

**CROWN LAW**

CW301

**SUPREME COURT ACT 1935**  
**SUPREME COURT AMENDMENT RULES (NO. 4) 1991**

Made by the Judges of the Supreme Court.

**Citation**

1. These rules may be cited as the *Supreme Court Amendment Rules (No. 4) 1991*.

**Principal Rules**

2. In these rules the *Rules of the Supreme Court 1971\** are referred to as the principal rules.

[\* *Reprinted in the Gazette of 18 March 1986 at pp.779-1100.*  
*For amendments to 31 October 1991 see 1990 Index to Legislation of Western Australia, pp.377-378 and Gazettes of 8 February, 5 April and 19 April 1991.]*

**Order 10 amended**

3. Order 10 of the principal rules is amended by inserting before Rule 1 the following Rule —

**Application**

- “ 1A. Rules 9 to 11 shall not apply to the service of process in a foreign country which is a party to the Hague Convention. ”

**Order 11 amended**

4. Order 11 of the principal rules is amended by inserting before Rule 1 the following Rule —

**Application**

- “ 1A. This order shall not apply to service of foreign legal process pursuant to a request from a competent authority in a foreign country which is a party to the Hague Convention. ”

**Orders 11A, 11B and 11C inserted**

5. After Order 11 of the principal rules the following orders are inserted —

“

**ORDER 11A**

**SERVICE OF FOREIGN JUDICIAL PROCESS ORIGINATING  
 IN A COUNTRY THAT IS A PARTY TO THE HAGUE  
 CONVENTION**

**Definitions**

1. In this Order —

“**additional authority**” means a person being an officer of the Court designated by the Commonwealth of Australia, to be an authority in addition to the Central Authority, for the purposes of the Hague Convention;

**"applicant"**, in relation to a request for service, means the competent authority that forwards that request to a Central Authority or additional authority;

**"Central Authority"** means a person or body designated by the Commonwealth of Australia from time to time to be the Central Authority for the Commonwealth for the purposes of the Hague Convention;

**"civil proceedings"** means any judicial proceedings in respect of civil or commercial matters, other than criminal proceedings;

**"competent authority"**, in relation to a document to be served, means an authority or judicial officer competent, under the law of the Convention country in which the document originates, to forward a request for service;

**"Convention country"** means a party to the Hague Convention, other than Australia;

**"Hague Convention"** means the Convention on the Service Abroad of Judicial and ExtraJudicial Documents in Civil or Commercial Matters done at the Hague on 15 November 1965;

**"request for service"**, in relation to a document originating in a Convention country means a request in writing, in accordance with Form 5A or Form 5B in the Second Schedule, made by a competent authority requesting that the document be served on a person in the State.

### Application

2. (1) Subject to subrule (2) and Rule 3, this Order applies to the service in the State of any document originating in a Convention country and connected with civil proceedings pending before a court or other tribunal of that Convention country where a request for service (together with accompanying documents) in accordance with Rule 3 is forwarded by a competent authority —

- (a) to the Central Authority, which forwards it to an additional authority in the State; or
- (b) to an additional authority in the State.

(2) Where the request for service is forwarded to an additional authority in the State in accordance with paragraph (1) (b) and (in the opinion of the additional authority) —

- (a) compliance with the request for service may infringe Australia's sovereignty or security; or
- (b) the document to which the request for service relates is not a judicial document,

the additional authority shall transmit the request for service and accompanying documents to the Central Authority.

(3) Where the Central Authority returns the request for service and the accompanying documents to the additional authority, this Order shall then apply to the service in the State of the document to which the request relates.

### Request for service and accompanying documents

3. (1) This Order shall not apply to a request for service unless it is accompanied by the following documents —

- (a) a copy of the request for service;

- (b) the document to be served;
- (c) a copy of the document to be served;
- (d) a summary (in accordance with Form 5D in the Second Schedule) of the document to be served; and
- (e) where —
  - (i) a document referred to in paragraph (a), (b) or (d) is not in the English language; and
  - (ii) the request for service does not contain a request that the service be by delivery to the person to be served, if that person accepts such service voluntarily,

an English translation of the document.

(2) An English translation of a document referred to in paragraph (1) (e) shall, unless the additional authority otherwise directs, bear a certificate in English by the translator stating that the translation is an accurate translation of the document.

### Service

4. (1) If a request for service is received by an additional authority in the State, together with the accompanying documents referred to in Rule 3, the additional authority must request the Sheriff to serve the document to be served, together with such of those documents referred to in Rule 3 (1) (a), (d) and (e) as accompanied the request for service (including a warning statement, if any, attached to the summary of the document to be served), in accordance with the request.

(2) Subject to subrule (3) the Sheriff, in giving effect to the request of the additional authority, may cause the service requested to be effected by one of the following methods of service —

- (a) a method of service prescribed by the law in force in the State —
  - (i) for the service of a document of a kind corresponding to the document to be served; or
  - (ii) where there is no such corresponding document — for the service of originating process in proceedings in the Court; or
- (b) by some other method requested by the applicant in the request for service, unless that method is incompatible with the law in force in the State; or
- (c) where the applicant has not requested a particular method of service — by delivery of the document to be served to the person requested to be served, where that person accepts the document voluntarily.

(3) Rule 4 of Order 72 shall apply to the service of documents under this Order, except that the Court may make an order for substituted service of the document on the basis of an affidavit or affidavits, lodged by the Sheriff with the Court made by the person or persons who attempted to serve the document specifying —

- (a) details of the attempts made to serve the document;  
and
- (b) the reasons which have prevented service,

without an application being made to the Court in that behalf.

**Affidavit of service**

5. Where service of the document to be served has been effected or attempts to serve it have failed, the Sheriff must lodge with the additional authority an affidavit made by the person who served, or attempted to serve, the document specifying —

- (a) where the document has been served —
  - (i) the time, day of the week and date on which the document was served;
  - (ii) the place where the document was served;
  - (iii) the method of service;
  - (iv) the person on whom the document was served;
  - and
  - (v) the way in which that person was identified;
  - and
- (b) where the document has not been served —
  - (i) details of the attempts made to serve the document; and
  - (ii) the reasons which have prevented service.

**Certificate of service**

6. When an affidavit of service has been filed in accordance with Rule 5, the additional authority must —

- (a) complete a certificate of service, sealed with the seal of the Court, in accordance with Form 5E in the Second Schedule on the reverse side of, or attached to, the request for service; and
- (b) send the certificate of service directly to the applicant.

**Application of Rules generally**

7. To the extent that these Rules (other than the Rules under this Order) are inconsistent with the Rules under this Order, the firstmentioned Rules do not apply to the service of a document to which this Order applies.

**ORDER 11B****SERVICE OF JUDICIAL PROCESS IN A COUNTRY THAT IS A PARTY TO THE HAGUE CONVENTION****Definitions**

1. (1) In this Order —

“applicant”, in relation to a request for service, means the Registrar who forwards that request to a foreign Central Authority or foreign additional authority;

“designated authority”, in relation to a Convention country, means a person or body designated by the Convention country, for the purposes of Article 6 of the Hague Convention, to be an authority competent to complete a certificate of service;

**“foreign additional authority”**, in relation to a convention country, means a person or body designated by the Convention country, for the purposes of Article 18 of the Hague Convention, to be an authority in addition to a foreign Central Authority of that Convention country;

**“foreign Central Authority”**, in relation to a Convention country, means a person or body designated by the Convention country from time to time to be a Central Authority for the purposes of Article 2 of the Hague Convention.

(2) In this Order, **“Convention country”**, **“civil proceedings”** and **“Hague Convention”** have the same meaning as in Order 11A.

### **Application**

2. (1) Subject to subrule (2), this Order applies to the service in a Convention country of a judicial document connected with civil proceedings pending before the Court or before another court of the State.

(2) This Order does not apply where service of a document is effected by an Australian diplomatic or consular authority on a person in a Convention country.

### **Records**

3. (1) The Registrar shall keep at the Registry a Register containing —

- (a) a current list of all Convention countries;
- (b) details of any objections or declarations made by any Convention country;
- (c) the names and addresses of —
  - (i) the foreign Central Authority, or Central Authorities; and
  - (ii) any additional authorities, of each Convention country; and
- (d) a copy of the Hague Convention.

(2) A document that purports to be an extract from the Register referred to in subrule (1) shall be evidence of the matters stated in it.

### **Documents required to be filed**

4. (1) A person (in this Order called the **“requesting party”**) who requires a judicial document connected with civil proceedings in Australia to be served in a Convention country must file with the Registrar the following documents —

- (a) an application, in accordance with subrule (2), requesting service of the document in a specified Convention country;
- (b) a request for service, in accordance with subrule (3), for signature by the Registrar;
- (c) the document to be served;

- (d) a summary (in accordance with Form 5D in the Second Schedule) of the document to be served;
- (e) a warning statement (in accordance with Form 5F in the Second Schedule attached to, or incorporated in, the summary referred to in paragraph (d)) indicating the importance of the document to be served, its legal nature, that it may affect the rights and obligations of the person on whom it is served and the possibility of legal aid or advice being available;
- (f) two copies of the documents referred to in paragraphs (b), (c), (d) and (e); and
- (g) where a foreign Central Authority of the country to which the request is addressed requires the document to be served, to be written in, or translated into, an official language of that country, a translation, into an official language of that country, of the documents referred to in paragraphs (b), (c), (d) and (e).

(2) The application requesting service of the document shall contain a written undertaking, signed by —

- (a) where there is a solicitor on the record for the requesting party — that solicitor; and
- (b) in any other case — the requesting party;

to —

- (c) be personally liable for all costs that are incurred in relation to the service of the document requested to be served, by —
  - (i) the employment of a judicial officer or other person competent, under the law of the Convention country in which the document is to be served; or
  - (ii) the use of a particular method of service;
- and
- (d) pay the amount of those costs to the Registrar within 14 days of receiving notification of the amount of those costs from the Registrar.

(3) The request for service referred to in paragraph (1) (b) must —

- (a) be in accordance with Form 5C in the Second Schedule; and
- (b) be completed (except for signature) by the requesting party; and
- (c) state whether the requesting party wants service to be attempted where the period for entering an appearance has expired; and
- (d) indicate where additional information may be obtained regarding the address of the person to be served, if the person cannot be traced from the address supplied; and
- (e) be addressed to —
  - (i) a foreign Central Authority; or
  - (ii) a foreign additional authority,  
of the Convention country in which the person is to be served,

and may state whether the requesting party requires a certificate of service that is completed by a person or body other than a foreign Central Authority or a judicial authority of the Convention country to be countersigned by a foreign Central Authority or a judicial authority of that country.

(4) A translation referred to in paragraph (1) (g) shall bear a certificate (in the same language as the language used in the translation) signed by the translator stating —

- (a) that the translation is an accurate translation of the document; and
- (b) the translator's full name and address and his or her qualifications for making the translation.

#### **Procedure on filing application requesting service etc.**

5. (1) Where the documents referred to in Rule 4 are filed with the Registrar, the Registrar shall, if he or she is satisfied that the documents comply with the requirements of this Order —

- (a) sign the request for service; and
  - (b) forward —
    - (i) the request for service, duly signed;
    - (ii) the document to be served;
    - (iii) the documents referred to in Rule 4 (1) (d) and (e) and where appropriate the documents referred to in Rule 4 (1) (g); and
    - (iv) a copy of the documents referred to in subparagraphs (i), (ii) and (iii);
- to —
- (v) where the requesting party has asked for the request to be addressed to a foreign additional authority nominated by the requesting party — that additional authority; or
  - (vi) in any other case — a foreign Central Authority in the Convention country in which service of the document is requested.

(2) Where the Registrar is not satisfied that the filed documents comply with the requirements of this Order he or she must inform the requesting party of the respects in which the documents fail to comply with those requirements.

#### **Procedure on receipt of certificate in respect of service**

6. (1) When a certificate in respect of service, being a certificate in accordance with Form 5E in the Second Schedule that has been completed by a foreign Central Authority or a designated authority in the Convention country in which service was requested, is received by a Registrar, the Registrar shall —

- (a) file the original certificate of service in the record of the proceedings in respect of which the request was made; and
- (b) send a copy of the certificate to the solicitor for the requesting party, or where there is no solicitor on the record for the requesting party, to the requesting party.

(2) When the Registrar receives from the Convention country in which service of the document was requested a statement of costs in respect of the service requested being costs of a kind referred to in Rule 4 (2) the Registrar shall send to the solicitor or requesting party, as the case may be, who gave the undertaking referred to in Rule 4 (2) a notification of the amount of those costs incurred.

#### **Payment of costs**

7. (1) The solicitor or requesting party, as the case may be, must, upon receipt of notification under Rule 6 (2), pay the amount of the costs to the Registrar within 14 days of receipt of the notification.

(2) If the solicitor or requesting party fails to pay the costs requested within 14 days of the receipt of the notification —

- (a) the requesting party may not take any further action in the proceedings until those costs are paid to the Registrar under subrule (1); and
- (b) the Registrar may take such steps as he or she considers appropriate to enforce the undertaking for payment of those costs.

#### **Evidence of service**

8. Where a Registrar receives a certificate of service in accordance with Rule 6 certifying that service of the document to be served was effected on a specified date, the certificate shall be sufficient proof that —

- (a) service of the document was effected, in the manner specified in the certificate, on that date; and
- (b) if the method of service of the document was a particular method requested by the requesting party, that method is compatible with the law in force in the Convention country in which service was effected.

#### **Application of Rules generally**

9. To the extent that these Rules (other than the Rules under this Order) are inconsistent with the Rules under this Order, the firstmentioned Rules do not apply to the service of a document to which, under Rule 2, this Order applies.

### **ORDER 11C**

#### **JUDGMENTS IN DEFAULT OF APPEARANCE WHERE ORIGINATING PROCESS IS TRANSMITTED FOR SERVICE UNDER THE HAGUE CONVENTION**

#### **Definitions**

1. (1) In this Order —

“defendant”, in relation to a request for service abroad of an originating process, means the person on whom that originating process was requested to be served;

“originating process” means a document by which proceedings are commenced;

“proceedings” includes a claim against a third party;



**“service abroad of an originating process”** means the service under Order 11B in a Convention country, of an originating process in civil proceedings pending before the Court.

(2) In this Order —

- (a) **“Convention country”, “civil proceedings”** and **“Hague Convention”** have the same meaning as in Order 11A; and
- (b) **“designated authority”, “foreign additional authority”** and **“foreign Central Authority”** have the same meaning as in Order 11B.

### **Application**

2. This Order applies to the entry of judgments in default of appearance where an originating process has been transmitted under Rule 5 (1) (b) of Order 11B to a foreign Central Authority or a foreign additional authority.

### **Power to enter judgment in default of appearance where a certificate of service has been filed**

3. (1) Judgment in default of appearance may not be entered unless —

- (a) the originating process was served —
  - (i) by a method of service prescribed by the internal law of the Convention country in which service was effected for the service of documents in domestic actions upon persons who are within its territory;
  - (ii) by some other method requested in the request for service, where such a method is compatible with the law in force in the Convention country in which service was effected and under which the document was actually delivered to the defendant or his residence; or
  - (iii) by delivery to the defendant who accepted it voluntarily; and
- (b) the originating process was served in sufficient time to enable the defendant to defend the proceedings.

(2) In subrule (1) (b), **“sufficient time”** means 42 days or such lesser time as the Court considers, in the circumstances, to be a sufficient time to enable the defendant to defend the proceedings.

### **Filing of certificate of service deemed to be compliance with certain other Rules**

4. The filing of a certificate of service under Rule 6 (a) of Order 11B is deemed to be sufficient compliance with any Rule requiring details of service of an originating process to be endorsed on the originating process.

### **Power to enter judgment in default of appearance where a certificate of service has not been filed**

5. Where, in relation to a request for service abroad of an originating process, a certificate of service has not been received

by the Registrar, the Court may enter judgment in default of appearance by the defendant if the Court is satisfied that —

- (a) the originating process was transmitted to a foreign Central Authority or foreign additional authority under Rule 5 (1) (b) of Order 11B;
- (b) a period that the Court considers adequate in the circumstances of the particular case (being a period of not less than 6 months) has elapsed since the date on which originating process was so transmitted; and
- (c) every reasonable effort has been made to obtain such a certificate from the foreign Central Authority, or foreign additional authority to which the originating process was transmitted, or other competent authority of the Convention country in which service was requested to be effected.

#### Interlocutory Orders

6. Rule 5 does not limit the Court's powers to make interlocutory, provisional or protective orders.

#### Setting aside a judgment in default of appearance

7. (1) Where a judgment has been entered under Rule 5 against a defendant who has not appeared, the Court may, on the application of the defendant, set aside the judgment if it is satisfied that the defendant —

- (a) without any fault on the defendant's part, did not have knowledge of the originating process in sufficient time to defend the proceedings; and
- (b) has a *prima facie* defence to the action on the merits.

(2) An application to have a judgment set aside under this Rule may be brought only within such period of time after the defendant acquires knowledge of the judgment as the Court considers reasonable in the circumstances.

(3) Nothing in this Rule affects any other power of the Court to set aside or vary a judgment.

#### Application of Rules generally

8. (1) Subject to subrule (2), to the extent that these Rules (other than the Rules under this Order) are inconsistent with the Rules under this Order, the firstmentioned Rules do not apply to the entry of judgments in default of appearance to which, under Rule 2, this Order applies.

(2) The power of the Court to enter judgment in default of appearance under this Order against a person who is under a disability is subject to the provisions of these Rules that restrict the Court's power to enter judgment in default of appearance against such a person.

#### Order 37 amended

6. Order 37 of the principal rules is amended in Rule 8 (1) (b) by deleting paragraph (b) and substituting the following paragraph —

- “ (b) the affidavit shall not, without the leave of the Court, be read or made use of in any proceeding unless both the deponent and the person before whom the affidavit was sworn have initialled the alteration, and, in the case of an

erasure, any words or figures written on the erasure have been re-written in the margin of the affidavit and both the deponent and the person before whom the affidavit was sworn have signed or initialled them. ”.

#### Order 47 amended

7. Order 47 of the principal rules is amended in Rule 13 (1) by deleting paragraph (b).

#### Order 63 amended

8. Order 63 of the principal rules is amended in Rule 13 by deleting “transcript” whenever it occurs in Rule 13 and in each place substituting the following —

“ appeal book ”.

#### Order 65 amended

9. Order 65 of the principal rules is amended in Rule 9 (1) (b) by deleting “2” and substituting the following —

“ 3 ”.

#### Order 66 amended

10. Order 66 of the principal rules is amended —

(a) by repealing Rule 11 and substituting the following Rule —

#### Scale of Costs Cf. W.A. O.LXV, R.17.

“ 11. (1) For the purposes of this Order —

“any relevant scale” means any scale regulating the remuneration of practitioners admitted to practice under the *Legal Practitioners Act 1893* in or for the purposes of proceedings before the Court.

(2) Except when otherwise ordered, solicitors are, subject to these Rules, entitled to charge and be allowed the fees set forth in any relevant scale in respect of the matters referred to in that scale and higher fees shall not be allowed in any case, except such as are by this Order otherwise provided for.

(3) Subject to the provisions of the *Legal Practitioners Act 1893*, permitting a solicitor to make a written agreement as to costs with his client, and to the provisions of these Rules, the fees allowed under any relevant scale shall apply both as between party and party, and solicitor and client; but where additional costs (including expenses and counsel fees) have been incurred which in the opinion of the Taxing Officer are not properly recoverable against the party liable under the judgment or order to pay costs, but have nevertheless been properly incurred, or where costs have been incurred at the special request of the client, or in contesting and reducing a claim, those costs shall be recoverable from the client; and the Taxing Officer is hereby authorized to fix such sum as he thinks reasonable to cover the additional costs.

(4) Subject to the provisions of this Order, and to any order made by the Court and the terms of any relevant scale, the fees prescribed by any relevant scale cover all work done, whether by the solicitor or by counsel.

(5) An allowance to a witness for his attendance at a trial or hearing shall be calculated in accordance with the scale of witness fees in force at the time of the trial or hearing. ”;

(b) in Rule 12 by repealing subrule (1) and substituting the following subrule —

“ (1) Where the Court is of opinion that a Special Order as to costs should be made by reason of the unusual complexity or importance of the case or for any other good or sufficient reason the Court may order that any particular allowances in any relevant scale be raised or a limit removed and in giving any such direction the Court may fix a limit within which the Taxing Officer may allow such costs. ”;

(c) in Rule 13 by deleting “the scale in the Fourth Schedule” and substituting the following —

“ any relevant scale ”;

(d) by repealing Rule 16;

(e) in Rule 18 (1) and Rule 19 by deleting “the scale in the Fourth Schedule” and substituting in each place the following —

“ any relevant scale ”;

(f) in Rule 21 —

(i) by deleting “Items 13, 14 (a) and 14 (f) in the scale in the Fourth Schedule apply only where there is a substantial trial.”; and

(ii) by deleting “of such items” and substituting the following —

“ relevant scale ”;

(g) in Rule 23 by deleting “the scale in the Fourth Schedule” and substituting the following —

“ any relevant scale ”; and

(h) in Rule 54 by inserting after subrule (4) the following subrule —

“ (5) If a party fails to appear on the taxation the Taxing Officer may, upon an application in that behalf made in writing within 7 days, set aside or vary his certificate of taxation on such terms as he thinks just. ”.

#### Order 77 amended

11. Order 77 of the principal rules is amended in Rule 4 (2) (b) —

(a) by deleting “30” and substituting the following —

“ 42 ”; and

(b) by deleting “Commissioner” and substituting the following —

“ Court ”.

**Second Schedule amended**

12. The Second Schedule to the principal rules is amended by inserting after Form No. 5 the following forms —

No. 5A

0.11A, R.1.

**REQUEST**

**FOR SERVICE ABROAD OF JUDICIAL OR  
EXTRAJUDICIAL DOCUMENTS**

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, 15 November 1965.

Identity and address of the Applicant
---------------------------------------

Address of receiving authority
--------------------------------

The undersigned applicant has the honour to transmit — in duplicate — the documents listed below and, in conformity with article 5 of the abovementioned Convention, requests prompt service of one copy thereof on the addressee, i.e.,

(identity and address) .....

- (a) in accordance with the provisions of subparagraph (a) of the first paragraph of article 5 of the Convention\*.
- (b) in accordance with the following particular method (subparagraph (b) of the first paragraph of article 5)\*:
 

.....

.....
- (c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5)\*.

The authority is requested to return or to have returned to the applicant a copy of the documents — and of the annexes\* — with a certificate as provided on the reverse side.

*List of documents*  
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Done at ....., the .....  
Signature and/or stamp.

\*Delete if inappropriate.

No. 5B

DEMANDE

AUX FINS DE SIGNIFICATION OU DE NOTIFICATION A L'ÉTRANGER D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée a La Haye, le 15 Novembre 1965.

Identité et adresse du requérant

Adresse de l'autorité destinataire

Le requérant soussigné a l'honneur de faire parvenir—en double exemplaire—à l'autorité destinataire les documents ci-dessous énumérés, en la priant, conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, à savoir:

(identité et adresse) .....

- a) selon les formes légales (article 5, alinéa premier, lettre a)\*.
b) selon la forme particulière suivante (article 5, alinéa premier, lettre a)\*: ...
c) le cas échéant, par remise simple (article 5, alinéa 2)\*.

Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte—et de ses annexes “—avec l'attestation figurant au verso.

Énumération des pièces
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Fait à ....., le .....
Signature et/ou cachet

\*Rayer les mentions inutiles.

No. 5C

O.11B., R.4 (3).

REQUEST

FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, 15 November 1965.

Identity and address of the applicant

Address of receiving authority

1. The undersigned applicant has the honour to transmit — in duplicate — the documents listed below and, in conformity with article 5 of the abovementioned Convention, requests prompt service of one copy thereof on the addressee, i.e.,

(identity and address) .....

(a) In accordance with the provisions of subparagraph (a) of the first paragraph of article 5 of the Convention\*.

(b) In accordance with the following particular method (subparagraph (b) of the first paragraph of article 5)\*: .....

(c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5)\*.

2. The authority is requested to return or to have returned to the applicant a copy of the documents — and of the annexes\* — with a certificate as provided on the reverse side.

3. The authority is requested to attempt\*/not to attempt\* service where the period for entering an appearance has expired.

4. Where the addressee cannot be traced from the address set out in clause 1, additional information regarding the correct address may be obtained from .....

5. Where a certificate referred to in clause 2 is completed by a person or body other than a Central Authority or judicial authority, the certificate is required\*/not required\* to be countersigned by the Central Authority or a judicial authority.

List of documents

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Done at ....., the .....

Signature and/or stamp.

\* Delete if inappropriate.

No. 5D

O.11A., R.3 (1) (iv).  
O.11B., R.4 (1) (d).

SUMMARY OF THE DOCUMENT TO BE SERVED

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, on 15 November, 1965.

Name and address of the requesting authority: .....

Particulars of the parties\*: .....

JUDICIAL DOCUMENT\*\*

Nature and purpose of the document: .....

Nature and purpose of the proceedings and, where appropriate, the amount in dispute: .....

Date and place for entering appearance\*\*: .....

Court which has given judgment\*\*: .....

Date of judgment\*\*: .....

Time limits stated in the document\*\*: .....

EXTRAJUDICIAL DOCUMENT\*\*

Nature and purpose of the document: .....

Time limits stated in the document\*\*: .....

\* If appropriate, identity and address of the person interested in the transmission of the document.

\*\* Delete if inappropriate.



No. 5E

O.11A., R.6 (a).  
O.11B., R.6 (1).

*Reverse of the request for service*

CERTIFICATE

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention,

(1) that the document has been served\*

— the (date) .....

— at (place, street, number) .....

— In one of the following methods authorized by article 5 —

(a) in accordance with the provisions of subparagraph (a) of the first paragraph of article 5 of the Convention\*.

(b) in accordance with the following particular method\*:  
.....

(c) by delivery to the addressee, who accepted it voluntarily\*.

The documents referred to in the request have been delivered to:

— (Identity and description of person): .....

— Relationship to the addressee (family, business or other): .....

(2) that the document has not been served, by reason of the following facts\*:  
.....

In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement\*.

*Annex II*

Documents returned: .....

.....

In appropriate cases, documents establishing the service: .....

.....

Done at ....., the.....

Signature and/or stamp.

\* Delete if inappropriate.

No. 5F

O.11B., R.4 (1) (e).

## WARNING STATEMENT

identité et adresse du destinataire  
*identity and address of the addressee*



## TRÈS IMPORTANT

LE DOCUMENT CI-JOINT EST DE NATURE JURIDIQUE ET PEUT AFFECTER VOS DROITS ET OBLIGATIONS. LES ÉLÉMENTS ESSENTIELS DE L'ACTE VOUS DONNENT QUELQUES INFORMATIONS SUR SA NATURE ET SON OBJECT. IL EST TOUTEFOIS INDISPENSABLE DE LIRE ATTENTIVEMENT LE TEXTE MÊME DU DOCUMENT. IL PEUT ÊTRE NÉCESSAIRE DE DEMANDER UN AVIS JURIDIQUE.

SI VOS RESSOURCES SONT INSUFFISANTES, RENSEIGNEZ-VOUS SUR LA POSSIBILITÉ D'OBTENIR L'ASSISTANCE JUDICIAIRE ET LA CONSULTATION JURIDIQUE SOIT DANS VOTRE PAYS SOIT DANS LE PAYS D'ORIGINE DU DOCUMENT.

LES DEMANDES DE RENSEIGNEMENTS SUR LES POSSIBILITÉS D'OBTENIR L'ASSISTANCE JUDICIAIRE OU LA CONSULTATION JURIDIQUE DANS LE PAYS D'ORIGINE DU DOCUMENT PEUVENT ÊTRE ADRESSÉES:.....

## IMPORTANT

*THE ENCLOSED DOCUMENT IS OF A LEGAL NATURE AND MAY AFFECT YOUR RIGHTS AND OBLIGATIONS. THE SUMMARY OF THE DOCUMENT TO BE SERVED WILL GIVE YOU SOME INFORMATION ABOUT ITS NATURE AND PURPOSE. YOU SHOULD HOWEVER READ THE DOCUMENT ITSELF CAREFULLY. IT MAY BE NECESSARY TO SEEK LEGAL ADVICE.*

*IF YOUR FINANCIAL RESOURCES ARE INSUFFICIENT YOU SHOULD SEEK INFORMATION ON THE POSSIBILITY OF OBTAINING LEGAL AID OR ADVICE EITHER IN THE COUNTRY WHERE YOU LIVE OR IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED.*

*ENQUIRIES ABOUT THE AVAILABILITY OF LEGAL AID OR ADVICE IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED MAY BE DIRECTED TO:.....*

Il est recommandé que les mentions imprimées dans cette note soient rédigées en langue française et en langue anglaise et le cas échéant, en outre, dans la langue ou une des langues officielles de l'État d'origine de l'acte. Les blancs pourraient être remplis soit dans la langue de l'État où le document doit être adressé, soit en langue française, soit en langue anglaise.

It is recommended that the standard terms in the notice be written in English and French and where appropriate also in the official language, or in one of the official languages of the State in which the document originated. The blanks could be completed either in the language of the State to which the document is to be sent, or in English or French.

Dated the 4th day of November 1991.

DAVID K. MALCOLM.  
 G. A. KENNEDY.  
 W. P. PIDGEON.  
 B. ROWLAND.  
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