

Extension to New Zealand of Convention between the United Kingdom and the Netherlands respecting Legal Proceedings in Civil and Commercial Matters.

Department of Justice,
Wellington, 5th March, 1934.

IT is hereby notified for general information that the Convention between the United Kingdom and the Netherlands regarding Legal Proceedings in Civil and Commercial Matters, signed at London on the 31st May, 1932, and in respect of which ratifications were exchanged at London on the 29th June, 1933, has been extended to the Dominion of New Zealand pursuant to the provisions of Article 15 of the said Convention, as from the 27th day of January, 1934.

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 Her Majesty the Queen of the Netherlands,

Being desirous to render mutual assistance in the conduct of 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 Sir John Allsebrook Simon, G.C.S.I., K.C.V.O., O.B.E., K.C., M.P., His Principal Secretary of State for Foreign Affairs; and

Her Majesty the Queen of the Netherlands:

Jonkheer R. de Marees van Swinderen, Knight Grand Cross of the Order of Oranje Nassau, Commander of the Order of the Netherlands Lion, G.C.V.O., Her Envoy Extraordinary and Minister Plenipotentiary 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.

(b) In this Convention the words "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 may at that time have been made applicable.

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

Article 2.

When judicial or extra-judicial documents are required, for the purpose of proceedings which are being dealt with or which it is anticipated may be dealt with by the judicial authorities in the territory of one High Contracting Party, to be served in the territory of the other, 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 documents to be served emanate, to the competent authority of the country where the documents are to be served, requesting such authority to cause the documents 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 of the authority (if any) by which the documents to be served have been issued, the full names and descriptions of the parties, the full names, address, and description of the recipient, and the nature of the documents to be served, and shall enclose the documents to be served in duplicate.

(c) The documents to be served shall either be drawn up in the language of the country in which they are to be served, or be accompanied by a translation into such language. Such

translation shall be certified as correct by a Diplomatic or Consular Officer of the High Contracting Party from whose territory the documents emanate.

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

In the Netherlands to the "Officier van Justitie" attached to the "Arrondissements Rechtbank" within whose jurisdiction the documents are 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 documents are to be served. 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 the High Contracting Party in whose territory service 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 liberty 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 effected, any of the following methods of service in connection with judicial or extra-judicial documents:—

(1) Service by a Consular Officer of the High Contracting Party from whose territory the documents emanate;

(2) Service by an agent appointed for the purpose either by the judicial authority by whom service of the documents is required or by the party on whose initiative service of the documents is required;

(3) Service by the competent officials or officers of the country where the documents are to be served, acting directly at the request of the party on whose initiative service of the documents is required;

(4) Service through the post;

(5) Any other mode of service recognized by the law existing at the time of service in the country from which the documents emanate.

(b) It is understood that the validity and effect of any such service will remain a matter for determination in accordance with the respective laws of the High Contracting Parties.

(c) The High Contracting Parties agree that in principle it is desirable that documents served by any of these methods should, unless the recipient is a subject of the High Contracting Party from whose territory the documents to be served emanate, 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. Nevertheless, in the absence of any legislation in their respective territories making translations obligatory in such cases, the High Contracting Parties do not accept any obligation in this respect.

Article 5.

(a) Except as provided in the following paragraphs of this article, no fees or charges of any description shall be payable by one High Contracting Party to the other in respect of the service of any documents.

(b) 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 is 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 be calculated in accordance with the scales in force for nationals in the country where service is effected.

(c) 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).