

The authority to which requests for service or for the taking of evidence are to be transmitted is the Supreme Court of New Zealand, and communications should be addressed to the Registrar of the Supreme Court at Wellington in the English language.

The text of the said Convention is set out hereunder.

JOHN G. COBBE, Minister of Justice.

CONVENTION.

His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, and the President of the Portuguese Republic, being desirous to render mutual assistance in the conduct of legal proceedings, in their respective territories, in civil and commercial matters which are being dealt with or which it is anticipated may be dealt with by their respective judicial authorities, have resolved to conclude a Convention for this purpose and have appointed as their Plenipotentiaries:—

His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India—

For Great Britain and Northern Ireland:

The Right Honourable Arthur Henderson, M.P., His Majesty's Principal Secretary of State for Foreign Affairs; and

The President of the Portuguese Republic:

His Excellency General Thomas Antonio Garcia Rosado, Ambassador Extraordinary and Plenipotentiary of the Portuguese Republic in London;

Who, having communicated their full powers, found in good and due form, have agreed as follows:—

I.—PRELIMINARY.

Article 1.

(a) This Convention applies only to civil and commercial matters, including non-contentious matters.

(b) In this Convention the words—

- (1) "Territory of one (or of the other) High Contracting Party" shall be interpreted as meaning at any time any of the territories of such High Contracting Party to which the Convention at that time applies;
- (2) "Persons" shall be deemed to mean individuals and moral persons;
- (3) "Moral Persons" shall be deemed to mean partnerships, companies, societies, and other corporations;
- (4) "Subjects or citizens of a High Contracting Party" shall be deemed to include "moral persons" constituted and incorporated in accordance with the laws of the territory of such High Contracting Party;
- (5) "A subject of one (or of the other) High Contracting Party" shall in relation to His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, be deemed to mean all subjects of His Majesty wherever domiciled.

II.—SERVICE OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS.

Article 2.

When judicial or extra-judicial documents drawn up in the territory of one of the High Contracting Parties are required by a judicial authority situated therein to be served on persons in the territory of the other High Contracting Party, such documents may be served on the recipient, whatever his nationality, in the manner provided in Article 3.

Article 3.

(a) A request for service shall be addressed by a Consular Officer of the High Contracting Party from whose territory the document to be served emanates to the competent authority of the country where the document is to be served, requesting such authority to cause the document to be served. The request shall be sent by such Consular Officer to such authority.

(b) The request for service shall be drawn up in the language of the country where service is to be effected. The request for service shall state the names and descriptions of the parties, the name, description, and address of the recipient, and the nature of the document to be served, and shall enclose the document to be served in duplicate.

(c) The document to be served shall either be drawn up in the language of the country in which it is to be served, or be accompanied by a translation in such language. Such translation shall be certified as correct by a Consular Officer of the High Contracting Party from whose territory the document emanates.

(d) Requests for service shall be addressed and sent—

In Portugal, to the President of the Court of Appeal in the district of which the document is to be served;

In England, to the Senior Master of the Supreme Court of Judicature.

If the authority to whom a request for service has been sent is not competent to execute it, such authority shall of his own motion transmit the document to the competent authority of his own country.

(e) Service shall be effected by the competent authority of the country where the document is to be served, who shall serve the document in the manner prescribed by the municipal law of such country for the service of similar documents, except that, if a wish for some special manner of service is expressed in the request for service, such manner of service shall be followed in so far as it is not incompatible with the law of that country.

(f) The execution of the request for service duly made in accordance with the preceding provisions of this Article shall not be refused unless—

- (1) The authenticity of the request for service is not established; or
- (2) The High Contracting Party in whose territory it is to be effected considers that his sovereignty or safety would be compromised thereby.

(g) The authority by whom the request for service is executed shall furnish a certificate proving the service or explaining the reason which has prevented such service, and setting forth the fact, the manner, and the date of such service or attempted service, and shall send the said certificate to the Consular Officer by whom the request for service was made. The certificate of service or of attempted service shall be placed on one of the duplicates or attached thereto.

Article 4.

(a) The provisions of Articles 2 and 3 in no way prejudice the right to use in the territory of either High Contracting Party, without any request to or intervention of the authorities of the country where service is to be effected, any of the following methods of service in connection with judicial or extra-judicial documents drawn up in the territory of the other High Contracting Party:—

- (1) Service by a Consular Officer of the High Contracting Party from whose territory the document emanates;
- (2) Service by an agent appointed for the purpose either by the judicial authority by whom service of the document is required or by the party on whose application the document was issued;
- (3) Service by registered post, with notice of receipt;
- (4) Service by any other method which is not illegal under the law existing at the time of service in the country where it is to be effected.

(b) The methods of service referred to in (1) and (2) of paragraph (a) of this Article may not be used for service on persons who are subjects or citizens of the High Contracting Party, in whose territory the documents are to be served, unless such persons are willing to accept service; and, when these methods of service are employed, the documents to be served shall, unless the recipient is a subject or citizen of the High Contracting Party from whose territory the document to be served emanates, either be drawn up in the language of the country in which service is to be effected or accompanied by a translation into such language certified as correct as prescribed in Article 3 (c).

(c) It is understood that the validity of any service effected by the use of any of the methods referred to in paragraph (a) of this Article will remain a matter for the determination of the respective Courts of the High Contracting Parties in accordance with their law.

Article 5.

(a) In any case where documents have been served in accordance with the provisions of Article 3, the High Contracting Party, by whose Consular Officer the request for service was addressed, shall pay to the other High Contracting Party any charges and expenses which are payable under the law of the country where the service is effected to the persons employed to effect service, and any charges and expenses incurred in effecting service in a special manner. These charges and expenses shall not exceed such as are usually allowed in the Courts of that country.

(b) Repayment of these charges and expenses shall be claimed by the competent authority by whom the service has been effected from the Consular Officer by whom the request was addressed when sending to him the certificate provided for in Article 3 (g).

(c) Except as provided above, no fees of any description shall be payable by one High Contracting Party to the other in respect of the service of any documents.

III.—TAKING OF EVIDENCE.

Article 6.

(a) When a judicial authority in the territory of one of the High Contracting Parties requires that evidence should be