

*Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2019 No. 0000**

**EXITING THE EUROPEAN UNION  
MEDIATION**

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

*Made - - - - - \*\*\*  
Coming into force in accordance with regulation 1(1)*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 and come into force on exit day.

(2) Any amendment, revocation or modification made by these Regulations has the same extent as the provision amended, revoked or modified.

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

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

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(1) 2018 c. 16.  
(2) S.I. 2011/1133.

““cross-border dispute” has the meaning given by Article 2 of the Mediation Directive(3) 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.

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—

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(3) 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.

“(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”.

### **Revocation and saving of the Cross-Border Mediation Regulations (Northern Ireland) 2011**

**3.—(1)** The Cross-Border Mediation Regulations (Northern Ireland) 2011(4) (“the Northern Ireland 2011 Regulations”) are revoked.

(2) Regulations 2 and 3 of the Northern Ireland 2011 Regulations continue to apply to the mediation of a dispute to which those Regulations applied immediately before exit day, but with the following modifications.

(3) Regulation 2 (interpretation) is to be read—

(a) as if in paragraph (1)—

(i) after the definition of “the Directive” there were inserted—

““mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

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

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

(ii) for the definition of “relevant cross-border dispute” there were substituted—

““relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive 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.

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) as if paragraph (2) were omitted.

(4) Regulation 3 (confidentiality of mediation) is to be read as if for it there substituted—

“3.—(1) A mediator of, or a person involved in the administration of mediation in relation to a relevant cross-border dispute to which these Regulations applied immediately before exit day is not to be compelled in any civil proceedings or arbitration to give evidence, or produce anything, regarding any information arising out of or in connection with that mediation.

(2) Paragraph (1) does not apply—

- (a) where all the parties to the mediation agree otherwise; or
- (b) where—

- (i) compelling the person as mentioned in paragraph (1) is necessary for overriding considerations of public policy, 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; or
- (ii) where disclosure of the content of the agreement resulting from mediation is necessary in order to implement or enforce that agreement.”.

#### **Amendment of enactments specified in Schedule 1**

4. Schedule 1 contains amendments to enactments.

**Mediations begun before exit day: saving and transitional provision**

5.—(1) This regulation applies to a mediation in respect of which any enactment which is amended by Schedule 1 applied immediately before exit day.

- (2) The enactments amended by Schedule 1 apply to that mediation, on and after exit day—
- (a) as if the amendments made by that Schedule do not have effect; and
  - (b) with the modifications specified in Schedule 2.

Date

*Name*  
Parliamentary Under Secretary of State  
Ministry of Justice

## SCHEDULE 1

Regulation 4

## PART 1

## Amendment of primary legislation

**1.** In the Prescription Act 1832(**5**), omit section 8A (exclusion of time because of mediation in certain cross-border disputes).

**2.**—(1) The Land Registration Act (Northern Ireland) 1970(**6**) is amended as follows.

(2) In Schedule 9 (compensation payable under the Act)—

- (a) in paragraph 4(1), omit “and paragraph 4A”;
- (b) omit paragraph 4A.

**3.**—(1) The Equal Pay Act (Northern Ireland) 1970(**7**) is amended as follows.

(2) In section 2ZA, in subsections (3) to (6) (“qualifying date” under section 2(4)), omit “, subject to section 2ZAA,” each time it occurs.

(3) Omit section 2ZAA (extension of time limit: mediation).

**4.**—(1) The Prescription and Limitation (Scotland) Act 1973(**8**) is amended as follows.

(2) In section 22A (ten years’ prescription of obligations), omit subsections (5), (6), (7) and (8).

(3) Omit section 22CB (extension of limitation period 1987 Act actions: mediation).

**5.**—(1) The Sex Discrimination (Northern Ireland) Order 1976(**9**) is amended as follows.

(2) In Article 76 (period within which proceedings to be brought)—

- (a) in paragraphs (1), (3) and (4), for “Subject to Article 76A, an industrial tribunal” substitute “An industrial tribunal”;
- (b) in paragraph (2), for “Subject to Article 76A, a county court” substitute “A county court”.

(3) Omit Article 76A (extension of time limit: mediation).

**6.**—(1) The Matrimonial Causes (Northern Ireland) Order 1978(**10**) is amended as follows.

(2) In Article 55 (extension of section 17 of Married Women’s Property Act 1882) omit “, subject to Article 55A,”.

(3) Omit Article 55A (extension of time limit: mediation).

**7.**—(1) The Limitation Act 1980(**11**) is amended as follows.

(2) In section 10(5) (special time limit for claiming contribution), omit “, 33A”.

(5) 1832 c. 71. Section 8A was inserted by S.I. 2011/1133.

(6) 1970 c. 18. Schedule 9 was amended by S.R. 2011/157. There are other amendments to Schedule 9 which are not relevant for the purpose of these Regulations.

(7) 1970 c. 32. Section 2ZA was inserted by S.R. 2004/171, and amended by S.R. 2011/157. Section 2ZAA was also inserted by S.R. 2011/157.

(8) 1973 c. 52. Section 22A was inserted by paragraph 1 of Schedule 10 to the Consumer Protection Act 1987 (c. 43) and amended by paragraph 6(3) of Schedule 8 to the Bankruptcy (Scotland) Act 2016 (asp 21), section 23(5) of the Arbitration (Scotland) Act 2010 (asp 1), and S.I. 2011/1133. Section 22CB was also inserted by S.I. 2011/1133.

(9) S.I. 1976/1042 (N.I. 15). Article 76 was amended, and Article 76A inserted, by S.R. 2011/157.

(10) S.I. 1978/1045 (N.I. 15); Article 55 was amended, and Article 55A inserted, by S.R. 2011/157.

(11) 1980 c. 58. Section 10(5) was amended by S.I. 2011/1133; that S.I. also amended section 12(3) and inserted section 33A. Section 12 was also amended by paragraph 2 of Schedule 1 to the Consumer Protection Act 1987 (c. 43), and S.I. 2015/1392.

- (3) In section 12(3) (special time limit for actions under Fatal Accidents legislation), omit “, 33A”.
- (4) Omit section 33A (extension of time limits because of mediation in certain cross-border disputes).

- 8.**—(1) The Domestic Proceedings (Northern Ireland) Order 1980(**12**) is amended as follows.
- (2) In Article 35 (time limits for applications), omit “, and subject to Article 35A.”.
  - (3) Omit Article 35A (extension of time: mediation).

- 9.**—(1) The Magistrates’ Courts (Northern Ireland) Order 1981(**13**) is amended as follows.
- (2) In Article 63(1) (time within which debt proceedings may be commenced) omit “and Article 63A”.
  - (3) Omit Article 63A (extension of time limit: mediation).

- 10.**—(1) The Foreign Limitation Periods Act 1984(**14**) is amended as follows.
- (2) In section 1(1)(a) (application of foreign limitation law), for “sections 1A and 1B” substitute “section 1B”.
  - (3) Omit section 1A (extension of limitation periods because of mediation of certain cross-border disputes).

- 11.** In the Limitation (Northern Ireland) Order 1989(**15**), omit Article 51A (extension of time limits: mediation).

- 12.**—(1) The Employment Rights Act 1996(**16**) is amended as follows.
- (2) In section 11 (references to employment tribunals), omit subsection (5)(**17**).
  - (3) In section 23 (complaints to employment tribunals), for subsection (3A)(**18**) substitute—  
“**(3A)** Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2).”.
  - (4) In section 34 (complaints to employment tribunals), for subsection (2A)(**19**) substitute—  
“**(2A)** Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”.
  - (5) In section 48 (complaints to employment tribunals), for subsection (4A)(**20**) substitute—  
“**(4A)** Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (3)(a).”.

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(12) S.I. 1980/563 (N.I. 5). Article 35 was amended by S.R. 2011/157, and Article 35A was inserted by the same instrument.

(13) S.I. 1981/1675 (N.I. 26). Article 63 was amended by S.R. 2011/157, and Article 63A was inserted by the same instrument.

(14) 1984 c. 16. Section 1 was amended by S.I. 2011/1133 and S.I. 2015/1392. Section 1A was also inserted by S.I. 2011/1133.

(15) S.I. 1989/1339 (N.I. 11). Article 51A was inserted by S.R. 2011/157.

(16) 1996 c. 18.

(17) Section 11 was amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) (“the 1998 Act”), paragraph 16 of Schedule 2 to the Enterprise and Regulatory Reform Act 2013 (c. 24) (“the 2013 Act”), paragraph 68 of Schedule 13 to the Pensions Act 2014 (c. 19), S.I. 2011/1133, S.I. 2014/431 and 2018/529.

(18) Section 23 was amended by section 1 of, and paragraph 18 of Schedule 1 to, the 1998 Act, paragraph 17 of Schedule 2 to the 2013 Act, section 129(2) of the Children and Families Act 2014 (c. 6), S.I. 2011/1133 and 2014/3322.

(19) Section 34 was amended by section 1 of the 1998 Act, paragraph 18 of Schedule 2 to the 2013 Act and S.I. 2011/1133.

(20) Section 48 was amended by section 1 of the 1998 Act, section 3 of the Public Interest Disclosure Act 1998 (c. 23), paragraph 11 of Schedule 3 to the Teaching and Higher Education Act 1998 (c. 30), paragraph 1 of Schedule 1 to the Tax Credits Act 2001 (c. 21), section 40(2) of the Employment Relations Act 2004 (c. 24), paragraph 2 of Schedule 1 to the Apprenticeship, Skills, Children and Learning Act 2009 (c. 22) (“the 2009 Act”), section 31(3) of the Growth and Infrastructure Act 2013 (c. 27), section 19(2) of, and paragraphs 18 and 19 of Schedule 2 to, the 2013 Act, section 129(2) of the Children and Families Act 2014 (c. 6) (“the 2014 Act”), paragraph 5 of Schedule 8 to the Enterprise Act 2016 (c. 12), S.I. 1998/1833, and S.I. 2011/1133.

- (6) In section 51 (complaints to employment tribunals), for subsection (2A)(21) substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- (7) In section 54 (complaints to employment tribunals), for subsection (2A)(22) substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- (8) In section 57 (complaints to employment tribunals), for subsection (2A)(23) substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- (9) In section 57ZC (complaint to employment tribunal: agency workers)(24), for subsection (3A) substitute—  
“(3A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (3)(a).”
- (10) In section 57ZF (complaint to employment tribunal) for subsection (3) (25) substitute—  
“(3) Section 207B applies for the purposes of subsection (2)(a).”
- (11) In section 57ZH (complaint to employment tribunal: agency workers), for subsection (4)(26) substitute—  
“(4) Section 207B applies for the purposes of subsection (3)(a).”
- (12) In section 57ZM (complaint to employment tribunal), for subsection (3)(27) substitute—  
“(3) Section 207B applies for the purposes of subsection (2)(a).”
- (13) In section 57ZQ (complaint to employment tribunal: agency workers), for subsection (4)(28) substitute—  
“(4) Section 207B applies for the purposes of subsection (3)(a).”
- (14) In section 57B (complaint to employment tribunal), for subsection (2A)(29) substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- (15) In section 60 (complaints to employment tribunals), for subsection (2A)(30) substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- (16) In section 63 (complaints to employment tribunals) for subsection (2A)(31) substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”

(21) Section 51 was amended by section 1 of the 1998 Act, paragraph 20 of Schedule 2 to the 2013 Act, and [S.I. 2011/1133](#).

(22) Section 54 was amended by section 1 of the 1998 Act, paragraph 21 of Schedule 2 to the 2013 Act, and [S.I. 2011/1133](#).

(23) Section 57 was amended by section 1 of the 1998 Act, paragraph 22 of Schedule 2 to the 2013 Act, section 130(1) of the 2014 Act, and [S.I. 2011/1133](#).

(24) Section 57ZC was inserted by [S.I. 2010/93](#), and amended by paragraph 23 of Schedule 2 to the 2013 Act, and section 130(2) of the 2014 Act.

(25) Section 57ZF was inserted by section 127(1) of the 2014 Act.

(26) Section 57ZH was inserted by section 127(1) of the 2014 Act.

(27) Section 57ZM was inserted by section 128(1) of the 2014 Act.

(28) Section 57ZQ was inserted by section 128(1) of the 2014 Act.

(29) Section 57B was inserted by Part 2 of Schedule 4 to the Employment Relations Act 1999 (c. 26) (“the 1999 Act”), paragraph 24 of Schedule 2 to the 2013 Act, and [S.I. 2011/1133](#).

(30) Section 60 was amended by section 1(2) of the 1998 Act, paragraph 25 of Schedule 2 to the 2013 Act, and [S.I. 2011/1133](#).

(31) Section 63 was amended by section 1(2) of the 1998 Act, paragraph 26 of Schedule 2 to the 2013 Act, and [S.I. 2011/1133](#).



- (17) In section 63C (complaints to employment tribunals) for subsection (2A)(**32**), substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”.
- (18) In section 63I (complaints to employment tribunals), for subsection (7)(**33**) substitute—  
“(7) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies to subsection (5)(a).”.
- (19) In section 70 (complaints to employment tribunals), for subsection (8)(**34**) substitute—  
“(8) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsections (2)(a) and (5)(a).”.
- (20) In section 70A (complaints to employment tribunals: agency workers), for subsection (7A)(**35**) substitute—  
“(7A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsections (2)(a) and (5)(a).”.
- (21) In section 80 (complaints to employment tribunals), for subsection (2A)(**36**) substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply] for the purposes of subsection (2)(a).”.
- (22) In section 80H (complaints to employment tribunals), for subsection (7)(**37**) substitute—  
“(7) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (5)(a).”.
- (23) In section 111 (complaints to employment tribunals), for subsection (2A)(**38**) substitute—  
“(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”.
- (24) In section 164 (claims for redundancy payment), omit subsection (4)(**39**).
- (25) Omit section 207A (extension of time limits because of mediation in certain cross-border disputes)(**40**).
- (26) In section 207B(1) (extension of time limits to facilitate conciliation before institution of proceedings)(**41**), omit from “But it does not apply” to the end.
- 13.** In the Employment Rights (Northern Ireland) Order 1996, omit Article 249A(**42**) (time limits in relation to certain mediated cross-border disputes).

**14.—(1)** The Fair Employment and Treatment (Northern Ireland) Order 1998(**43**) is amended as follows.

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- (32) Section 63C was inserted by section 33 of the Teaching and Higher Education Act 1998 (c. 30), and amended by paragraph 27 of Schedule 2 to the 2013 Act, and [S.I. 2011/1133](#).
- (33) Section 63I was inserted by section 40 of the 2009 Act, amended by paragraph 28 of Schedule 2 to the 2013 Act, and [S.I. 2011/1133](#).
- (34) Section 70 was amended by section 1(2) of the 1998 Act, paragraph 29 of Schedule 2 to the 2013 Act, and [S.I. 2011/1133](#).
- (35) Section 70A was inserted by [S.I. 2010/93](#) and amended by paragraph 30 of Schedule 2 to the 2013 Act.
- (36) Section 80 was amended by Part 1 of Schedule 4 to the 1999 Act, paragraph 31 of Schedule 2 to the 2013 Act and [S.I. 2011/1133](#).
- (37) Section 80H was inserted by section 47 of the Employment Act 2002 (c. 22) (“the 2002 Act”), amended by paragraph 32 of Schedule 2 to the 2013 Act, amended by section 133 of the 2014 Act and [S.I. 2011/1133](#).
- (38) Section 111 was amended by section 1(2) of the 1998 Act, paragraph 33 of Schedule 2 to the 2013 Act, [S.I. 2010/493](#) and [S.I. 2011/1133](#).
- (39) Section 164 was amended by section 1(2) of the 1998 Act, paragraph 34 of Schedule 2 to the 2013 Act and [S.I. 2011/1133](#).
- (40) Section 207A was inserted by [S.I. 2011/1133](#).
- (41) Section 207B was inserted by paragraph 35 of Schedule 2 to the 2013 Act.
- (42) [S.I. 1996/1919 \(N.I.16\)](#). Article 249A was inserted by [S.I. 2011/157](#).
- (43) [S.I. 1998/3162 \(N.I. 21\)](#). Article 46 was amended by [S.I. 2003/2902 \(N.I. 15\)](#) and [S.R. 2011/157](#), which also inserted Article 46A.

- (2) In Article 46 (period within which proceedings must be brought)—
- (a) in paragraph (1), omit “to Article 46A,”;
  - (b) in paragraphs (2), (3) and (4), omit “and to Article 46A,”.
- (3) Omit Article 46A (extension of time limits: mediation).

**15.**—(1) Section 11 of the Employment Relations Act 1999<sup>(44)</sup> (complaint to employment tribunal) is amended as follows.

- (2) For subsection (2A) substitute—
- “(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) of the Employment Rights Act 1996 applies for the purposes of subsection (2)(a).”.
- (3) In subsection (2B), for “sections 207A and” substitute “section”.

**16.**—(1) The Land Registration Act 2002<sup>(45)</sup> is amended as follows.

- (2) In Schedule 6 (registration of adverse possessor)—
- (a) in paragraph 1(1), omit “Subject to paragraph 16,”;
  - (b) in paragraph 1(2), omit “Subject to paragraph 16,”;
  - (c) in paragraph 6 omit sub-paragraph (1A);
  - (d) omit paragraph 16 (extension of time limits because of mediation in certain cross-border disputes).

**17.**—(1) The Equality Act 2010<sup>(46)</sup> is amended as follows.

- (2) In section 118(1) (time limits)<sup>(47)</sup>, for “sections 140A and” substitute “section”.
- (3) In section 123(1) (time limits)<sup>(48)</sup>, for “sections 140A and” substitute “section”.
- (4) In section 129(3) (time limits)<sup>(49)</sup>, for “sections 140A and” substitute “section”.
- (5) Omit section 140A (extension of time limits because of mediation in certain cross-border disputes)<sup>(50)</sup>.
- (6) In section 140B(1) (extension of time limits to facilitate conciliation before institution of proceedings)<sup>(51)</sup>, omit from “But it does not apply” to the end.

## PART 2

### Amendment of subordinate legislation

**18.**—(1) The Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994<sup>(52)</sup> is amended as follows.

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- <sup>(44)</sup> 1999 c. 26. Section 11 was amended by paragraph (1) of Schedule 8 to the 2002 Act, section 37(2) of the 2004 Act, and paragraph 40 of Schedule 2 to the 2013 Act.
- <sup>(45)</sup> 2002 c. 9. Schedule 6 was amended by S.I. 2011/1133.
- <sup>(46)</sup> 2010 c. 15.
- <sup>(47)</sup> Section 118 was amended by section 64 of the 2013 Act, S.I. 2011/1133 and S.I. 2015/1392. There are other amendments which are not relevant for the purposes of these Regulations.
- <sup>(48)</sup> Section 123 was amended by paragraph 43 of Schedule 2 to the 2013 Act and S.I. 2011/1133.
- <sup>(49)</sup> Section 129 was amended by paragraph 44 of Schedule 2 to the 2013 Act and S.I. 2011/1133.
- <sup>(50)</sup> Section 140A was inserted by S.I. 2011/1133.
- <sup>(51)</sup> Section 140B was inserted by paragraph 45 of Schedule 2 to the 2013 Act.
- <sup>(52)</sup> S.I. 1994/1623. This instrument was amended by section 1(2) of the 1998 Act (which, amongst other things, amended its title), S.I. 2011/1133 and S.I. 2014/431. There are other amendments which are not relevant for the purposes of these Regulations.

(2) In article 7 (time within which proceedings may be brought), for “articles 8A and” substitute “article”.

(3) In article 8 (time within which proceedings may be brought), for “articles 8A and” substitute “article”.

(4) Omit article 8A (extension of time limits because of mediation in certain cross-border disputes).

**19.**—(1) The Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994(**53**) is amended as follows.

(2) In article 7, in the opening words, for “articles 8A and” substitute “article”.

(3) In article 8, for “articles 8A and” substitute “article”.

(4) Omit article 8A (extension of time limits because of mediation in certain cross-border disputes).

**20.**—(1) The Working Time Regulations 1998(**54**) are amended as follows.

(2) In regulation 30(2) (remedies), for “regulations 30A and” substitute “regulation”.

(3) Omit regulation 30A (extension of time limits because of mediation in certain cross-border disputes).

**21.**—(1) The Land Registration Rules 2003(**55**) are amended as follows.

(2) In Schedule 8 (modified form of Schedule 6 to the Act applicable to registered rentcharges; registration of adverse possessor)—

(a) in paragraph 1(1), for “Subject to paragraph 13, a person” substitute “A person”;

(b) in paragraph 6, omit sub-paragraph (1A);

(c) omit paragraph 13 (extension of time limits because of mediation in certain cross-border disputes).

**22.**—(1) The Working Time Regulations (Northern Ireland) 2016(**56**) are amended as follows.

(2) In regulation 43(2) (remedies), for “Subject to regulation 44, an” substitute “An”.

(3) Omit regulation 44 (extension of time limits because of mediation in certain cross-border disputes).

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(53) *S.I. 1994/1624*. This instrument was amended by section 1(2) of the 1998 Act (which, amongst other things, amended its title), *S.I. 2011/1133* and *S.I. 2014/431*. There are other amendments which are not relevant for the purposes of these Regulations.

(54) *S.I. 1998/1833*. Regulation 30 was amended by *S.I. 2003/1684*, *S.I. 2004/752*, *S.I. 2007/2079*, *S.I. 2011/1133* and *S.I. 2014/386*. Regulation 30A was inserted by *S.I. 2011/1133*.

(55) *S.I. 2003/1417*. Schedule 8 was amended by *S.I. 2011/1133*.

(56) *S.R. 2016/49*, to which there are amendments not relevant to these Regulations.

## SCHEDULE 2

Regulation 5

## PART 1

## Modification of primary legislation

**Modification of the Prescription Act 1832**

1.—(1) Section 8A of the Prescription Act 1832 (exclusion of time because of mediation in certain cross-border disputes) is modified as follows.

(2) Subsection (1) is to be read as if for it there were substituted—

“(1) In this section—

- (a) “Mediation Directive” means [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,
- (b) “mediation and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”, and
  - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”,
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom, and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in subsection (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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) for paragraph 3 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.

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.”.”.

### **Modification of the Land Registration Act (Northern Ireland) 1970**

2.—(1) Paragraph 4A of Schedule 9 to the Land Registration Act (Northern Ireland) 1970 (compensation payable under the Act) is modified as follows.

(2) Sub-paragraph (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Sub-paragraph (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”.

(4) Sub-paragraph (4) is to be read as if for it there were substituted—

“(4) In this paragraph—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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.

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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.”.

### **Modification of the Equal Pay Act (Northern Ireland) 1970**

3.—(1) Section 2ZAA of the Equal Pay Act (Northern Ireland) 1970 (extension of time limit: mediation) is modified as follows.

(2) Subsection (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Subsection (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”.

(4) Subsection (4) is to be read as if for it there were substituted—

“(4) In this section—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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)”;
- (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.

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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.

### **Modification of the Prescription and Limitation (Scotland) Act 1973**

4.—(1) Section 22A of the Prescription and Limitation (Scotland) Act 1973 (ten years’ prescription of obligations) is modified as follows.

(2) Subsection (8) is to be read as if for it there were substituted—

“(8) In this section—

“the Directive” means [Directive 2008/52/EC](#) of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”;

“relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive which is about an obligation to which a prescriptive period applies by virtue of this section.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 No. 469*

(9) In construing the definition of “relevant cross-border dispute” in subsection (8) Article 2 of the Directive (which defines cross-border disputes for the purposes of the Directive) is to be read as if—

- (a) in paragraph 1 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”; and
- (b) in paragraph 2 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) for paragraph 3 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.

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.”.”.

5.—(1) Section 22CB of the Prescription and Limitation (Scotland) Act 1973 (extension of limitation period 1987 Act actions: mediation) is modified as follows.

(2) Subsection (4) is to be read as if for it there were substituted—

“(4) In this section—

“the Directive” means [Directive 2008/52/EC](#) of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”;



“relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive which is about a matter to which a limitation period applies by virtue of section 22B or 22C.

(5) In construing the definition of “relevant cross-border dispute” in subsection (4) Article 2 of the Directive (which defines cross-border disputes for the purposes of the Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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) for paragraph 3 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.

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.”.

### **Modification of the Sex Discrimination (Northern Ireland) Order 1976**

6.—(1) Article 76A of the Sex Discrimination (Northern Ireland) Order 1976 (extension of time limit: mediation) is modified as follows.

(2) Paragraph (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Paragraph (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”.

(4) Paragraph (4) is to be read as if for it there were substituted—

“(4) In this Article—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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.

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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.

### **Modification of the Matrimonial Causes (Northern Ireland) Order 1978**

7.—(1) Article 55A of the Matrimonial Causes (Northern Ireland) Order 1978 (extension of time limit: mediation) is modified as follows.

(2) Paragraph (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Paragraph (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”.

(4) Paragraph (4) is to be read as if for it there were substituted—

“(4) In this Article—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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.

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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.”.

## Modification of the Limitation Act 1980

**8.**—(1) Section 33A of the Limitation Act 1980 (extension of time limits because of mediation in certain cross-border disputes) is modified as follows.

(2) Subsection (1) is to be read as if for it there were substituted—

“(1) In this section—

- (a) “Mediation Directive” means [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,
- (b) “mediation” and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”, and
  - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”, and
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom, and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in subsection (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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”, and
- (b) in paragraph 2 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) for paragraph 3 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.

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.”.

### **Modification of the Domestic Proceedings (Northern Ireland) Order 1980**

9.—(1) Article 35A of the Domestic Proceedings (Northern Ireland) Order 1980 (extension of time limit: mediation) is modified as follows.

(2) Paragraph (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Paragraph (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”.

(4) Paragraph (4) is to be read as if for it there were substituted—

“(4) In this Article—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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.

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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.

### **Modification of the Magistrates’ Courts (Northern Ireland) Order 1981**

10.—(1) Article 63A of the Magistrates’ Courts (Northern Ireland) Order 1981 (extension of time limit: mediation) is modified as follows.

(2) Paragraph (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Paragraph (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”

(4) Paragraph (4) is to be read as if for it there were substituted—

“(4) In this Article—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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.

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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.

#### **Modification of the Foreign Limitation Periods Act 1984**

11.—(1) Section 1A of the Foreign Limitation Periods Act 1984 (extension of limitation periods because of mediation of certain cross-border disputes) is modified as follows.

(2) Subsection (1) is to be read as if for it there were substituted—

“(1) In this section—

- (a) “Mediation Directive” means [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,
- (b) “mediation and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”, and
  - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”, and
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom, and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in subsection (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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) for paragraph 3 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.

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.”.”

### **Modification of the Limitation (Northern Ireland) Order 1989**

12.—(1) Article 51A of the Limitation (Northern Ireland) Order 1989 (extension of time limits: mediation) is modified as follows.

(2) Paragraph (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Paragraph (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”

(4) Paragraph (4) is to be read as if for it there were substituted—

“(4) In this Article—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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.

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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.

### **Modification of the Employment Rights Act 1996**

13.—(1) Section 207A of the Employment Rights Act 1996 (extension of time limits because of mediation in certain cross-border disputes) is modified as follows.

(2) Subsection (1) is to be read as if for it there were substituted—

“(1) In this section—

- (a) “Mediation Directive” means [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,
- (b) “mediation and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”, and

- (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”, and
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom; and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in subsection (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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)”;
- (c) for paragraph 3 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.

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.”.

### **Modification of the Employment Rights (Northern Ireland) Order 1996**

14.—(1) Article 249A of the Employment Rights (Northern Ireland) Order 1996 time limits in relation to certain mediated cross-border disputes) is modified as follows.

(2) Paragraph (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Paragraph (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”.

(4) Paragraph (4) is to be read as if for it there were substituted—

“(4) In this Article—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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.

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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.”.

## **Modification of the Fair Employment and Treatment (Northern Ireland) Order 1998**

**15.**—(1) Article 46A of the Fair Employment and Treatment (Northern Ireland) Order 1998 (extension of time limits: mediation) is modified as follows.

(2) Paragraph (1)(a) is to be read as if for “relevant cross border dispute” there were substituted “cross-border dispute”.

(3) Paragraph (3) is to be read as if for “relevant cross-border dispute” there were substituted “cross-border dispute”.

(4) Paragraph (4) is to be read as if for it there were substituted—

“(4) In this Article—

“cross-border dispute” has the meaning given by Article 2 of the Directive 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.

**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.”;

“the Directive” means [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;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive, except that for the purpose of construing those expressions—

- (a) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
- (b) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”.

### **Modification of the Land Registration Act 2002**

**16.**—(1) Paragraph 16 of Schedule 6 to the Land Registration Act 2002 (registration of adverse possessor) is modified as follows.

(2) Sub-paragraph (1) is to be read as if for it there were substituted—

“(1) In this paragraph—

- (a) “Mediation Directive” means [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,
- (b) “mediation and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”, and
  - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”, and
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom, and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in paragraph (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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”, and
- (b) in paragraph 2 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) for paragraph 3 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.

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.”.”.

### **Modification of the Equality Act 2010**

17.—(1) Section 140A of the Equality Act 2010 (extension of time limits because of mediation in certain cross-border disputes) is modified as follows.

(2) Subsection (1) is to be read as if for it there were substituted—

“(1) In this section—

- (a) “Mediation Directive” means [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,
- (b) “mediation and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”, and
  - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”, and
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom, and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in subsection (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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”, and
- (b) in paragraph 2 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) for paragraph 3 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.

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.”.”.

## PART 2

### Modification of subordinate legislation

#### **Modification of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994**

18.—(1) Article 8A of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 (extension of time limits because of mediation in certain cross-border disputes) is modified as follows.

(2) Paragraph (1) is to be read as if for it there were substituted—

“(1) In this article—

- (a) “Mediation Directive” means [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;
- (b) “mediation” and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”; and
  - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”;
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom; and

(ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in paragraph (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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) for paragraph 3 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.

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.”.

#### **Modification of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994**

19.—(1) Article 8A of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994 (extension of time limits because of mediation in certain cross-border disputes) is modified as follows.

(2) Paragraph (1) is to be read as if for it there were substituted—

“(1) In this article—

- (a) “Mediation Directive” means [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;
- (b) “mediation” and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—



- (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”;
- (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”;
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom; and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in paragraph (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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) for paragraph 3 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.

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.”.

### **Modification of the Working Time Regulations 1998**

**20.**—(1) Regulation 30A of the Working Time Regulations 1998 (extension of time limits because of mediation in certain cross-border disputes) is modified as follows.

- (2) Paragraph (1) is to be read as if for it there were substituted—

“(1) In this regulation—

- (a) “Mediation Directive” means [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;
- (b) “mediation” and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”;
  - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”; and
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom; and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in paragraph (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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) for paragraph 3 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.

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.”.”.

### **Modification of the Land Registration Rules 2003**

21.—(1) Schedule 8 to the Land Registration Rules 2003 (modified form of Schedule 6 to the Act applicable to registered rentcharges; registration of adverse possessor) is modified as follows.

(2) Paragraph 13 (extension of time limits because of mediation in certain cross-border disputes) is to be read as if for sub-paragraph (1) there were substituted—

“(1) In this paragraph—

- (a) “Mediation Directive” means [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;
- (b) “mediation” and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
  - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”;
  - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”;
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
  - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom; and
  - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in paragraph (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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) for paragraph 3 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.

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.”.”.

### **Modification of the Working Time Regulations (Northern Ireland) 2016**

22.—(1) Regulation 44 of the Working Time Regulations (Northern Ireland) 2016 (extension of time limits because of mediation in certain cross-border disputes) is modified as follows.

(2) Paragraph (1) is to be read as if for it there were substituted—

“(1) In this regulation—

“Mediation Directive” means [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;

“mediation and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—

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

“relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—

- (a) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom; and
- (b) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in paragraph (1), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation Directive) is to be read as if—

- (a) in paragraph 1 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) in paragraph 2 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)”;
- (c) for paragraph 3 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.

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.”.”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (c) and (d) of that Act) arising from the withdrawal of the UK from the European Union.

These Regulations revoke the Cross-Border Mediation (EU Directive) Regulations 2011 and the Cross-Border Mediation Regulations (Northern Ireland) 2011 (together “the 2011 Regulations”), subject to saving and transitional provision.

The 2011 Regulations partially implemented [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 (“the Mediation Directive”) in the United Kingdom. (Scotland made provision implementing the Mediation Directive in respect of non-reserved matters in the Cross-Border Mediation (Scotland) Regulations 2011, which these Regulations do not affect).

These Regulations also make amendments to provision which implemented the Mediation Directive relating to limitation periods (in Schedule 1 to these Regulations). The effect of regulation 5 read with Schedule 2 is to enable the continued application, with modification, of the provision amended by Schedule 1 to mediations begun before exit day.

An impact assessment has not been published for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 No. 469*