to the whole or a part only of the contract.

Commencement Information

I18 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 2 The parties may at any time agree to subject the contract to a law other than that which previously governed it, whether as a result of an earlier choice under this Article or of other provisions of this Convention. Any variation by the parties of the law to be applied made after the conclusion of the contract shall not prejudice its formal validity under Article 9 or adversely affect the rights of third parties.

Commencement Information

I19 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 3 The fact that the parties have chosen a foreign law, whether or not accompanied by the choice of a foreign tribunal, shall not, where all the other elements relevant to the situation at the time of the choice are connected with one country only, prejudice the application of rules of the law of that country which cannot be derogated from by contract, hereinafter called “mandatory rules”.

Commencement Information

I20 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 4 The existence and validity of the consent of the parties as to the choice of the applicable law shall be determined in accordance with the provisions of Articles 8, 9 and 11.

Commencement Information

I21 [Schedule 1](#) wholly in force at 1.4. 1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

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Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Article 4

Applicable law in the absence of choice

- 1 To the extent that the law applicable to the contract has not been chosen in accordance with Article 3, the contract shall be governed by the law of the country with which it is most closely connected. Nevertheless, a severable part of the contract which has a closer connection with another country may by way of exception be governed by the law of that other country.

Commencement Information

I22 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 Subject to the provisions of paragraph 5 of this Article, it shall be presumed that the contract is most closely connected with the country where the party who is to effect the performance which is characteristic of the contract has, at the time of conclusion of the contract, his habitual residence, or, in the case of a body corporate or unincorporate, its central administration. However, if the contract is entered into in the course of that party's trade or profession, that country shall be the country in which the principal place of business is situated or, where under the terms of the contract the performance is to be effected through a place of business other than the principal place of business, the country in which that other place of business is situated.

Commencement Information

I23 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 3 Notwithstanding the provisions of paragraph 2 of this Article, to the extent that the subject matter of the contract is a right in immovable property or a right to use immovable property it shall be presumed that the contract is most closely connected with the country where the immovable property is situated.

Commencement Information

I24 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 4 A contract for the carriage of goods shall not be subject to the presumption in paragraph 2. In such a contract if the country in which, at the time the contract is concluded, the carrier has his principal place of business is also the country in which the place of loading or the place of discharge or the principal place of business of the consignor is situated, it shall be presumed that the contract is most closely connected with that country. In applying this paragraph single voyage charter-parties and other contracts the main purpose of which is the carriage of goods shall be treated as contracts for the carriage of goods.

Commencement Information

I25 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

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Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

- 5 Paragraph 2 shall not apply if the characteristic performance cannot be determined, and the presumptions in paragraphs 2, 3 and 4 shall be disregarded if it appears from the circumstances as a whole that the contract is more closely connected with another country.

Commencement Information

I26 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 5

Certain consumer contracts

- 1 This Article applies to a contract the object of which is the supply of goods or services to a person (“the consumer”) for a purpose which can be regarded as being outside his trade or profession, or a contract for the provision of credit for that object.

Commencement Information

I27 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 2 Notwithstanding the provisions of Article 3, a choice of law made by the parties shall not have the result of depriving the consumer of the protection afforded to him by the mandatory rules of the law of the country in which he has his habitual residence:
- if in that country the conclusion of the contract was preceded by a specific invitation addressed to him or by advertising, and he had taken in that country all the steps necessary on his part for the conclusion of the contract, or
 - if the other party or his agent received the consumer’s order in that country, or
 - if the contract is for the sale of goods and the consumer travelled from that country to another country and there gave his order, provided that the consumer’s journey was arranged by the seller for the purpose of inducing the consumer to buy.

Commencement Information

I28 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 3 Notwithstanding the provisions of Article 4, a contract to which this Article applies shall, in the absence of choice in accordance with Article 3, be governed by the law of the country in which the consumer has his habitual residence if it is entered into in the circumstances described in paragraph 2 of this Article.

Commencement Information

I29 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 4 This Article shall not apply to:

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- (a) a contract of carriage;
- (b) a contract for the supply of services where the services are to be supplied to the consumer exclusively in a country other than that in which he has his habitual residence.

Commencement Information

I30 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 5 Notwithstanding the provisions of paragraph 4, this Article shall apply to a contract which, for an inclusive price, provides for a combination of travel and accommodation.

Commencement Information

I31 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 6

Individual employment contracts

- 1 Notwithstanding the provisions of Article 3, in a contract of employment a choice of law made by the parties shall not have the result of depriving the employee of the protection afforded to him by the mandatory rules of the law which would be applicable under paragraph 2 in the absence of choice.

Commencement Information

I32 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 Notwithstanding the provisions of Article 4, a contract of employment shall, in the absence of choice in accordance with Article 3, be governed:
- (a) by the law of the country in which the employee habitually carries out his work in performance of the contract, even if he is temporarily employed in another country; or
 - (b) if the employee does not habitually carry out his work in any one country, by the law of the country in which the place of business through which he was engaged is situated;
- unless it appears from the circumstances as a whole that the contract is more closely connected with another country, in which case the contract shall be governed by the law of that country.

Commencement Information

I33 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 7

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Mandatory rules

- 1 When applying under this Convention the law of a country, effect may be given to the mandatory rules of the law of another country with which the situation has a close connection, if and in so far as, under the law of the latter country, those rules must be applied whatever the law applicable to the contract. In considering whether to give effect to these mandatory rules, regard shall be had to their nature and purpose and to the consequences of their application or non-application.

Commencement Information

I34 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 2 Nothing in this Convention shall restrict the application of the rules of the law of the forum in a situation where they are mandatory irrespective of the law otherwise applicable to the contract.

Commencement Information

I35 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 8

Material validity

- 1 The existence and validity of a contract, or of any term of a contract, shall be determined by the law which would govern it under this Convention if the contract or term were valid.

Commencement Information

I36 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

- 2 Nevertheless a party may rely upon the law of the country in which he has his habitual residence to establish that he did not consent if it appears from the circumstances that it would not be reasonable to determine the effect of his conduct in accordance with the law specified in the preceding paragraph.

Commencement Information

I37 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 9

Formal validity

- 1 A contract concluded between persons who are in the same country is formally valid if it satisfies the formal requirements of the law which governs it under this Convention or of the law of the country where it is concluded.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

I38 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 A contract concluded between persons who are in different countries is formally valid if it satisfies the formal requirements of the law which governs it under this Convention or of the law of one of those countries.

Commencement Information

I39 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 3 Where a contract is concluded by an agent, the country in which the agent acts is the relevant country for the purposes of paragraphs 1 and 2.

Commencement Information

I40 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 4 An act intended to have legal effect relating to an existing or contemplated contract is formally valid if it satisfies the formal requirements of the law which under this Convention governs or would govern the contract or of the law of the country where the act was done.

Commencement Information

I41 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 5 The provisions of the preceding paragraphs shall not apply to a contract to which Article 5 applies, concluded in the circumstances described in paragraph 2 of Article 5. The formal validity of such a contract is governed by the law of the country in which the consumer has his habitual residence.

Commencement Information

I42 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 6 Notwithstanding paragraphs 1 to 4 of this Article, a contract the subject matter of which is a right in immovable property or a right to use immovable property shall be subject to the mandatory requirements of form of the law of the country where the property is situated if by that law those requirements are imposed irrespective of the country where the contract is concluded and irrespective of the law governing the contract.

Commencement Information

I43 [Schedule 1](#) wholly in force 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

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Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Scope of the applicable law

- 1 The law applicable to a contract by virtue of Articles 3 to 6 and 12 of this Convention shall govern in particular:
- (a) interpretation;
 - (b) performance;
 - (c) within the limits of the powers conferred on the court by its procedural law, the consequences of breach, including the assessment of damages in so far as it is governed by rules of law;
 - (d) the various ways of extinguishing obligations, and prescription and limitation of actions;
 - (e) the consequences of nullity of the contract.

Commencement Information

I44 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 In relation to the manner of performance and the steps to be taken in the event of defective performance regard shall be had to the law of the country in which performance takes place.

Commencement Information

I45 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 11

Incapacity

In a contract concluded between persons who are in the same country, a natural person who would have capacity under the law of that country may invoke his incapacity resulting from another law only if the other party to the contract was aware of this incapacity at the time of the conclusion of the contract or was not aware thereof as a result of negligence.

Commencement Information

I46 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 12

Voluntary assignment

- 1 The mutual obligations of assignor and assignee under a voluntary assignment of a right against another person (“the debtor”) shall be governed by the law which under this Convention applies to the contract between the assignor and assignee.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

I47 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 The law governing the right to which the assignment relates shall determine its assignability, the relationship between the assignee and the debtor, the conditions under which the assignment can be invoked against the debtor and any question whether the debtor's obligations have been discharged.

Commencement Information

I48 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 13

Subrogation

- 1 Where a person ("the creditor") has a contractual claim upon another ("the debtor"), and a third person has a duty to satisfy the creditor, or has in fact satisfied the creditor in discharge of that duty, the law which governs the third person's duty to satisfy the creditor shall determine whether the third person is entitled to exercise against the debtor the rights which the creditor had against the debtor under the law governing their relationship and, if so, whether he may do so in full or only to a limited extent.

Commencement Information

I49 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 The same rule applies where several persons are subject to the same contractual claim and one of them has satisfied the creditor.

Commencement Information

I50 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 14

Burden of proof, etc.

- 1 The law governing the contract under this Convention applies to the extent that it contains, in the law of contract, rules which raise presumptions of law or determine the burden of proof.

Commencement Information

I51 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

- 2 A contract or an act intended to have legal effect may be proved by any mode of proof recognised by the law of the forum or by any of the laws referred to in Article 9 under which that contract or act is formally valid, provided that such mode of proof can be administered by the forum.

Commencement Information

I52 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 15

Exclusion of renvoi

The application of the law of any country specified by this Convention means the application of the rules of law in force in that country other than its rules of private international law.

Commencement Information

I53 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 16

“Ordre public”

Commencement Information

I54 [Schedule 1](#) wholly in force at 1. 4. 1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

The application of a rule of the law of any country specified by this Convention may be refused only if such application is manifestly incompatible with the public policy (“ordre public”) of the forum.

Article 17

No retrospective effect

This Convention shall apply in a Contracting State to contracts made after the date on which this Convention has entered into force with respect to that State.

Commencement Information

I55 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 18

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Uniform interpretation

In the interpretation and application of the preceding uniform rules, regard shall be had to their international character and to the desirability of achieving uniformity in their interpretation and application.

Commencement Information

I56 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 19

States with more than one legal system

- 1 Where a State comprises several territorial units each of which has its own rules of law in respect of contractual obligations, each territorial unit shall be considered as a country for the purposes of identifying the law applicable under this Convention.

Commencement Information

I57 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 A State within which different territorial units have their own rules of law in respect of contractual obligations shall not be bound to apply this Convention to conflicts solely between the laws of such units.

Commencement Information

I58 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 20

Precedence of Community law

This Convention shall not affect the application of provisions which, in relation to particular matters, lay down choice of law rules relating to contractual obligations and which are or will be contained in acts of the institutions of the European Communities or in national laws harmonised in implementation of such acts.

Commencement Information

I59 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 21

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Relationship with other conventions

This Convention shall not prejudice the application of international conventions to which a Contracting State is, or becomes, a party.

Commencement Information

I60 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 22

Reservations

- 1 Any Contracting State may, at the time of signature, ratification, acceptance or approval, reserve the right not to apply:
- (a) the provisions of Article 7(1);
 - (b) the provisions of Article 10(1)(e).

Commencement Information

I61 [Schedule 1](#) wholly in force at 1.4.1991 by [S.I. 1991/707, art. 2](#)

F112

Textual Amendments

F11 [Sch. 1 Art. 22 para. 2](#) deleted (1.12.1997) by virtue of [S.I. 1994/1900, art.7](#); (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

- 3 Any Contracting State may at any time withdraw a reservation which it has made; the reservation shall cease to have effect on the first day of the third calendar month after notification of the withdrawal.

Commencement Information

I62 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

TITLE III

FINAL PROVISIONS

Commencement Information

I63 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Article 23

- 1 If, after the date on which this Convention has entered into force for a Contracting State, that State wishes to adopt any new choice of law rule in regard to any particular category of contract within the scope of this Convention, it shall communicate its intention to the other signatory States through the Secretary-General of the Council of the European Communities.

Commencement Information

I64 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 Any signatory State may, within six months from the date of the communication made to the Secretary-General, request him to arrange consultations between signatory States in order to reach agreement.

Commencement Information

I65 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 3 If no signatory State has requested consultations within this period or if within two years following the communication made to the Secretary-General no agreement is reached in the course of consultations, the Contracting State concerned may amend its law in the manner indicated. The measures taken by that State shall be brought to the knowledge of the other signatory States through the Secretary-General of the Council of the European Communities.

Commencement Information

I66 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 24

- 1 If, after the date on which this Convention has entered into force with respect to a Contracting State, that State wishes to become a party to a multilateral convention whose principal aim or one of whose principal aims is to lay down rules of private international law concerning any of the matters governed by this Convention, the procedure set out in Article 23 shall apply. However, the period of two years, referred to in paragraph 3 of that Article, shall be reduced to one year.

Commencement Information

I67 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 The procedure referred to in the preceding paragraph need not be followed if a Contracting State or one of the European Communities is already a party to the multilateral convention, or if its object is to revise a convention to which the State concerned is already a party, or if it is a convention concluded within the framework of the Treaties establishing the European Communities.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

I68 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 25

If a Contracting State considers that the unification achieved by this Convention is prejudiced by the conclusion of agreements not covered by Article 24(1), that State may request the Secretary-General of the Council of the European Communities to arrange consultations between the signatory States of this Convention.

Commencement Information

I69 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 26

Any Contracting State may request the revision of this Convention. In this event a revision conference shall be convened by the President of the Council of the European Communities.

Commencement Information

I70 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

^{F12}*Article 27*

Textual Amendments

F12 [Sch. 1 Art. 27](#) deleted (1.12.1997) by virtue of [S.I. 1994/1900, art.7](#); (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Article 28

- 1 This Convention shall be open from 19 June 1980 for signature by the States party to the Treaty establishing the European Economic Community.

Commencement Information

I71 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 This Convention shall be subject to ratification, acceptance or approval by the signatory States. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the Council of the European Communities.

Commencement Information

I72 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Article 29

- 1 This Convention shall enter into force on the first day of the third month following the deposit of the seventh instrument of ratification, acceptance or approval.

Commencement Information

I73 Schedule 1 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

- 2 This Convention shall enter into force for each signatory State ratifying, accepting or approving at a later date on the first day of the third month following the deposit of its instrument of ratification, acceptance or approval.

Commencement Information

I74 Schedule 1 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

Article 30

- 1 This Convention shall remain in force for 10 years from the date of its entry into force in accordance with Article 29(1), even for States for which it enters into force at a later date.

Commencement Information

I75 Schedule 1 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

- 2 If there has been no denunciation it shall be renewed tacitly every five years.

Commencement Information

I76 Schedule 1 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

- 3 A Contracting State which wishes to denounce shall, not less than six months before the expiration of the period of 10 or five years, as the case may be, give notice to the Secretary-General of the Council of the European Communities.^{F13} . . .

Textual Amendments

F13 Words in Sch. 1 Art. 30 para. 3 deleted (1.12.1997) by virtue of 1994/1900, art. 7; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Commencement Information

I77 Schedule 1 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

- 4 The denunciation shall have effect only in relation to the State which has notified it. The Convention will remain in force as between all other Contracting States.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

I78 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 31

The Secretary–General of the Council of the European Communities shall notify the States party to the Treaty establishing the European Economic Community of:

- (a) the signatures;
- (b) the deposit of each instrument of ratification, acceptance or approval;
- (c) the date of entry into force of this Convention;
- (d) communications made in pursuance of Articles 23, 24, 25, 26, 27 and 30;
- (e) the reservations and withdrawals of reservations referred to in Article 22.

Commencement Information

I79 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Commencement Information

I79 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 32

The Protocol annexed to this Convention shall form an integral part thereof.

Commencement Information

I80 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Article 33

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Irish and Italian languages, these texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary–General shall transmit a certified copy thereof to the Government of each signatory State.

Commencement Information

I81 [Schedule 1](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

F^{F14} PROTOCOL

Textual Amendments

F14 [Sch. 1](#): protocol substituted (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2000/1825, art. 5](#)

The High Contracting Parties have agreed upon the following provision which shall be annexed to the Convention:

Notwithstanding the provisions of the Convention, Denmark, Sweden and Finland may retain national provisions concerning the law applicable to questions relating to the carriage of goods by sea and may amend such provisions without following the procedure provided for in Article 23 of the Convention of Rome. The national provisions applicable in this respect are the following:

- in Denmark, paragraphs 252 and 321(3) and (4) of the “Sølov” (maritime law);
- in Sweden, Chapter 13, Article 2(1) and (2), and Chapter 14, Article 1(3), of “sjölagen” (maritime law);
- in Finland, Chapter 13, Article 2(1) and (2), and Chapter 14, Article 1(3) of “merilaki”/“sjölagen” (maritime law).]

SCHEDULE 2

Section 2.

THE LUXEMBOURG CONVENTION

Commencement Information

182 [Schedule 2](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

The High Contracting Parties to the Treaty establishing the European Economic Community, Considering that the Hellenic Republic, in becoming a Member of the Community, undertook to accede to the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980,

Have decided to conclude this Convention, and to this end have designated as their plenipotentiaries:

(Designation of plenipotentiaries)

Who, meeting within the Council, having exchanged their full powers, found in good and due form,

Have agreed as follows:

Article 1

The Hellenic Republic hereby accedes to the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

183 [Schedule 2](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 2

The Secretary–General of the Council of the European Communities shall transmit a certified copy of the Convention on the law applicable to contractual obligations in the Danish, Dutch, English, French, German, Irish and Italian languages to the Government of the Hellenic Republic.

Commencement Information

184 [Schedule 2](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

The text of the Convention on the law applicable to contractual obligations in the Greek language is annexed hereto. The text in the Greek language shall be authentic under the same conditions as the other texts of the Convention on the law applicable to contractual obligations.

Article 3

This Convention shall be ratified by the Signatory States. The instruments of ratification shall be deposited with the Secretary–General of the Council of the European Communities.

Commencement Information

185 [Schedule 2](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 4

This Convention shall enter into force, as between the States which have ratified it, on the first day of the third month following the deposit of the last instrument of ratification by the Hellenic Republic and seven States which have ratified the Convention on the law applicable to contractual obligations.

Commencement Information

186 [Schedule 2](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

This Convention shall enter into force for each Contracting State which subsequently ratifies it on the first day of the third month following the deposit of its instrument of ratification.

Article 5

The Secretary–General of the Council of the European Communities shall notify the Signatory States of:

- (a) the deposit of each instrument of ratification;
- (b) the dates of entry into force of this Convention for the Contracting States.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

I87 [Schedule 2](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Commencement Information

I87 [Schedule 2](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 6

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish and Italian languages, all eight texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each Signatory State.

Commencement Information

I88 [Schedule 2](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

SCHEDULE 3

THE BRUSSELS PROTOCOL

Commencement Information

I89 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

The High Contracting Parties to the Treaty establishing the European Economic Community,
Having regard to the Joint Declaration annexed to the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980,

Have decided to conclude a Protocol conferring jurisdiction on the Court of Justice of the European Communities to interpret that Convention, and to this end have designated as their Plenipotentiaries:

(Designation of plenipotentiaries)

Who, meeting within the Council of the European Communities, having exchanged their full powers, found in good and due form,

Have agreed as follows:

Article 1

The Court of Justice of the European Communities shall have jurisdiction to give rulings on the interpretation of—

- (a) the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, hereinafter referred to as “the Rome Convention”;

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

- (b) the Convention on accession to the Rome Convention by the States which have become Members of the European Communities since the date on which it was opened for signature;
- (c) this Protocol.

Commencement Information

I90 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I.1991/707, art. 2](#)

Commencement Information

I90 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I.1991/707, art. 2](#)

Article 2

Any of the courts referred to below may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning interpretation of the provisions contained in the instruments referred to in Article 1 if that court considers that a decision on the question is necessary to enable it to give judgment:

- (a) – in Belgium:

la Cour de cassation (het Hof van Cassatie) and le Conseil d’Etat (de Raad van State),
– in Denmark:

Højesteret,

– in the Federal Republic of Germany:

die obersten Gerichtschöfe des Bundes,

– in Greece:

ταανϑtata Aikasthria,

– in Spain:

el Tribunal Supremo,

– in France:

la Cour de cassation and le Conseil d’Etat,

– in Ireland:

the Supreme Court,

– in Italy:

la Corte suprema di cassazione and il Consiglio di Stato,

– in Luxembourg:

la Cour supérieure de Justice, when sitting as Cour de cassation,

[^{F15}– in Austria:

the Oberste Gerichtshof, the Verwaltungsgerichtshof and the Verfassungsgerichtshof]

– in the Netherlands:

de Hoge Raad,

– in Portugal:

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

o Supremo Tribunal de Justiça and o Supremo Tribunal Administrativo,

[^{F16} – in Finland:

korkein oikeus/högsta domstolen, korkein hallinto-oikeus/högsta förvaltningsdomstolen, markkinatuomioistuim/marknadsdomstolen and työtuomioistuim/arbetsdomstolen,

– Sweden:

Högsta domstolen, Regeringsrätten, Arbetsdomstolen and Marknadsdomstolen,]

– in the United Kingdom:

the House of Lords and other courts from which no further appeal is possible;

(b) the courts of the Contracting States when acting as appeal courts.

Textual Amendments

F15 Schedule 3: entry in art. 2(a) inserted (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2000/1825, **art. 6(a)**

F16 Schedule 3: entries in art. 2(a) inserted (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2000/1825, **art. 6(b)**

Commencement Information

I91 Schedule 3 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, **art. 2**

Textual Amendments

F15 Schedule 3: entry in art. 2(a) inserted (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2000/1825, **art. 6(a)**

F16 Schedule 3: entries in art. 2(a) inserted (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2000/1825, **art. 6(b)**

Commencement Information

I91 Schedule 3 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, **art. 2**

Article 3

- 1 The competent authority of a Contracting State may request the Court of Justice to give a ruling on a question of interpretation of the provisions contained in the instruments referred to in Article 1 if judgments given by courts of that State conflict with the interpretation given either by the Court of Justice or in a judgment of one of the courts of another Contracting State referred to in Article 2. The provisions of this paragraph shall apply only to Judgments which have become res judicata.

Commencement Information

I92 Schedule 3 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, **art. 2**

- 2 The interpretation given by the Court of Justice in response to such a request shall not affect the Judgments which gave rise to the request for interpretation.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

I93 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 3 The Procurators-General of the Supreme Courts of Appeal of the Contracting States, or any other authority designated by a Contracting State, shall be entitled to request the Court of Justice for a ruling on interpretation in accordance with paragraph 1.

Commencement Information

I94 [Schedule 3](#) wholly in force 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 4 The Registrar of the Court of Justice shall give notice of the request to the Contracting States, to the Commission and to the Council of the European Communities; they shall then be entitled within two months of the notification to submit statements of case or written observations to the Court.

Commencement Information

I95 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 5 No fees shall be levied or any costs or expenses awarded in respect of the proceedings provided for in this Article.

Commencement Information

I96 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 4

- 1 Except where this Protocol otherwise provides, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is requested to give a preliminary ruling, shall also apply to any proceedings for the interpretation of the instruments referred to in Article 1.

Commencement Information

I97 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

- 2 The Rules of Procedure of the Court of Justice shall, if necessary, be adjusted and supplemented in accordance with Article 188 of the Treaty establishing the European Economic Community.

Commencement Information

I98 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Article 5

This Protocol shall be subject to ratification by the Signatory States. The instruments of ratification shall be deposited with the Secretary–General of the Council of the European Communities.

Commencement Information

I99 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 6

- 1 To enter into force, this Protocol must be ratified by seven States in respect of which the Rome Convention is in force. This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification by the last such State to take this step. If, however, the ^{M4} Second Protocol conferring on the Court of Justice of the European Communities certain powers to interpret the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, concluded in Brussels on 19 December 1988, enters into force on a later date, this Protocol shall enter into force on the date of entry into force of the Second Protocol.

Commencement Information

I100 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Marginal Citations

M4 O.J.1989 NO.148/17.

- 2 Any ratification subsequent to the entry into force of this Protocol shall take effect on the first day of the third month following the deposit of the instrument of ratification provided that the ratification, acceptance or approval of the Rome Convention by the State in question has become effective.

Commencement Information

I101 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 7

The Secretary–General of the Council of the European Communities shall notify the Signatory States of:

- (a) the deposit of each instrument of ratification;
- (b) the date of entry into force of this Protocol;
- (c) any designation communicated pursuant to Article 3(3);
- (d) any communication made pursuant to Article 8.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

I102 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Commencement Information

I102 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 8

The Contracting States shall communicate to the Secretary–General of the Council of the European Communities the texts of any provisions of their laws which necessitate an amendment to the list of courts in Article 2(a).

Commencement Information

I103 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 9

This Protocol shall have effect for as long as the Rome Convention remains in force under the conditions laid down in Article 30 of that Convention.

Commencement Information

I104 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 10

Any Contracting State may request the revision of this Protocol. In this event, a revision conference shall be convened by the President of the Council of the European Communities.

Commencement Information

I105 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Article 11

This Protocol, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages, all 10 texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities. The Secretary–General shall transmit a certified copy to the Government of each Signatory State.

Commencement Information

I106 [Schedule 3](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707, art. 2](#)

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

[^{F17}SCHEDULE 3A

Section 2

THE FUNCHAL CONVENTION

Textual Amendments

F17 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F18}The High Contracting Parties to the Treaty establishing the European Economic Community. Considering that the Kingdom of Spain and the Portuguese Republic, in becoming Members of the Community, undertook to accede to the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19th June 1980. Have decided to conclude this Convention, and to this end have designated as their plenipotentiaries: (Designation of plenipotentiaries) Who, meeting within the Council, having exchanged their full powers, found in good and due form. Have agreed as follows:

Textual Amendments

F18 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F18 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F19}ARTICLE 1

Textual Amendments

F19 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F20}The Kingdom of Spain and the Portuguese Republic hereby accede to the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19th June 1980.

Textual Amendments

F20 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F20 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

F21 ARTICLE 2

Textual Amendments

F21 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

F22 The Convention on the law applicable to contractual obligations is hereby amended as follows:

- (1) Article 22(2), Article 27 and the second sentence of Article 30(3) shall be deleted.
- (2) The reference to Article 27 in Article 31(d) shall be deleted

Textual Amendments

F22 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F22 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

F23 ARTICLE 3

Textual Amendments

F23 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

F24 The Secretary-General of the Council of the European Communities shall transmit a certified copy of the Convention on the law applicable to contractual obligations in the Danish, Dutch, English, French, German, Greek, Irish and Italian languages to the Governments of the Kingdom of Spain and the Portuguese Republic.

Textual Amendments

F24 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F24 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

^{F25} ARTICLE 4

Textual Amendments

F25 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F26}This Convention shall be ratified by the Signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Textual Amendments

F26 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F26 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F27} ARTICLE 5

Textual Amendments

F27 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F28}This Convention shall enter into force, as between the States which have ratified it, on the first day of the third month following deposit of the last instrument of ratification by the Kingdom of Spain or the Portuguese Republic and by one State which has ratified the Convention on the law applicable to contractual obligations.

Textual Amendments

F28 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F28 Sch. 3A inserted (1.12.1997) by S.I. 1994/1900, art. 9, Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F29}This Convention shall enter into force for each Contracting State which subsequently ratifies it on the first day of the third month following that of deposit of its instrument of ratification.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Textual Amendments

F29 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*,Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F29 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*,Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F30}**ARTICLE 6**

Textual Amendments

F30 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*,Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F31}The Secretary-General of the Council of the European Communities shall notify the Signatory States of:

- (a) the deposit of each instrument of ratification;
- (b) the dates of entry into force of this Convention for the Contracting States.

Textual Amendments

F31 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*,Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F31 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*,Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F32}**ARTICLE 7**

Textual Amendments

F32 *Sch. 3A* inserted (1.12.1997) by *S.I. 1994/1900, art. 9*,Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

^{F33}This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages, all ten texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each Signatory State.]

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Textual Amendments

F33 [Sch. 3A](#) inserted (1.12.1997) by [S.I. 1994/1900, art. 9](#), Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

Textual Amendments

F33 [Sch. 3A](#) inserted (1.12.1997) by [S.I. 1994/1900, art. 9](#), Sch.; (convention in force in respect of U.K. on 1.12.1997; see London Gazette 22.10.1997).

[^{F34}SCHEDULE 3B

Section 2

THE 1996 ACCESSION CONVENTION

Textual Amendments

F34 [Sch. 3B](#) inserted (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2000/1825, art. 7, Sch.](#)

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

Considering that the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, in becoming Members of the European Union, undertook to accede to the Convention on the Law applicable to Contractual Obligations, opened for signature in Rome on 19th June 1980, and to the First and Second Protocols on its interpretation by the Court of Justice,

Have agreed as follows:

TITLE I

GENERAL PROVISIONS

ARTICLE I

The Republic of Austria, the Republic of Finland and the Kingdom of Sweden hereby accede to:

- (a) the Convention on the Law applicable to Contractual Obligations, opened for signature in Rome on 19th June 1980, hereinafter referred to as “the Convention of 1980”, as it stands following incorporation of all the adjustments and amendments made thereto by:
 - the Convention signed in Luxembourg on 10th April 1984, hereinafter referred to as “the Convention of 1984”, on the accession of the Hellenic Republic to the Convention on the Law applicable to Contractual Obligations;
 - the Convention signed in Funchal on 18th May 1992, hereinafter referred to as “the Convention of 1992”, on the accession of the Kingdom of Spain and the Portuguese Republic to the Convention on the Law applicable to Contractual Obligations;

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

- (b) the First Protocol, signed on 19th December 1988, hereinafter referred to as “the First Protocol of 1988”, on the interpretation by the Court of Justice of the European Communities of the Convention on the Law applicable to Contractual Obligations;
- (c) the Second Protocol, signed on 19th December 1988, hereinafter referred to as “the Second Protocol of 1988”, conferring on the Court of Justice of the European Communities certain powers to interpret the Convention on the Law applicable to Contractual Obligations.

TITLE II

ADJUSTMENTS TO THE PROTOCOL ANNEXED TO THE CONVENTION OF 1980

ARTICLE 2

The Protocol annexed to the Convention of 1980 is hereby replaced by the following: “

Notwithstanding the provisions of the Convention, Denmark, Sweden and Finland may retain national provisions concerning the law applicable to questions relating to the carriage of goods by sea and may amend such provisions without following the procedure provided for in Article 23 of the Convention of Rome. The national provisions applicable in this respect are the following:

- in Denmark, paragraphs 252 and 321(3) and (4) of the “Sølov” (maritime law);
- in Sweden, Chapter 13, Article 2(1) and (2), and Chapter 14, Article 1(3), of “sjölagen” (maritime law);
- in Finland, Chapter 13, Article 2(1) and (2), and Chapter 14, Article 1(3), of “merilaki”/ “sjölagen” (maritime law).”

TITLE III

ADJUSTMENTS TO THE FIRST PROTOCOL OF 1988

ARTICLE 3

The following indents shall be inserted in Article 2(a) of the First Protocol of 1988:

- (a) between the tenth and eleventh indents: “
 - in Austria:
the Oberste Gerichtshof, the Verwaltungsgerichtshof and the Verfassungsgerichtshof,”
- (b) between the eleventh and twelfth indents: “
 - in Finland:
Korkein oikeus/högsta domstolen, korkein hallinto-oikeus/högsta förvaltningsdomstolen, markkinatuomioistuim/marknadsdomstolen and työtuomioistuim/arbetsdomstolen,
 - in Sweden:
Högsta domstolen, Regeringsrätten, Arbetsdomstolen and Marknadsdomstolen.”

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

TITLE IV

FINAL PROVISIONS

ARTICLE 4

- 1 The Secretary-General of the Council of the European Union shall transmit a certified copy of the Convention of 1980, the Convention of 1984, the First Protocol of 1988, the Second Protocol of 1988 and the Convention of 1992 in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Spanish and Portuguese languages to the Governments of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.
- 2 The text of the Convention of 1980, the Convention of 1984, the First Protocol of 1988, the Second Protocol of 1988 and the Convention of 1992 in the Finnish and Swedish languages shall be authentic under the same conditions as the other texts of the Convention of 1980, the Convention of 1984, the First Protocol of 1988, the Second Protocol of 1988 and the Convention of 1992.

ARTICLE 5

This Convention shall be ratified by the Signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Union.

ARTICLE 6

- 1 This Convention shall enter into force, as between the States which have ratified it, on the first day of the third month following the deposit of the last instrument of ratification by the Republic of Austria, the Republic of Finland or the Kingdom of Sweden and by one Contracting State which has ratified the Convention on the Law applicable to Contractual Obligations.
- 2 This Convention shall enter into force for each Contracting State which subsequently ratifies it on the first day of the third month following the deposit of its instrument of ratification.

ARTICLE 7

The Secretary-General of the Council of the European Union shall notify the Signatory States of:

- (a) the deposit of each instrument of ratification;
- (b) the dates of entry into force of this Convention for the Contracting States.

ARTICLE 8

This Convention, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, all twelve texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Union. The Secretary-General shall transmit a certified copy to the Government of each Signatory State.]

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

SCHEDULE 4

Section 5.

CONSEQUENTIAL AMENDMENTS

Commencement Information

I107 Schedule 4 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

*The Equal Pay Act 1970 (c.41)**The Equal Pay Act (Northern Ireland) 1970 (c.32 (N.I.))*

- 1 In Section 1(11) of the Equal Pay Act 1970 and section 1(12) of the Equal Pay Act (Northern Ireland) 1970, for the words “proper law of” there shall be substituted the words “law applicable to”.

Commencement Information

I108 Schedule 4 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

The Consumer Credit Act 1974 (c.39)

- 2 In sections 43(2)(c) and 145(3)(c) and (4)(b) of the Consumer Credit Act 1974, for the words “proper law of”, in each place where they occur, there shall be substituted the words “law applicable to”.

Commencement Information

I109 Schedule 4 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

The Patents Act 1977 (c.37)

- 3 In section 82(5) and (6) of the Patents Act 1977, for the words “proper law of” there shall be substituted the words “law applicable to”.

Commencement Information

I110 Schedule 4 wholly in force at 1.4.1991 see s. 7 and S.I. 1991/707, art. 2

The Unfair Contract Terms Act 1977 (c.50)

- 4 In section 27(1) of the Unfair Contract Terms Act 1977, for the words “proper law of” there shall be substituted the words “law applicable to” and for the words “of the proper law” there shall be substituted the words “of the law applicable to the contract”.

Status: Point in time view as at 12/07/2000.

Changes to legislation: There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990. (See end of Document for details)

Commencement Information

I111 [Schedule 4](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

The Aviation Security Act 1982 (c.36)

- 5 In section 19(5) of the aviation security act 1982, for the words “of which the proper law” there shall be substituted the words “the law applicable to which”.

Commencement Information

I112 [Schedule 4](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

The Income and Corporation Taxes Act 1988 (c.1)

- 6 In section 347b(1)(a) of the Income and Corporation Taxes Act 1988, for the words “proper law of” there shall be substituted the words “law applicable to”.

Commencement Information

I113 [Schedule 4](#) wholly in force at 1.4.1991 see [s. 7](#) and [S.I. 1991/707](#), [art. 2](#)

Status:

Point in time view as at 12/07/2000.

Changes to legislation:

There are currently no known outstanding effects for the Contracts (Applicable Law) Act 1990.