

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

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 3F

#### TEXT OF THE 2005 HAGUE CONVENTION

##### Textual Amendments

- F1** Sch. 3F inserted (31.12.2020) by Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), **Sch. 3** (with s. 3(1), Sch. 5 para. 7)

#### CONVENTION ON CHOICE OF COURT AGREEMENTS

### CHAPTER I

#### SCOPE AND DEFINITIONS

##### ARTICLE 1

###### *Scope*

- (1) This Convention shall apply in international cases to exclusive choice of court agreements concluded in civil or commercial matters.
- (2) For the purposes of Chapter II, a case is international unless the parties are resident in the same Contracting State and the relationship of the parties and all other elements relevant to the dispute, regardless of the location of the chosen court, are connected only with that State.
- (3) For the purposes of Chapter III, a case is international where recognition or enforcement of a foreign judgment is sought.

##### Article 2

###### *Exclusions from scope*

- (1) This Convention shall not apply to exclusive choice of court agreements—
  - (a) to which a natural person acting primarily for personal, family or household purposes (a consumer) is a party;
  - (b) relating to contracts of employment, including collective agreements.
- (2) This Convention shall not apply to the following matters—
  - (a) the status and legal capacity of natural persons;
  - (b) maintenance obligations;
  - (c) other family law matters, including matrimonial property regimes and other rights or obligations arising out of marriage or similar relationships;

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- (d) wills and succession;
  - (e) insolvency, composition and analogous matters;
  - (f) the carriage of passengers and goods;
  - (g) marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage;
  - (h) anti-trust (competition) matters;
  - (i) liability for nuclear damage;
  - (j) claims for personal injury brought by or on behalf of natural persons;
  - (k) tort or delict claims for damage to tangible property that do not arise from a contractual relationship;
  - (l) rights *in rem* in immovable property, and tenancies of immovable property;
  - (m) the validity, nullity, or dissolution of legal persons, and the validity of decisions of their organs;
  - (n) the validity of intellectual property rights other than copyright and related rights;
  - (o) infringement of intellectual property rights other than copyright and related rights, except where infringement proceedings are brought for breach of a contract between the parties relating to such rights, or could have been brought for breach of that contract;
  - (p) the validity of entries in public registers.
- (3) Notwithstanding paragraph 2, proceedings are not excluded from the scope of this Convention where a matter excluded under that paragraph arises merely as a preliminary question and not as an object of the proceedings. In particular, the mere fact that a matter excluded under paragraph 2 arises by way of defence does not exclude proceedings from the Convention, if that matter is not an object of the proceedings.
- (4) This Convention shall not apply to arbitration and related proceedings.
- (5) Proceedings are not excluded from the scope of this Convention by the mere fact that a State, including a government, a governmental agency or any person acting for a State, is a party thereto.
- (6) Nothing in this Convention shall affect privileges and immunities of States or of international organisations, in respect of themselves and of their property.

### *Article 3*

#### *Exclusive choice of court agreements*

For the purposes of this Convention—

- (a) “exclusive choice of court agreement” means an agreement concluded by two or more parties that meets the requirements of paragraph (c) and designates, for the purpose of deciding disputes which have arisen or may arise in connection with a particular legal relationship, the courts of one Contracting State or one or more specific courts of one Contracting State to the exclusion of the jurisdiction of any other courts;
- (b) a choice of court agreement which designates the courts of one Contracting State or one or more specific courts of one Contracting State shall be deemed to be exclusive unless the parties have expressly provided otherwise;
- (c) an exclusive choice of court agreement must be concluded or documented—
  - (i) in writing; or

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- (ii) by any other means of communication which renders information accessible so as to be usable for subsequent reference;
- (d) an exclusive choice of court agreement that forms part of a contract shall be treated as an agreement independent of the other terms of the contract. The validity of the exclusive choice of court agreement cannot be contested solely on the ground that the contract is not valid.

#### *Article 4*

##### *Other definitions*

- (1) In this Convention, “judgment” means any decision on the merits given by a court, whatever it may be called, including a decree or order, and a determination of costs or expenses by the court (including an officer of the court), provided that the determination relates to a decision on the merits which may be recognised or enforced under this Convention. An interim measure of protection is not a judgment.
- (2) For the purposes of this Convention, an entity or person other than a natural person shall be considered to be resident in the State—
  - (a) where it has its statutory seat;
  - (b) under whose law it was incorporated or formed;
  - (c) where it has its central administration; or
  - (d) where it has its principal place of business.]

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