

Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents

You may be aware that Australia deposited its instrument of accession to the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (the Convention) with the Ministry of Foreign Affairs of the Kingdom of the Netherlands on July 11 1994.

We have received notice that no Contracting States lodged an objection to Australia's accession to the Convention. Under the terms of the Convention it was due to enter into force between Australia and other Contracting States on March 16 1995.

At the Executive Council meeting on February 21 the Governor-General signed a proclamation to begin Part 5 of the Foreign Evidence Act 1994 (FEA) March 16 1995. Part 5 of the FEA gives evidentiary effect to foreign certificates. We expected the proclamation to be gazetted on March 1 1995.

The effect of Australia's acces-

sion to the Convention is that public documents within the Convention which are to be used in other Convention countries no longer need to be legalised as of March 16 1995.

Instead of legalisation, a certificate should be obtained under the Convention.

The documents covered by the Convention are set out in Article 1 of the Convention. Article 1 provides:

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

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

- (a) documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from the public prosecutor, a clerk of a court or a process-server ("huissier de justice");
- (b) administrative documents;
- (c) notarial acts;

(d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

However, the present Convention shall not apply:

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

Certificates under the Convention will be provided by the Department of Foreign Affairs and Trade, which will be able to provide details of the administrative arrangements for obtaining certificates.

The coming into force of the Convention is likely to be of particular interest to members of The Law Society who are notaries.

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Amendments to High Court Rules

Explanatory Statement - Statutory Rule 1995 No. 1

Issued by the authority of the Justices of the High Court of Australia.

1. Order 69A rule 8

Order 69A is amended by the insertion of Part IVA. This amendment requires applicants for leave or special leave to appeal, to include in the summary of argument to be filed prior to the hearing date, any reasons they may have to oppose the usual order for costs in the event that the application is refused.

2. Order 70

The amendments to Order 70 make provision for the filing of a notice of appeal from the grant of leave to appeal. Leave to appeal is required from an interlocutory judgment of a Justice of the High Court exercising the original jurisdiction of the Court (s.34 *Judiciary Act 1903*), and from a judgment of the Full Court of the Industrial Relations Court of Australia (s.432(2) *Industrial Relations Reform Act 1993*).

3. First Schedule

The precedent forms in the First Schedule in respect of leave and special leave applications are amended to accord with amendments made to Order 69A by Statutory Rule 324 of 1993.

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