

*Status: Point in time view as at 20/05/1993.*

*Changes to legislation: Insurance Companies Act 1982 (repealed), SCHEDULE 3A is up to date with all changes known to be in force on or before 10 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

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

#### LAW APPLICABLE TO CERTAIN CONTRACTS OF INSURANCE]

##### Textual Amendments

**F1** Schedule 3A inserted by S.I. 1990/1333, reg. 6(2)

### [<sup>F2</sup>PART I

#### GENERAL BUSINESS]

##### Textual Amendments

**F2** By virtue of S.I. 1993/174, reg. 5(4)(5) the provisions of Sch. 3A have become (20.5.1993) Pt. I of that Sch. under that heading “GENERAL BUSINESS” and Pt. II of Sch. 3A inserted

<sup>X1</sup> *General rules as to applicable law*

##### Editorial Information

**X1** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading.

<sup>X2</sup><sub>1</sub> (1) Where the policy holder has his habitual residence or central administration within the territory of the member State where the risk is situated, the law applicable to the contract is the law of that member State.

However, where the law of that member State so allows, the parties may choose the law of another country.

- (2) Where the policy holder does not have his habitual residence or central administration within the territory of the member State where the risk is situated, the parties to the contract may choose to apply either—
- (a) the law of the member State where the risk is situated, or
  - (b) the law of the country in which the policy holder has his habitual residence or central administration.

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- (3) Where the policy holder carries on a business and the contract covers two or more risks relating to his business which are situated in different member States, the freedom of choice of the law applicable to the contract extends to the laws of those member States and of the country in which he has his habitual residence or central administration.

In this sub-paragraph “business” includes a trade or profession.

- (4) Where the member States referred to in sub-paragraph (2) or (3) grant greater freedom of choice of the law applicable to the contract, the parties may take advantage of that freedom.
- (5) Notwithstanding sub-paragraphs (1) to (3), when the risks covered by the contract are limited to events occurring in a member State other than the member State where the risk is situated, the parties may always choose the law of the former State.
- (6) For risks classified under classes 4, 5, 6, 7, 11 and 12 of Part I of Schedule 2, the parties to the contract may choose any law.

#### **Editorial Information**

- X2** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading

<sup>x3</sup> *Applicable law in the absence of choice*

#### **Editorial Information**

- X3** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading.

- <sup>x42</sup> (1) The choice referred to in paragraph 1 must be expressed or demonstrated with reasonable certainty by the terms of the contract or the circumstances of the case.
- (2) If that is not so, or if no choice has been made, the contract shall be governed by the law of the country (from amongst those considered in the relevant sub-paragraphs) with which it is most closely connected.
- (3) Nevertheless, a severable part of the contract which has a closer connection with another country (from amongst those considered in the relevant sub-paragraphs) may by way of exception be governed by the law of that other country.
- (4) A contract is rebuttably presumed to be most closely connected with the member State where the risk is situated.

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#### Editorial Information

- X4** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading.

#### <sup>x5</sup> *Mandatory rules*

#### Editorial Information

- X5** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading.

- <sup>x6</sup>3 (1) The fact that in the cases referred to in paragraph 1 the parties have chosen a law does not, where all the other elements relevant to the situation at the time of the choice are connected with one member State only, prejudice the application of the mandatory rules of the law of that member State, which means the rules from which the law of that member State allows no derogation by means of a contract.
- (2) Nothing in [F<sup>3</sup>this Part of this Schedule] restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

#### Editorial Information

- X6** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading.

#### Textual Amendments

- F3** Words in Sch. 3 paras. 3(2) substituted (20.5.1993) by S.I. 1993/174, reg. 5(4)(a)

#### <sup>x7</sup> *Supplementary provisions*

#### Editorial Information

- X7** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users

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either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading.

- <sup>x8</sup>4 (1) Where a member State includes several territorial units, each of which has its own rules of law concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.
- (2) The provisions of [<sup>F4</sup>this Part of this Schedule] apply to conflicts between the laws of the different parts of the United Kingdom.

#### Editorial Information

**X8** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading.

#### Textual Amendments

**F4** Words in Sch. 3, para. 4(2) substituted (20.5.1993) by S.I. 1993/174, reg. 5(4)(a)

- <sup>x9</sup>5 (1) Subject to the preceding provisions of [<sup>F5</sup>this Part of this Schedule], a court in a part of the United Kingdom [<sup>F6</sup>shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990;]
- (2) In particular, reference shall be made to [<sup>F7</sup>those provisions]—
- (a) to ascertain for the purposes of paragraph 1(1) and (4) what freedom of choice the parties have under the law of a part of the United Kingdom; and [<sup>F8</sup>those provisions]
- (b) to determine whether the mandatory rules of another member State should be applied in accordance with paragraph 3(1) where the law otherwise applicable is the law of a part of the United Kingdom.

#### Editorial Information

**X9** The existing provisions of Sch. 3A (paras. 1-5) became Sch. 1A Pt. I with effect from 20.05.1993 when a new Pt. I heading was inserted. Versions of those provisions as they stood at any time before that date cannot be accessed by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 20.05.1993 or navigate via the Sch. 3A heading.

#### Textual Amendments

**F5** Words in Sch. 3 para. 5(1) substituted (20.5.1993) by S.I. 1993/174, reg. 5(4)(a)

**F6** Words in Sch. 3 para. 5(1) substituted (20.5.1993) by S.I. 1993/174, reg. 5(4)(b)

**F7** Words in Sch. 3 para. 5(2) substituted (20.5.1993) by S.I. 1993/174, reg. 5(4)(c)

**F8** Words in Sch. 3 para. 5(2) substituted (20.5.1993) by S.I. 1993/174, reg. 5(4)(c)

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## [<sup>F9</sup>PART II

### LONG TERM BUSINESS]

#### Textual Amendments

**F9** Sch. 3A Pt. II (paras. 6-10) inserted (20.5.1993) by S.I. 1993/174, reg. 5(5)

#### *General rules as to applicable law*

- 6 The law applicable to the contract is the law of the member State of the commitment. However, where the law of that member State so allows, the parties may choose the law of another country.
- 7 Where the policy holder is an individual and has his habitual residence in a member State other than that of which he is a national, the parties may choose the law of the member State of which he is a national.

#### *mandatory rules*

- 8 Nothing in this Part of this Schedule restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

#### *supplementary provisions*

- 9 (1) Where a member State includes several territorial units, each of which has its own rules of law concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.
- (2) The provisions of this Part of this Schedule apply to conflicts between the laws of the different parts of the United Kingdom.
- 10 (1) Subject to the preceding provisions of this Part of this Schedule, a court in a part of the United Kingdom shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990].
- (2) In particular, reference shall be made to those provisions to ascertain for the purposes of paragraph 6 what freedom of choice the parties have under the law of a part of the United Kingdom.

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