

---

STATUTORY INSTRUMENTS

---

**2019 No. 469**

**The Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019**

**Revocation and saving of the Cross-Border Mediation (EU Directive) Regulations 2011**

2.—(1) The Cross-Border Mediation (EU Directive) Regulations 2011<sup>(1)</sup> are revoked.

(2) Regulations 8, 9 and 10 of the Cross-Border Mediation (EU Directive) Regulations 2011 continue to apply to the mediation of a dispute to which those Regulations applied immediately before exit day, but with the following modifications.

(3) In regulation 8 (interpretation)—

(a) paragraph (b) is to be read as if for it there were substituted—

““cross-border dispute” has the meaning given by Article 2 of the Mediation Directive<sup>(2)</sup> except that—

- (a) paragraph 1 is to be read as if for “in a Member State other than that of any other party” there were substituted “in the United Kingdom, and at least one other party is domiciled or habitually resident in a Member State”;
- (b) paragraph 2 is to be read as if for “in a Member State” there were substituted “in a country (“country” for these purposes being limited to the United Kingdom or a Member State)”; and
- (c) paragraph 3 is to be read as if for it there were substituted—

“3. For the purposes of paragraphs 1 and 2, domicile is to be determined in accordance with paragraphs 4 to 8.

4. In order to determine whether a party is domiciled in the country (“country” for these purposes being limited to the United Kingdom or a Member State) whose courts are seised of a matter, the court shall apply its internal law.

5. If a party is not domiciled in the country whose courts are seised of the matter, then, in order to determine whether the party is domiciled in another country, the court shall apply the law of that country.

6. For the purposes of paragraphs 1 and 2, a company or other legal person or association of natural or legal persons is domiciled at the place where it has its—

- (a) statutory seat;
- (b) central administration; or
- (c) principal place of business.

---

(1) [S.I. 2011/1133](#).

(2) Any reference in these Regulations to “the Directive” or to “the Mediation Directive” is a reference to [Directive 2008/52/EC](#) of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. O.J. L 136, 24.05.2008, p.3.

7. For the purposes of Ireland, Cyprus and the United Kingdom, “statutory seat” means the registered office or, where there is no such office anywhere, the place of incorporation or, where there is no such place anywhere, the place under the law of which the formation took place.

8. In order to determine whether a trust is domiciled in the country whose courts are seised of the matter, the court shall apply its rules of private international law.”;

(b) paragraph (c) is to be read as if for it there were substituted—

“(c) “mediation” has the meaning given by Article 3(a) of the Mediation Directive except that for the purpose of construing that expression—

(i) Article 3(a) of the Mediation Directive is to be read as if for “the law of a Member State” there were substituted “law”;

(ii) Article 3(b) of the Mediation Directive is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”;

(c) paragraph (h) is to be read as if for it there were substituted—

“(h) “mediator” has the meaning given by Article 3(b) of the Mediation Directive, except that for the purpose of construing that expression—

(i) Article 3(a) of the Mediation Directive is to be read as if for “the law of a Member State” there were substituted “law”;

(i) Article 3(b) of the Mediation Directive is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”;

(d) paragraph (i) is to be read as if, in the definition of “relevant dispute”, for “that is subject” to the end there were substituted “to which the Mediation Directive applied immediately before exit day”.

(4) Regulation 10(b) is to be read as if for “in accordance with Article 7(1)(a) of the Mediation Directive” there were substituted—

“in particular when required to ensure the protection of the best interests of children or to prevent harm to the physical or psychological integrity of a person”.