

Status: Point in time view as at 01/01/1998.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, SCHEDULE 20. (See end of Document for details)

SCHEDULES

^{X1}SCHEDULE 20

Section 101.

LAW APPLICABLE TO CERTAIN CONTRACTS OF INSURANCE

Editorial Information

X1 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

[^{F1X2}PART I

GENERAL MODE OF APPLICATION]

Editorial Information

X2 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

Textual Amendments

F1 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I under the heading “GENERAL BUSINESS BY SOCIETIES TO WHICH SECTION 37(3) APPLIES”

^{X3}General rules as to applicable law

Editorial Information

X3 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

^{X4}1 (1) Where the person (“the person insured”) who has entered into the contract of insurance with a friendly society has his habitual residence [^{F2}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 person insured does not have his habitual residence [^{F2}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 person insured has his habitual residence [^{F2}or central administration].

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- (3) Where the person insured 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 [^{F2}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) above, 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.

Editorial Information

X4 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

Textual Amendments

F2 Words in Sch. 20 Pt. I para. 1 inserted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(a)

^{x5}*Applicable law in the absence of choice*

Editorial Information

X5 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

- ^{x62} (1) The choice referred to in paragraph 1 above 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.

Editorial Information

X6 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

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^{x7}Mandatory rules

Editorial Information

X7 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

- ^{x8}3 (1) The fact that in the cases referred to in paragraph 1 above 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 [^{F3}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

X8 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

Textual Amendments

F3 Words in Sch. 20 Pt. I para. 3(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

^{x9}Supplementary provisions

Editorial Information

X9 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

- ^{x10}4 (1) Where a member State includes several territorial units, each of which has its own rules concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.
- (2) The provisions of [^{F4}this Part of this Schedule] apply to conflicts between the laws of the different parts of the United Kingdom.

Editorial Information

X10 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

Textual Amendments

F4 Words in Sch. 20 Pt. I para. 4(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

- ^{x11}5 (1) Subject to the preceding provisions of [^{F5}this Part of this Schedule], a court in a part of the United Kingdom [^{F6}shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990].

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- (2) In particular, reference shall be made to [^{F7}those provisions]—
- (a) to ascertain for the purposes of paragraph 1 above what freedom of choice the parties have under the law of a part of the United Kingdom; and
 - (b) to determine whether the mandatory rules of another member State should be applied in accordance with paragraph 3(1) above where the law otherwise applicable is the law of a part of the United Kingdom.

Editorial Information

X11 Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

Textual Amendments

F5 Words in Sch. 20 Pt. I para. 5(1) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

F6 Words in Sch. 20 Pt. I para. 5(1) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(c)

F7 Words in Sch. 20 Pt. I para. 5(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(d)

[^{F8}PART II

LONG TERM BUSINESS BY SOCIETIES TO WHICH SECTION 37(2) APPLIES]

Textual Amendments

F8 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

^{F9}General rules as to applicable law

Textual Amendments

F9 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

- ^{F10}6 The law applicable to the contract of insurance is the law of the member State in which the commitment is situated. However, where the law of that member State so allows, the parties may choose the law of another country.

Textual Amendments

F10 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

- ^{F11}7 Where the person who has entered into the contract of insurance 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.

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Textual Amendments

F11 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

^{F12}Mandatory rules

Textual Amendments

F12 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

^{F13}g 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.

Textual Amendments

F13 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

^{F14}Supplementary provisions

Textual Amendments

F14 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

^{F15}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.

Textual Amendments

F15 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

^{F16}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 above what freedom of choice the parties have under the law of a part of the United Kingdom.

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Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, SCHEDULE 20. (See end of Document for details)

Textual Amendments

F16 Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

Status:

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Changes to legislation:

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