

## THE BEACH CLUB LOYALTY PROGRAM TERMS & CONDITIONS

**BY SIGNING UP TO THE BEACH CLUB LOYALTY PROGRAM, OR REDEEMING ANY REWARD AWARDED TO YOU AS PART OF THE BEACH CLUB LOYALTY PROGRAM YOU ARE DEEMED TO HAVE ACCEPTED AND TO BE BOUND BY THESE TERMS AND CONDITIONS OF USE AND SEAFOLLY/SUNBURN'S PRIVACY POLICIES. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS YOU SHOULD NOT SIGN UP AS A MEMBER OF THE BEACH CLUB LOYALTY PROGRAM OR ATTEMPT TO REDEEM ANY REWARD ISSUED UNDER THESE TERMS.**

### DEFINITIONS

"12 Month Spend Balance" means a Member's net cumulative spend (i.e. after all redeemed Rewards, discounts, returns and other similar deductions have been applied) on Valid Purchases in the currency of the country in which the Valid Purchase was made in the previous 12 months. For example, a Member's 12 Month Spend Balance as at the period 1 November 2018 will be their cumulative spend on Valid Purchases during the period from 1 November 2017 to 23:59:59 on 31 October 2018. A Member's 12 Month Spend Balance is reviewed daily and any Valid Purchases outside of this period will be disregarded. A Valid Purchase made in-store is added to a Member's 12 Month Spend Balance on the day the Valid Purchase is made and a Valid Purchase made online or by manual mail order is added to the Member's 12 Month Spend Balance on the day the order resulting from the Valid Purchase is dispatched (and not the date it is ordered).

"Afterpay" means the payment platform known as "Afterpay" owned and operated by Afterpay Touch Group Limited ABN 30 618 280 649.

"Anniversary" means that date that occurs every 12 months from the later of (a) that Member's Join Date or (b) the date the Member's most recent change in Tier (if that Member changes Tier after their Join Date or their immediately preceding "Anniversary").

"Benefits" means any benefits given to the Members under The Beach Club Loyalty Program.

"Effective Date" means 15 November 2018;

"Excluded Stores" means the Seafolly stores located in Melbourne Central (Victoria) and Charlestown Square (New South Wales), together with any Seafolly concession stores located in Myer retail outlets or accessible through Myer Online.

"Join Date" means the date an individual becomes a Member in accordance with clauses 17, 18 and 19.

"Member" means an individual who signs up to The Beach Club Loyalty Program.

"Member Account" means the collective details of a Member (including, but not limited to, Member Details) as maintained by Seafolly/Sunburn (in any manner it thinks fit) including for the purposes of administering The Beach Club Loyalty Program.

"Member Details" means any information (including personal information) about a Member such as family and given name(s), email address, birth date, phone number, postal address, clothing sizes and Purchasing Information.

"Member Terms and Conditions" mean the terms and conditions set out in this agreement, as updated through or on Seafolly/Sunburn Online from time to time.

"Purchasing Information" means information relating to an individual's purchases, including (but not limited to) details of SKUs and products purchased, receipts and other purchasing behaviour information.

"Seafolly/Sunburn" means Seafolly Pty Ltd ABN 43 001 537 748, Sunburn Pty Ltd ABN 26 133 111 583 or its authorised representatives.

"Seafolly/Sunburn Online" refers to the web pages (including online stores) maintained by Seafolly/Sunburn where details of all relevant and up-to-date terms and conditions (including those relevant to the Beach Loyalty Program can be found, being <https://www.seafolly.com/au/terms>, <https://www.sunburnswimwear.com.au/terms-and-conditions>

"Technical Issues" means the technical malfunction of any telephone network, connection or lines, computer on line systems, servers, or providers, computer equipment, software, technical problems or traffic congestion on the internet or at any web site or intranet site.

"The Beach Club Loyalty Program" means the loyalty program operated by Seafolly/Sunburn providing Members with access to exclusive benefits and rewards.

"Tiers" means the tier status of a Member determined by clauses 40, 41 and 42.

"Valid Purchases" means all purchases (other than purchases of gift cards and not including discounts on, or costs of delivery for, any purchase), including those made using Afterpay, made by a Member at a Seafolly/Sunburn retail store, Seafolly/Sunburn outlet store or Seafolly/Sunburn Online (but excluding all purchases made at Excluded Stores and purchases of selected merchandise which Seafolly/Sunburn determines will not be eligible to earn Rewards or be included as part of the 12 Month Spend Balance).

"Rewards" refers to Rewards given to Members as a consequence of purchasing behaviours, incentives and/or promotions. Members are notified of their entitlement to Rewards via email or otherwise through their Member Account (if possible).

## **GENERAL**

1. All queries relating to membership and the administration of The Beach Club Loyalty Program (including in respect of cancellation of membership and/or complaints) can be directed to Seafolly/Sunburn's Customer Service team on 1300 420 811 (if contacting from within Australia) or +61 2 9291 8309, or by sending an email to [thebeachclub@seafolly.com.au](mailto:thebeachclub@seafolly.com.au).
2. These Member Terms and Conditions set out the operation of The Beach Club Loyalty Program operated by Seafolly/Sunburn, and any promotional activity and loyalty transactions that arise as a consequence of The Beach Club Loyalty Program.
3. Individuals who join The Beach Club Loyalty Program agree to be bound by these Member Terms and Conditions.
4. These Member Terms and Conditions may be modified at any time by Seafolly/Sunburn in its absolute discretion. Seafolly/Sunburn will notify Members in writing of any such modifications no later than 14 days prior to the date that such modifications are to take effect.
5. Seafolly/Sunburn will not accept any liability for non-receipt of a Member's email due to such email being misdirected, lost or not received for any other reason.
6. Seafolly/Sunburn accepts no liability for any Technical Issues that may cause damage to any computer related to or used in connection with The Beach Club Loyalty Program.
7. Seafolly/Sunburn may collect personal information from Members for the purpose of facilitating The Beach Club Loyalty Program. Any personal information collected will be handled in accordance with Seafolly and Sunburn's respective Privacy Policies - <https://www.seafolly.com/au/privacy-policy.html> <https://www.sunburnswimwear.com.au/privacy-policy.html>, which contains information about how Members may seek to access or correct their personal information held by Seafolly/Sunburn or complain about a breach of their privacy, and how Seafolly/Sunburn will deal with that complaint. By joining The Beach Club Loyalty Program, an individual consents to Seafolly/Sunburn contacting them to

provide them with consumer or marketing information or notify them of Rewards or other products and special offers, for an indefinite period, unless otherwise advised by the Member (or former Member, as the case may be). Unless otherwise indicated by Seafolly/Sunburn, Seafolly/Sunburn may disclose personal information overseas including to United States, Singapore and France, and it cannot guarantee that any overseas recipient will comply with the Australian Privacy Principles, and despite this, you consent for this to occur and agree not to hold Seafolly/Sunburn liable in this regard.

8. Seafolly/Sunburn reserves the right to cancel, terminate, modify or suspend The Beach Club Loyalty Program or any part of it or at its election, to payout any Rewards or reset 12 Month Spend Balances. Seafolly/Sunburn will notify Members of any such cancellation, modification, or suspension no later than 14 days prior to any such action being taken by giving written notice (including by email) to Members.
9. Seafolly/Sunburn may, at any time and in its absolute discretion, require a Member to provide proof of identification (in a form reasonably requested by Seafolly/Sunburn) for Seafolly/ Sunburn to verify the authenticity of a Member's membership and compliance with the Member Terms and Conditions. Failure to provide proof of identification may result in immediate termination of a Member's membership in The Beach Club Loyalty Program and all Rewards linked to such membership will be immediately forfeited.
10. Seafolly/Sunburn is not liable for any tax liability incurred by a Member in connection with its involvement in, or use of, The Beach Club Loyalty Program, including in connection with the provision and/or utilisation of Rewards.
11. These Member Terms and Conditions are to be read in conjunction with any additional conditions associated with Seafolly/Sunburn including, without limitation, all terms and conditions found at Seafolly/Sunburn Online including "Delivery & Returns", "Terms and Conditions" and "Privacy Policy" for each of Seafolly and Sunburn (all of which are incorporated into these Terms and Conditions). To the extent of any inconsistency between these Member Terms and Conditions and other Seafolly/Sunburn terms and conditions or policies, these Member Terms and Conditions prevail.
12. Seafolly/Sunburn's decision on all matters arising in relation to membership of, use of the rights that are subject to, and exit from, The Beach Club Loyalty Program is final and binding.
13. Any failure or delay by Seafolly/Sunburn to exercise its rights under these Member Terms and Conditions does not constitute a waiver of those rights. Any waiver by Seafolly/Sunburn must be in writing and signed by a duly authorised officer of Seafolly/Sunburn.
14. Nothing in these Member Terms and Conditions is intended to contravene any applicable law. To the extent that any provisions in these Member Terms and Conditions is invalid or unenforceable, it is to be read down so as to be valid and enforceable, and otherwise must be severed to the extent of any invalidity or unenforceability, without affecting the remaining provisions of these Member Terms and Conditions.

## **MEMBERSHIP**

15. Membership of The Beach Club Loyalty Program is open to individuals who are 18 years or older with a unique email address and who are residents of Australia, Singapore or United States.
16. Members of The Beach Club Loyalty Program may record their spend and utilise benefits of The Beach Club Loyalty Program by: providing a valid email address and a form of identification displaying the Member's name and address (for Valid Purchases made in-store); or making purchases at Seafolly/Sunburn Online using an active Member Account maintained for such Member by Seafolly/Sunburn.
17. On and from the Effective Date, an individual for whom Seafolly/Sunburn collects (or already holds) Member Details will, at Seafolly/Sunburn's discretion, be signed-up for membership to The Beach Club Loyalty Program as constituted by these Member Terms and Conditions. If such individual does not

agree to these Member Terms and Conditions, they may cancel their membership at any time, by contacting Seafolly/Sunburn's Customer Service Team (at the details provided in clause 1 above).

18. An individual can sign up online for membership of The Beach Club Loyalty Program by visiting Seafolly/Sunburn Online, creating a Member Account and agreeing to the Member Terms and Conditions.
19. An individual becomes a Member in-store when a Seafolly/Sunburn sales consultant records the individual's Member Details at the point of sale (with the individual's consent). Other details may be optionally recorded. For the avoidance of doubt, a person shopping at an Excluded Store will not be offered, and cannot become, a Member at that Excluded Store.
20. It is the Member's responsibility to ensure their Member Account is up-to-date with correct Member Details. If a Member has not provided or updated Seafolly/Sunburn with correct details, Seafolly/Sunburn may not be able to contact the Member about their membership, Rewards, special offers or entry to competitions. A Member can update their details in-store or by contacting Seafolly/Sunburn's Customer Service Team (at the details provided in clause 1 above).
21. At the Effective Date or Join Date (as the case may be), a Member will be allocated to a Tier based on their 12 Month Spend Balance as at that date. Details of the Tiers are outlined in clauses 40, 41 and 42 below.
22. At any time, Members may only have one membership account to The Beach Club Loyalty Program. Members may not transfer their membership or Rewards to another person.
23. Seafolly/Sunburn reserves the absolute right to modify, refuse or cancel a Member's membership to The Beach Club Loyalty Program at its absolute discretion by giving written notice (including by email) to the Member no later than 14 days prior to the date on which such modification, refusal or cancellation is to take effect.
24. A Member may cancel their membership at any time by contacting Seafolly/Sunburn's Customer Service Team (at the details provided in clause 1 above).
25. Upon cancellation of an individual's membership in accordance with clauses 17, 23 or 24 (for any reason):
  - a. all Rewards linked to that individual's Member Account will be forfeited immediately; and
  - b. that individual's Member Account will be anonymised and Seafolly/Sunburn will retain all Purchasing Information.

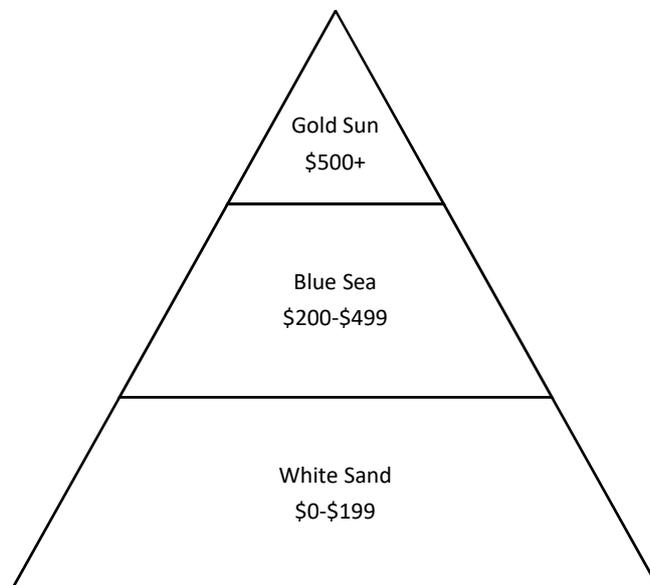
#### **EARNING REWARDS**

26. The Beach Club Loyalty Program operates by attributing different Rewards (as nominated by Sunburn/Seafolly from time to time) to the various Tiers of The Beach Club Loyalty Program.
27. Rewards will be issued electronically and linked to an individual's Member Account.
28. Members are allocated to Tiers on the basis of their 12 Month Spend Balance.
29. Where a Valid Purchase is made in-store, Rewards will be issued based on the date the order is made in-store and the Member's Profile is updated (approximately 24 hours after the Valid Purchase is made).
30. Where a Valid Purchase is made online, Rewards will be issued based on the day the order is dispatched (not made) and will be loaded onto the Member's account approximately 24 hours after the order is dispatched (not the date it is ordered). For example, the Member will receive the Reward approximately 24 hours after they receive notification that their order has been dispatched.
31. The currency applicable of the Reward(s) earned will be in the currency of the country in which the Member transacts. For example, a Valid Purchase made in the United States or on a United States domiciled webpage will earn Rewards in USD.

32. Seafolly/Sunburn will endeavour to notify the Member via email when the Member is entitled to a Reward or has qualified for a change to a different Tier. If a Member unsubscribes from receiving emails from Seafolly/Sunburn, they will only be able to view their Reward balance by asking a member of staff in a Seafolly/Sunburn retail store, by contacting Seafolly/Sunburn's Customer Care Team or any other method Seafolly/Sunburn directs from time to time.
33. At its sole discretion, Seafolly/Sunburn may update a Member Account by adding any bonus Reward (or gift) as a consequence of a Member's purchasing behaviour, incentive and/or other promotional activities (in addition to any Rewards the Member is entitled as a result of their Tier status).
34. Seafolly/Sunburn reserves the right to withdraw, cancel or vary Rewards without notice and at any time for any reason whatsoever in its absolute discretion including without limitation Rewards awarded in error or Rewards earned fraudulently.
35. Rewards cannot be sold, transferred or assigned and are not redeemable for cash or any other like instruments, including (but not limited to) gift vouchers, gift cards, cheques and credit notes. Rewards are not legal tender in any country.
36. Rewards cannot be earned using other Rewards as part of the transaction and any purchase completed using a Reward does not contribute towards a Member's 12 Month Spend Balance, to the extent of the monetary value of the relevant Reward.
37. Rewards can be earned from Valid Purchases using Afterpay.
38. When a Member returns a purchase in-store or via post (in compliance with all of Seafolly/Sunburn's delivery and returns policies), the net amount of the transaction that relates to the relevant return will be deducted from the Member's 12 Month Spend Balance and any Reward that was previously awarded having regard to the value of the returned item(s), will be adjusted or reversed.
39. If an online order is cancelled for any reason, Seafolly/Sunburn may adjust or reverse Rewards that were previously awarded to a Member in that transaction.

**TIERS & ASSOCIATED REWARDS**

40. Members are allocated to Tiers on the basis of their 12 Month Spend Balance (a Member's 'status') in the following manner and as depicted in the pyramid diagram below:
  - a. Gold Sun Status: Members whose 12 Month Spend Balance is \$500 or more
  - b. Blue Sea Status: Members whose 12 Month Spend Balance is \$200 or more, but less than \$500;
  - c. White Sand Status: Members whose 12 Month Spend Balance is \$199 or less.



41. A Member may move at any time to a higher Tier, when that Member's 12 Month Spend Balance qualifies them to move to the higher Tier.
42. On each Member's Anniversary, a Member's status will be determined by the Member's 12 Month Spend Balance since joining the Tier they are currently in and the Member will, depending on the Member's 12 Month Spend Balance, either retain their status or be moved down to a different Tier. The Member's status will then remain in that Tier until the next Anniversary unless the Member's 12 Month Spend Balance qualifies the Member to move to a higher Tier.
43. All Valid Purchases will contribute to a Member's 12 Month Spend Balance.

#### **\$20 Sign Up Reward**

44. When a Member joins The Beach Club Loyalty Program, they will be awarded a \$20 Reward (**Sign Up Reward**) to redeem off any full price merchandise in Seafolly/Sunburn stores, including Seafolly/Sunburn outlet stores, or at Seafolly/Sunburn Online in accordance with these Member Terms and Conditions.
45. For Members signing up in-store, the Sign Up Reward will be redeemed at point of sale in Seafolly/Sunburn stores, on the day of sign up. This offer can only be used once. If a Member signs up in-store, the \$20 Sign Up Reward cannot be redeemed online.
46. For Members signing up online, the Sign Up Reward will be sent via email within 24 hours of signing up and is available for a one-time use only. To redeem the Sign Up Reward online, the Member must be signed in to their Member Account, and the Sign Up Reward can be applied at cart at the shopping bag or at the point of checkout, prior to submitting payment. The Sign Up Reward will expire 90 days after the date of its issue.

#### **\$20 Reward for every \$150 spent**

47. For every \$150 spent (excluding any applicable discounts) on Valid Purchases in store or online across Seafolly and/or Sunburn, a Member will receive a \$20 Reward (each a **Transaction Reward**). These purchases will contribute to the Member's 12 Month Spend Balance.
48. A Member's 12 Month Spend Balance is calculated on a daily basis and if they are eligible for a reward or multiple rewards, Seafolly/Sunburn will use its best endeavours to procure that a notification email will be sent the next day. Rewards will be issued in multiples of \$20 and expire 90 days after the date of issue.
49. Rewards cannot be earned using other Rewards as part of the transaction. For example, if a Member purchases an item of \$150, using \$130 in cash and \$20 in rewards, only \$130 of the transaction value will form part of the Member's 12 Month Spend Balance.

#### **Free Shipping & Returns**

50. All Members of The Beach Club Loyalty Program are eligible for free shipping for all orders made online where the delivery address of the order is located within a country that Seafolly/Sunburn Online ships to per current delivery terms. <https://www.sunburnswimwear.com.au/delivery-returns>, <https://www.seafolly.com/au/delivery-returns.html>

#### **BENEFITS OF WHITE SAND STATUS**

51. In addition to the Sign Up Reward and Transaction Rewards (from time to time), Members with 'White Sand' status are eligible to receive A \$20 'Birthday Reward' (**Birthday Reward**).
52. The Birthday Reward is issued once every 12 months, on the first day of the Member's birthday month (the Member must have provided a valid date of birth at the time of membership sign up to receive this Reward).
53. The Birthday Reward expires 30 days after date of issue.

## **BENEFITS OF BLUE SEA STATUS**

54. In addition to the Sign Up Reward and Transaction Rewards (from time to time) Members with 'Blue Sea' status are also eligible to receive the following benefits and rewards:
- \$15 'Welcome Reward' issued every time the Member changes Tier to Blue Sea status (from a lower or higher Tier) which expires 90 days after date of issue;
  - \$15 'Anniversary Reward' issued on the Member's Anniversary, which expires 90 days after date of issue;
55. \$30 Birthday Reward: A \$30 reward is issued once every 12 months, on the first day of the Member's birthday month (the Member must have provided a valid date of birth at the time of membership sign up to receive this Reward). The reward expires 30 days after date of issue; and
- eligibility for access to exclusive offers and competitions via email notifications from time to time.

## **BENEFITS OF GOLD SUN STATUS**

56. In addition to the Sign Up Reward and Transaction Rewards (from time to time), Members with 'Gold Sun' status are eligible to receive the following benefits and rewards:
- \$20 'Welcome Reward': issued every time the Member changes Tier to Gold Sun status (from a lower or higher Tier) which expires 90 days after date of issue;
  - \$20 'Anniversary Reward': issued on the Member's Anniversary, which expires 90 days after date of issue;
57. \$40 Birthday Reward: A \$40 reward is issued once every 12 months, on the first day of the Member's birthday month (the Member must have provided a valid date of birth at the time of membership sign up to receive this Reward). The reward expires 30 days after date of issue;
- eligibility for access to exclusive offers and competitions via email notifications; and
  - eligibility for an 'Ultimate Beach Gift' (available once a year). A Member will be notified via email when gift is available to redeem in store and this gift will have a minimum retail value of \$130.

## **REDEMPTION OF REWARDS**

58. Rewards can only be redeemed at Seafolly/Sunburn retail stores in Australia, Singapore, USA and at Seafolly/Sunburn Online. Rewards cannot be redeemed in Seafolly/Sunburn outlets stores (with the exclusion of the \$20 Sign Up Reward, as stated in clause 44) or in any Excluded Store (unless otherwise indicated).
59. To redeem a Reward at Seafolly/Sunburn Online, a Member must ensure they are logged into their Member Account when transacting.
60. Rewards can only be redeemed in the currency of the country in which the Valid Purchase was made. For example, if a Member transacts in Singapore and earns a SGD \$20 Reward, that Reward is only redeemable in a Seafolly store in Singapore or online at Seafolly.com/sg
61. When redeeming any applicable Reward, the Reward will be applied proportionally across each item purchased, based on the percentage each item's represents of your total purchase. This means that a redeemed Reward will not be split equally across all items purchased.
62. Rewards cannot be redeemed in conjunction with any other offer unless otherwise indicated.
63. Rewards cannot be redeemed against purchases of gift vouchers, or shipping and postage.
64. Rewards cannot be redeemed as payment for any part of a layby purchase.

65. All Rewards have an expiry date as indicated by the Rewards in each Tier at which point they will no longer be available for redemption. Seafolly/Sunburn reserves the right to change the expiry date and will give Members 14 days' prior written notice by email in the event of any such change.
66. Only Rewards earned from one membership can be redeemed per transaction.
67. Seafolly/Sunburn will not be held responsible or liable if Rewards are not able to be redeemed for whatever reason but specifically, in the case of a Technical Issue including without limitation the failure of software or hardware or an EFTPOS malfunction.
68. Rewards can only be redeemed once.
69. Seafolly/Sunburn reserves the right in its absolute discretion to exclude certain items and promotions from being redeemed by using Rewards.
70. Returns: If a Member returns a purchase for reasons other than that the goods are faulty or incorrectly described (in which case the provisions of (a) to (d) below do not apply) and otherwise in accordance with any policies concerning deliveries and returns for each of Seafolly and/or Sunburn:
  - a. any Reward redeemed or utilised during the purchase will be forfeited;
  - b. any Reward redeemed or utilised during the original purchase can be honoured for an exchange if the exchange takes place on the day as the return, otherwise it will be forfeited;
  - c. any Reward that was earned from the original purchase and is still active will be reversed; and
  - d. any Reward that may otherwise have been obtained (such as through being promoted to a higher Tier) will be kept but the Member will have the value of the return transaction deducted from their 12 Month Spend Balance. This may result in the Member having a negative 12 Month Spend Balance.

#### **LIMITATION OF LIABILITY**

71. Each Member has certain rights under the Australian Consumer Law which cannot be excluded and are not affected by these Member Terms and Conditions. Except for those statutory rights, any conditions implied by any other laws are excluded from these Member Terms and Conditions. To the maximum extent permitted by law, neither Seafolly, Sunburn or their respective officers, employees, contractors, agents or advisers will be liable to any Member (or any other person) for any loss or damage (whether direct, indirect or consequential) howsoever caused, nor will Seafolly/Sunburn be in default under these Member Terms and Conditions, for failure to observe or perform any of Seafolly/Sunburn's obligations under these Member Terms and Conditions for any reason or cause, except if caused by Seafolly/Sunburn's gross negligence. To the extent permitted by law, if Seafolly/Sunburn is liable to a Member, Seafolly/Sunburn's maximum aggregate liability is limited to the value of Rewards which have been issued to (but not used by) the Member in accordance with these Terms and Conditions at the relevant time.

#### **APPLICABLE LAW**

72. These Member Terms and Conditions are to be construed and enforced in accordance with the laws of Victoria, Australia. Any dispute in connection with The Beach Club Loyalty Program is exclusively subject to the jurisdiction of the courts of Victoria, Australia. The Member waives any rights to:
  - a. object to the venue of any proceedings; or
  - b. claim that the proceedings have been brought in an inconvenient forum or that the courts of another place are a more convenient forum,

if the proceedings have been brought in a court referred to in this clause 72.