SCHEDULES

SCHEDULE 9

International protection of adults

Part 3

Applicable law

Applicable law

12. In exercising jurisdiction under this Schedule, the court may, if it considers that the matter has a substantial connection with a country other than Northern Ireland and having regard to the interests of the adult, apply the law of that other country.

13. Where a protective measure is taken in one country but implemented in another, the conditions of implementation are governed by the law of the other country.

Lasting powers of attorney, etc

14.—(1) If the donor of a lasting power is habitually resident in Northern Ireland at the time of granting the power, the law applicable to the existence, extent, modification or extinction of the power is—

(a) the law of Northern Ireland; or

(b) if the donor specifies in writing the law of a connected country for the purpose, that law.

(2) If the donor is habitually resident in another country at that time, but Northern Ireland is a connected country, the law applicable in that respect is—

(a) the law of the other country; or

(b) if the donor specifies in writing the law of Northern Ireland for the purpose, that law.

(3) A country is connected, in relation to the donor, if it is a country—

(a) of which the donor is a national;

(b) in which the donor was habitually resident before the grant of the power; or

(c) in which the donor has property.

(4) Where this paragraph applies as a result of sub-paragraph (3)(c), it applies only in relation to the property which the donor has in the connected country.

(5) The law applicable to the manner of the exercise of a lasting power is the law of the country where it is exercised.

(6) In this Part, "lasting power" means—

(a) a lasting power of attorney (see section 97);

(b) an enduring power of attorney (as defined by section 306(1)); or

(c) any other power of like effect.

15.—(1) Where a lasting power is not exercised in a manner sufficient to guarantee the protection of the person or property of the donor, the court, in exercising jurisdiction under this Schedule, may disapply or modify the power.

(2) Where, in accordance with this Part, the law applicable to the power is, in one or more respects, that of a country other than Northern Ireland, the court must, so far as possible, have regard to the law of the other country in that respect (or those respects).

16. Regulations may provide for Schedule 4 (lasting powers of attorney: formalities) to apply with modifications in relation to a lasting power which comes within paragraph 14(6)(c).

Protection of third parties

17.—(1) This paragraph applies where a person (a "representative") in purported exercise of an authority to act on behalf of an adult enters into a transaction with a third party.

(2) The validity of the transaction may not be questioned in proceedings, nor may the third party be held liable, merely because—

(a) where the representative and third party are in Northern Ireland when entering into the transaction, sub-paragraph (3) applies;

(b) where they are in another country at that time, sub-paragraph (4) applies.

(3) This sub-paragraph applies if—

(a) the law applicable to the authority in one or more respects is, as a result of this Schedule, the law of a country other than Northern Ireland; and

(b) the representative is not entitled to exercise the authority in that respect (or those respects) under the law of that other country.

(4) This sub-paragraph applies if—

(a) the law applicable to the authority in one or more respects is, as a result of this Part, the law of Northern Ireland; and

(b) the representative is not entitled to exercise the authority in that respect (or those respects) under that law.

(5) This paragraph does not apply if the third party knew or ought to have known that the applicable law was—

(a) in a case within sub-paragraph (3), the law of the other country;

(b) in a case within sub-paragraph (4), the law of Northern Ireland.

Mandatory rules

18. Where the court is entitled to exercise jurisdiction under this Schedule, the mandatory provisions of the law of Northern Ireland apply, regardless of any system of law which would otherwise apply in relation to the matter.

Public policy

19. Nothing in this Part requires or enables the application in Northern Ireland of a provision of the law of another country if its application would be manifestly contrary to public policy.