

*Changes to legislation: There are currently no known outstanding effects for the Civil Jurisdiction and Judgments Act 1982, Cross Heading: Prorogation of jurisdiction. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 8

#### RULES AS TO JURISDICTION IN SCOTLAND

##### Textual Amendments

**F1** Sch. 8 substituted (1.3.2002) by [S.I. 2001/3929](#), arts. 1(b), 4, [Sch. 2 para. 7](#)

##### Modifications etc. (not altering text)

**C1** Sch. 8 applied (with modifications) (1.10.2008) by [The Housing \(Scotland\) Act 2006 \(Consequential Provisions\) Order 2008 \(S.I. 2008/1889\)](#), [art. 5\(3\)](#)

#### *Prorogation of jurisdiction*

- 6 (1) If the parties have agreed that a court is to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court shall have jurisdiction.
- (2) Such an agreement conferring jurisdiction shall be either—
- (a) in writing or evidenced in writing; or
  - (b) in a form which accords with practices which the parties have established between themselves; or
  - (c) in international trade or commerce, in a form which accords with a usage of which the parties are or ought to have been aware and which in such trade or commerce is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade or commerce concerned.
- (3) Any communication by electronic means which provides a durable record of the agreement shall be equivalent to “writing”.
- (4) The court on which a trust instrument has conferred jurisdiction shall have exclusive 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.
- (5) Where an agreement or a trust instrument confers jurisdiction on the courts of the United Kingdom or of Scotland, proceedings to which paragraph (1) or, as the case may be, (4) above applies may be brought in any court in Scotland.
- (6) Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of rule 5 or where rule 5(2) applies.
- 7 (1) Apart from jurisdiction derived from other provisions of this Schedule, a court before whom a defender enters an appearance shall have jurisdiction.

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- (2) This rule shall not apply where appearance was entered to contest jurisdiction, or where another court has exclusive jurisdiction by virtue of rule 5 or where rule 5(2) applies.]

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