

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

Department of Justice,
Wellington, 28th March, 1934.

IT is hereby notified for general information that the Convention between the United Kingdom and Belgium regarding Legal Proceedings in Civil and Commercial Matters, signed at London on the 21st June, 1922, and in respect of which ratifications were exchanged at London on the 22nd February, 1924, has been extended to the Dominion of New Zealand pursuant to the provisions of Article 14 of the said Convention, as from the 1st 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.

CONVENTION BETWEEN THE UNITED KINGDOM AND BELGIUM RESPECTING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS.

Signed at London, June 21, 1922.

[Ratifications exchanged at London, February 22, 1924.]

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of the Belgians, being desirous to facilitate the conduct of legal proceedings between persons resident in their respective territories, have decided to conclude a Convention for this purpose and have accordingly nominated as their Plenipotentiaries:—

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: The Right Honourable the Earl of Balfour, K.G., O.M., Lord President of His Privy Council;

His Majesty the King of the Belgians: Monsieur C. Leurquin, Officer of the Order of Leopold, Councillor of the Court of Cassation, and Monsieur V. Kinon, Officer of the Order of Leopold, Knight of the Order of the Crown, Director-General of the Ministry of Justice;

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

I.—PRELIMINARY.

ARTICLE 1.

This Convention applies only to civil and commercial matters.

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

ARTICLE 2.

When judicial or extra-judicial documents drawn up in one of the contracting States are to be served on persons in the territory of the other, such documents may, at the option of the party interested, be transmitted to the recipients in either of the ways provided in Articles 3, 4, and 5.

ARTICLE 3.

(a) The request for service is addressed—
In Belgium, by the British Consul to the "Procureur du Roi" within whose jurisdiction the recipient of the document is;

In England, by the Consul-General of Belgium in London to the Senior Master of the Supreme Court of Judicature in England.

(b) The request, containing the name of the authority from whom the document transmitted emanates, the names and descriptions of the parties, the address of the recipient and the nature of the document in question, shall be drawn up in one of the languages employed in the State applied to. The authority who receives the request shall send to the consular authority the documents proving the service or explaining the reason which has prevented such service.

Service shall be effected by the competent authority of the State applied to. Such authority, except in the cases provided for in paragraph (c) of this Article, may limit its action to effecting service by the transmission of the document to the recipient if he is willing to accept it.

If the authority to whom a document has been transmitted is not competent to deal with it, such authority will of its own motion transmit the document to the competent authority of its own State.

(c) If the document to be served is drawn up in one of the languages employed in the State applied to, or is accompanied by a translation in one of such languages, the authority applied to, should a wish to that effect be expressed in the request, shall serve the document in the manner prescribed by its municipal law for the service of similar documents, or in a special form which is not incompatible with such law. Should such wish not be expressed, the authority applied to will endeavour to affect service in the manner provided in paragraph (b).

The translation provided for in the preceding paragraph shall be certified as correct by a diplomatic or consular agent of the State making the request or by an official or sworn translator of one or other of the two States.

(d) The execution of the request for service can only be refused if the State in whose territory it is to be effected considers it such as to compromise its sovereignty or safety.

(e) Proof of service shall be furnished by a certificate from the authority of the State applied to, setting forth the fact, the manner, and the date of such service.

If the document to be served has been forwarded in duplicate the certificate shall appear on one of the copies, or be attached to it.

ARTICLE 4.

The document to be served may also be delivered to the recipient, whatever his nationality, in person without the application of any compulsion and without the intervention of the authorities of the State in whose territory service is to be effected:—

(a) By the diplomatic or consular agents of the State making the request; or

(b) By an agent appointed, either generally or in any particular case, by the tribunals of the State making the request.

The document shall be drawn up in one of the languages of the State in whose territory service is to be effected, or shall be accompanied by a translation in one of these languages, unless the recipient is a national of the State making the request.

ARTICLE 5.

Documents drawn up by the competent officials in one of the two States may also be transmitted by post to recipients who are established or resident in the territory of the other State.

ARTICLE 6.

The provisions of Articles 2, 3, 4, and 5 do not prevent the persons concerned from effecting service directly through the competent officials or officers of the country in which the document is to be served.

ARTICLE 7.

No fees of any description shall be payable by one State to the other in respect of the service.

Nevertheless, in the case provided for in Article 3, the State making the request must pay to the State applied to any charges which are payable under the local law to the persons employed to effect service. These charges are calculated in accordance with the tariff in force for nationals of the State applied to. Repayment of these charges is claimed by the judicial authority applied to from the consular authority making the request when transmitting the certificate provided for in Article 3 (e).

III.—TAKING OF EVIDENCE.

ARTICLE 8.

When a Court in one of the contracting States orders that evidence is to be taken in the territory of the other State, this may be done in either of the ways prescribed in Articles 9 and 11.

ARTICLE 9.

(a) The Court may, in accordance with the provisions of its law, address itself by means of a "commission rogatoire" to the competent authority of the other contracting State, requesting it to undertake within its jurisdiction either a judicial inquiry or some other judicial act.

(b) The "commission rogatoire" shall be drawn up in one of the languages of the authority applied to, or accompanied by a translation in one of those languages certified as correct by a diplomatic or consular officer of the State making the request, or by an official or sworn translator of one of the two States. If it is not accompanied by a translation, this may be made by the State applied to.

(c) The "commission rogatoire" shall be transmitted—
In England, by the Consul-General of Belgium in London to the Senior Master of the Supreme Court of Judicature in England;

In Belgium, by the British Consul to the "Procureur du Roi" within whose jurisdiction the "commission rogatoire" is to be executed.