

SCHEDULE 2

AMENDMENTS TO THE CIVIL JURISDICTION AND JUDGMENTS ACT 1982

PART II—

JURISDICTION, AND RECOGNITION AND ENFORCEMENT OF JUDGMENTS, WITHIN THE UNITED KINGDOM

3. In section 16 (allocation within UK of jurisdiction in certain civil proceedings)—
 - (a) in subsection (1)—
 - (i) for “Title II of the 1968 Convention” substitute “Chapter II of the Regulation”;
 - (ii) for paragraph (a) substitute—
 - “(a) the subject-matter of the proceedings is within the scope of the Regulation as determined by Article 1 of the Regulation (whether or not the Regulation has effect in relation to the proceedings); and”;
 - (iii) in paragraph (b), for “Article 16 of the 1968 Convention” substitute “Article 22 of the Regulation”;
 - (b) omit subsection (2);
 - (c) in subsection (3)(a)—
 - (i) after “Convention” insert “or Chapter II of the Regulation”; and
 - (ii) after “that Title” insert “or that Chapter”; and
 - (d) in subsection (4), after “subject to” insert “the Regulation.”
4. For Schedule 4 (Title II of 1968 Convention as modified for allocation of jurisdiction within U.K.) substitute—

“SCHEDULE 4

CHAPTER II OF THE REGULATION AS MODIFIED: RULES FOR ALLOCATION OF JURISDICTION WITHIN UK

General

1. Subject to the rules of this Schedule, persons domiciled in a part of the United Kingdom shall be sued in the courts of that part.
2. 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 rules 3 to 13 of this Schedule.

Special jurisdiction

3. A person domiciled in a part of the United Kingdom may, in another part of the United Kingdom, be sued—
 - (a) in matters relating to a contract, in the courts for the place of performance of the obligation in question;
 - (b) 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

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jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties;

- (c) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur;
- (d) 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;
- (e) 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;
- (f) as 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;
- (g) 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—

- (i) has been arrested to secure such payment; or
- (ii) 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;

- (h) in proceedings—
 - (i) concerning a debt secured on immovable property; or
 - (ii) 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.

4. 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 Schedule, be brought in the courts of the part of the United Kingdom in which that company, legal person or association has its seat.

5. A person domiciled in a part of the United Kingdom may, in another part of the United Kingdom, also be sued—

- (a) where he is one of a number of defendants, in the courts for the place where any one of them is domiciled, provided the claims are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings;
- (b) 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;
- (c) on a counter-claim arising from the same contract or facts on which the original claim was based, in the court in which the original claim is pending;
- (d) in matters relating to a contract, if the action may be combined with an action against the same defendant in matters relating to rights in rem in immovable property, in the court of the part of the United Kingdom in which the property is situated.

6. Where by virtue of this Schedule 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.

Jurisdiction over consumer contracts

7.—(1) In matters relating to a contract concluded by a person, the consumer, for a purpose which can be regarded as being outside his trade or profession, jurisdiction shall be determined by this rule and rules 8 and 9, without prejudice to rule 3(e) and (h)(ii), if—

- (a) it is a contract for the sale of goods on instalment credit terms; or
- (b) it is a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods; or
- (c) in all other cases, the contract has been concluded with a person who pursues commercial or professional activities in the part of the United Kingdom in which the consumer is domiciled or, by any means, directs such activities to that part or to other parts of the United Kingdom including that part, and the contract falls within the scope of such activities.

(2) This rule shall not apply to a contract of transport other than a contract which, for an inclusive price, provides for a combination of travel and accommodation, or to a contract of insurance.

8.—(1) 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 the consumer is domiciled.

(2) 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.

(3) The provisions of this rule shall not affect the right to bring a counter-claim in the court in which, in accordance with this rule and rules 7 and 9, the original claim is pending.

9. The provisions of rules 7 and 8 may be departed from only by an agreement—

- (a) which is entered into after the dispute has arisen; or
- (b) which allows the consumer to bring proceedings in courts other than those indicated in those rules; or
- (c) 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.

Jurisdiction over individual contracts of employment

10.—(1) In matters relating to individual contracts of employment, jurisdiction shall be determined by this rule, without prejudice to rule 3(e).

(2) An employer may be sued—

- (a) in the courts of the part of the United Kingdom in which he is domiciled; or
- (b) in the courts of the part of the United Kingdom where the employee habitually carries out his work or in the courts of that part where he last did so; or

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- (c) if the employee does not or did not habitually carry out his work in any one place, in the courts of the part of the United Kingdom where the business which engaged the employee is or was situated.
- (3) An employer may bring proceedings only in the courts of the part of the United Kingdom in which the employee is domiciled.
- (4) The provisions of this rule shall not affect the right to bring a counter-claim in the court in which, in accordance with this rule, the original claim is pending.
- (5) The provisions of this rule may be departed from only by an agreement on jurisdiction—
 - (a) which is entered into after the dispute has arisen; or
 - (b) which allows the employee to bring proceedings in courts other than those indicated in this rule.

Exclusive jurisdiction

- 11.** The following courts shall have exclusive jurisdiction, regardless of domicile :—
- (a) (i) in proceedings which have as their object rights in rem in immovable property or tenancies of immovable property, the courts of the part of the United Kingdom in which the property is situated;
 - (ii) however, in proceedings which have as their object tenancies of immovable property concluded for temporary private use for a maximum period of six consecutive months, the courts of the part of the United Kingdom in which the defendant is domiciled shall also have jurisdiction, provided that the tenant is a natural person and that the landlord and the tenant are domiciled in the same part of the United Kingdom;
 - (b) 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;
 - (c) 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;
 - (d) 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.

Prorogation of jurisdiction

- 12.**—(1) 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.
- (2) 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.
- (3) Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of rule 9, or if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of rule 11.

13.—(1) Apart from jurisdiction derived from other provisions of this Schedule, a court of a part of the United Kingdom before which a defendant enters an appearance shall have jurisdiction.

(2) This rule shall not apply where appearance was entered to contest the jurisdiction, or where another court has exclusive jurisdiction by virtue of rule 11.

Examination as to jurisdiction and admissibility

14. 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 rule 11, it shall declare of its own motion that it has no jurisdiction.

15.—(1) 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 Schedule.

(2) 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.

Provisional, including protective, measures

16. 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 Schedule, the courts of another part of the United Kingdom have jurisdiction as to the substance of the matter.”.

5. In Schedule 5 (proceedings excluded from Schedule 4), in paragraph 6(a)—

(a) after “Article 57”, insert “, or Article 71 of the Regulation,”; and

(b) omit “in the 1968 Convention”.