

SCHEDULE 3 JURISDICTION AND PRIVATE INTERNATIONAL LAW

Applicable law

- 4 (1) The law governing the existence, extent, modification and extinction of continuing or welfare powers of attorney (including like powers, however described) shall be that of the State in which the granter habitually resided at the time of the grant of these powers.
- (2) Where, however, the granter of such a power of attorney so provides in writing, the law so applicable shall instead be the law of a State—
- (a) of which the granter is a national;
 - (b) in which the granter was habitually resident before the grant; or
 - (c) in which the property of the granter is located.
- (3) The manner of exercise of such a power shall be governed by the law of the State in which its exercise takes place.
- (4) The law of a State may be applied under sub-paragraph (2)(c) above only in respect of the property referred to in that provision.
- (5) Nothing in sub-paragraphs (1) and (2) prevents the sheriff from exercising powers under section 20 of this Act if a power of attorney is not being exercised so as to safeguard the welfare or property of the granter.
- (6) It is not an objection to the validity of any contract or other transaction between a person acting or purporting to act as the representative of an adult and any other person that the person so acting or purporting to act was not entitled so to act under the law of a country other than the country where the contract or other transaction was concluded.
- (7) Sub-paragraph (6) does not, however, apply where the other person knew or ought to have known that the entitlement so to act of the person acting or purporting to act as representative was governed by the law of that other country.
- (8) Sub-paragraph (6) applies only if the persons entering into the contract or other transaction were, when they did so, both (or all) in the same country.