

SCHEDULES

SCHEDULE 4

Section 16

TITLE II OF 1968 CONVENTION AS MODIFIED FOR ALLOCATION OF JURISDICTION WITHIN U.K

TITLE II

JURISDICTION

SECTION 1

GENERAL PROVISIONS

ARTICLE 2

Subject to the provisions of this **Title**, persons domiciled in a **part of the United Kingdom** shall ... be sued in the courts of that part.

.....

ARTICLE 3

Persons domiciled in a **part of the United Kingdom** may be sued in the courts of another **part of the United Kingdom** only by virtue of the rules set out in Sections 2, 4, 5 and 6 of this Title.

.....

SECTION 2

SPECIAL JURISDICTION

ARTICLE 5

A person domiciled in a **part of the United Kingdom** may, in another **part of the United Kingdom**, be sued:

- (1) in matters relating to a contract, in the courts for the place of performance of the obligation in question ;
- (2) in matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which, according to its own law, has jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties ;

- (3) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred **or in the case of a threatened wrong is likely to occur** ;
- (4) as regards a civil claim for damages or restitution which is based on an act giving rise to criminal proceedings, in the court seised of those proceedings, to the extent that that court has jurisdiction under its own law to entertain civil proceedings ;
- (5) as regards a dispute arising out of the operations of a branch, agency or other establishment, in the courts for the place in which the branch, agency or other establishment is situated;
- (6) in his capacity as a settlor, trustee or beneficiary of a trust created by the operation of a statute, or by a written instrument, or created orally and evidenced in writing, in the courts of the **part of the United Kingdom** in which the trust is domiciled;
- (7) as regards a dispute concerning the payment of remuneration claimed in respect of the salvage of a cargo or freight, in the court under the authority of which the cargo or freight in question
 - (a) has been arrested to secure such payment, or
 - (b) could have been so arrested, but bail or other security has been given;
 provided that this provision shall apply only if it is claimed that the defendant has an interest in the cargo or freight or had such an interest at the time of salvage ;
- (8) **in proceedings—**
 - (a) **concerning a debt secured on immovable property; or**
 - (b) **which are brought to assert, declare or determine proprietary or possessory rights, or rights of security, in or over movable property, or to obtain authority to dispose of movable property,****in the courts of the part of the United Kingdom in which the property is situated.**

ARTICLE 5A

Proceedings which have as their object a decision of an organ of a company or other legal person or of an association of natural or legal persons may, without prejudice to the other provisions of this Title, be brought in the courts of the part of the United Kingdom in which that company, legal person or association has its seat.

ARTICLE 6

A person domiciled in a **part of the United Kingdom** may, **in another part of the United Kingdom**, also be sued:

- (1) where he is one of a number of defendants, in the courts for the place where any one of them is domiciled;
- (2) as a third party in an action on a warranty or guarantee or in any other third party proceedings, in the court seised of the original proceedings, unless these were instituted solely with the object of removing him from the jurisdiction of the court which would be competent in his case ;
- (3) on a counterclaim arising from the same contract or facts on which the original claim was based, in the court in which the original claim is pending.

ARTICLE 6A

Where by virtue of this Title a court of a **part of the United Kingdom** has jurisdiction in actions relating to liability arising from the use or operation of a ship, that court, or any other court substituted for this purpose by the internal law of that **part**, shall also have jurisdiction over claims for limitation of such liability.

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SECTION 4

JURISDICTION OVER CONSUMER CONTRACTS

ARTICLE 13

In proceedings concerning a contract concluded by a person for a purpose which can be regarded as being outside his trade or profession, hereinafter called " the consumer " , jurisdiction shall be determined by this Section, without prejudice to the provisions of Articles . . . 5(5) **and (8) (b)**, if it is:

- (1) a contract for the sale of goods on instalment credit terms, or
- (2) a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods, or
- (3) any other contract for the supply of goods or a contract for the supply of services and ... the consumer took in **the part of the United Kingdom in which he is domiciled** the steps necessary for the conclusion of the contract.

.....

This Section shall not apply to contracts of transport **or insurance**.

ARTICLE 14

A consumer may bring proceedings against the other party to a contract either in the courts of the **part of the United Kingdom** in which that party is domiciled or in the courts of the **part of the United Kingdom** in which he is himself domiciled.

Proceedings may be brought against a consumer by the other party to the contract only in the courts of the **part of the United Kingdom** in which the consumer is domiciled.

These provisions shall not affect the right to bring a counterclaim in the court in which, in accordance with this Section, the original claim is pending.

ARTICLE 15

The provisions of this Section may be departed from only by an agreement:

- (1) which is entered into after the dispute has arisen, or
- (2) which allows the consumer to bring proceedings in courts other than those indicated in this Section, or

- (3) which is entered into by the consumer and the other party to the contract, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same **part of the United Kingdom**, and which confers jurisdiction on the courts of that **part**, provided that such an agreement is not contrary to the law of that **part**.

SECTION 5

EXCLUSIVE JURISDICTION

ARTICLE 16

The following courts shall have exclusive jurisdiction, regardless of domicile:

- (1) in proceedings which have as their object rights *in rem* in, or tenancies of, immovable property, the courts of the **part of the United Kingdom** in which the property is situated ;
- (2) in proceedings which have as their object the validity of the constitution, the nullity or the dissolution of companies or other legal persons or associations of natural or legal persons ... the courts of the **part of the United Kingdom** in which the company, legal person or association has its seat;
- (3) in proceedings which have as their object the validity of entries in public registers, the courts of the **part of the United Kingdom** in which the register is kept;
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- (5) in proceedings concerned with the enforcement of judgments, the courts of the **part of the United Kingdom** in which the judgment has been or is to be enforced.

SECTION 6

PROROGATION OF JURISDICTION

ARTICLE 17

If the parties . . . have agreed that a court or the courts of a **part of the United Kingdom** are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, **and, apart from this Schedule, the agreement would be effective to confer jurisdiction under the law of that part**, that court or those courts shall have . . . jurisdiction . . .

The court or courts of a **part of the United Kingdom** on which a trust instrument has conferred jurisdiction shall have . . . jurisdiction in any proceedings brought against a settlor, trustee or beneficiary, if relations between these persons or their rights or obligations under the trust are involved.

Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of Article ... 15, or if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of Article 16.

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Status: This is the original version (as it was originally enacted).

ARTICLE 18

Apart from jurisdiction derived from other provisions of this **Title**, a court of a **part of the United Kingdom** before whom a defendant enters an appearance shall have jurisdiction. This rule shall not apply where appearance was entered solely to contest the jurisdiction, or where another court has exclusive jurisdiction by virtue of Article 16.

SECTION 7

EXAMINATION AS TO JURISDICTION AND ADMISSIBILITY

ARTICLE 19

Where a court of a **part of the United Kingdom** is seised of a claim which is principally concerned with a matter over which the courts of another **part of the United Kingdom** have exclusive jurisdiction by virtue of Article 16, it shall declare of its own motion that it has no jurisdiction.

ARTICLE 20

Where a defendant domiciled in one **part of the United Kingdom** is sued in a court of another **part of the United Kingdom** and does not enter an appearance, the court shall declare of its own motion that it has no jurisdiction unless its jurisdiction is derived from the provisions of this **Title**.

The court shall stay the proceedings so long as it is not shown that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end.

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SECTION 9

PROVISIONAL, INCLUDING PROTECTIVE, MEASURES

ARTICLE 24

Application may be made to the courts of a **part of the United Kingdom** for such provisional, including protective, measures as may be available under the law of that part, even if, under this **Title**, the courts of another **part of the United Kingdom** have jurisdiction as to the substance of the matter.