

## SCHEDULE 1

Article 3

### THE REGULATION

#### Interpretation

1.—(1) In this Schedule—

“court”, without more, includes a tribunal;

“judgment” has the meaning given by Article 32 of the Regulation;

“magistrates’ court”, in relation to Northern Ireland, means a court of summary jurisdiction;

“maintenance order” means a maintenance judgment within the meaning of the Regulation;

“part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;

“payer”, in relation to a maintenance order, means the person liable to make the payments for which the order provides;

“prescribed” means prescribed by rules of court.

(2) In this Schedule, any reference to a numbered Article or Annex is a reference to the Article or Annex so numbered in the Regulation, and any reference to a sub-division of a numbered Article shall be construed accordingly.

(3) References in paragraphs 2 to 8 to a judgment registered under the Regulation include, to the extent of its registration, references to a judgment so registered to a limited extent only.

(4) Anything authorised or required by the Regulation or paragraphs 2 to 8 to be done by, to or before a particular magistrates’ court may be done by, to or before any magistrates’ court acting for the same petty sessions area (or, in Northern Ireland, petty sessions district) as that court.

#### Modifications etc. (not altering text)

C1 Sch. 1 paras. 1-6 applied (with modifications) (1.3.2002) by [The Civil Jurisdiction and Judgments \(Authentic Instruments and Court Settlements\) Order 2001 \(S.I. 2001/3928\)](#), arts. 1(1), **2(1)-(3)**

#### Enforcement of judgments other than maintenance orders (section 4)

2.—(1) Where a judgment is registered under the Regulation, the reasonable costs or expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.

(2) A judgment registered under the Regulation shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the judgment had been originally given by the registering court and had (where relevant) been entered.

(3) Sub-paragraph (2) is subject to Article 47 (restriction on enforcement where appeal pending or time for appeal unexpired), to paragraph 5 and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under the Regulation may be enforced.

#### Modifications etc. (not altering text)

C1 Sch. 1 paras. 1-6 applied (with modifications) (1.3.2002) by [The Civil Jurisdiction and Judgments \(Authentic Instruments and Court Settlements\) Order 2001 \(S.I. 2001/3928\)](#), arts. 1(1), **2(1)-(3)**

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*Changes to legislation: There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments Order 2001, SCHEDULE 1. (See end of Document for details)*

### Recognition and enforcement of maintenance orders (section 5)

3.—(1) The Secretary of State’s function (under Article 39 and Annex II) of transmitting an application for the recognition or enforcement in the United Kingdom of a maintenance order (made under Article 38) to a magistrates’ court shall be discharged—

- (a) as respects England and Wales and Northern Ireland, by the Lord Chancellor;
- (b) as respects Scotland, by the Scottish Ministers.

(2) Such an application shall be determined in the first instance by the prescribed officer of the court having jurisdiction in the matter.

(3) A maintenance order registered under the Regulation shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the order had been originally made by the registering court.

(4) Sub-paragraph (3) is subject to Article 47 (restriction on enforcement where appeal pending or time for appeal unexpired), to paragraph 5 and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under the Regulation may be enforced.

(5) A maintenance order which by virtue of the Regulation is enforceable by a magistrates’ court in England and Wales shall, subject to the modifications of sections 76 and 93 of the Magistrates’ Courts Act 1980 <sup>M1</sup> specified in sections 5(5B) and 5(5C) of the Act <sup>M2</sup>, be enforceable in the same manner as a magistrates’ court maintenance order made by that court.

In this sub-paragraph “magistrates’ court maintenance order” has the same meaning as in section 150(1) of the Magistrates’ Courts Act 1980 <sup>M3</sup>.

(6) A maintenance order which by virtue of the Regulation is enforceable by a magistrates’ court in Northern Ireland shall, subject to the modifications of Article 98 of the Magistrates’ Courts (Northern Ireland) Order 1981 <sup>M4</sup> specified in section 5(6A) of the Act <sup>M5</sup>, be enforceable as an order made by that court to which that Article applies.

(7) The payer under a maintenance order registered under the Regulation in a magistrates’ court in England and Wales or Northern Ireland shall give notice of any changes of address to the proper officer of that court.

A person who without reasonable excuse fails to comply with this sub-paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

- (8) In sub-paragraph (7) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.

#### Modifications etc. (not altering text)

**C1** Sch. 1 paras. 1-6 applied (with modifications) (1.3.2002) by [The Civil Jurisdiction and Judgments \(Authentic Instruments and Court Settlements\) Order 2001 \(S.I. 2001/3928\)](#), arts. 1(1), **2(1)-(3)**

#### Marginal Citations

**M1** 1980 c. 43; section 76 was amended by the [Criminal Justice Act 1982 \(c. 48\)](#), section 78, [Schedule 16](#) and the [Maintenance Enforcement Act 1991 \(c. 17\)](#), [section 7](#); section 93 was amended by the [Family Law Reform Act 1987 \(c. 42\)](#), section 33(1), [Schedule 2](#), paragraph 84 and the [Maintenance Enforcement Act 1991 \(c. 17\)](#), section 11(1), [Schedule 2](#), paragraph 7.

**Status:** Point in time view as at 01/03/2002.

**Changes to legislation:** There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments Order 2001, SCHEDULE 1. (See end of Document for details)

- M2** Sections 5(5B) and 5(5C) of that Act were inserted by the [Maintenance Enforcement Act 1991 \(c. 17\)](#), section 10, [Schedule 1](#), paragraph 21. Section 5(5B) was also amended by the [Access to Justice Act 1999 \(c. 22\)](#), section 90(1), [Schedule 13](#), paragraph 122.
- M3** This definition was inserted by the [Family Law Reform Act 1987 \(c. 42\)](#), section 33(1), [Schedule 2](#), paragraph 88.
- M4** [S.I. 1981/1675 \(N.I.26\)](#).
- M5** Section 5(6A) was inserted by the [Family Law \(Northern Ireland\) Order 1993 \(S.I. 1993/1576 \(N.I.6\)\)](#), article 11, [Schedule 1](#), paragraph 16(b).

### Appeals under Article 44 and Annex IV (section 6)

4.—(1) The single further appeal on a point of law referred to under Article 44 and Annex IV in relation to the recognition or enforcement of a judgment other than a maintenance order lies—

- (a) in England and Wales or Northern Ireland, to the Court of Appeal or to the House of Lords in accordance with Part II of the [Administration of Justice Act 1969](#)<sup>M6</sup> (appeals direct from the High Court to the House of Lords);
- (b) in Scotland, to the Inner House of the Court of Session.

(2) Paragraph (a) of sub-paragraph (1) has effect notwithstanding section 15(2) of the [Administration of Justice Act 1969](#)<sup>M7</sup> (exclusion of direct appeal to the House of Lords in cases where no appeal to that House lies from a decision of the Court of Appeal).

(3) The single further appeal on a point of law referred to in Article 44 and Annex IV in relation to the recognition or enforcement of a maintenance order lies—

- (a) in England and Wales, to the High Court by way of case stated in accordance with section 111 of the [Magistrates' Courts Act 1980](#);
- (b) in Scotland, to the Inner House of the Court of Session;
- (c) in Northern Ireland, to the Court of Appeal.

#### Modifications etc. (not altering text)

- C1** [Sch. 1 paras. 1-6](#) applied (with modifications) (1.3.2002) by [The Civil Jurisdiction and Judgments \(Authentic Instruments and Court Settlements\) Order 2001 \(S.I. 2001/3928\)](#), arts. 1(1), [2\(1\)-\(3\)](#)

#### Marginal Citations

- M6** [1969 c. 58](#).
- M7** This section was amended by the [Administration of Justice Act 1977](#), section 32, Schedule 5, Part IV.

### Interest on registered judgments (section 7)

5.—(1) Subject to sub-paragraph (3), where in connection with an application for registration of a judgment under the Regulation the applicant shows—

- (a) that the judgment provides for the payment of a sum of money; and
- (b) that in accordance with the law of the Regulation State in which the judgment was given interest on that sum is recoverable under the judgment from a particular date or time,

the rate of interest and the date or time from which it is so recoverable shall be registered with the judgment and, subject to rules of court, the debt resulting, apart from paragraph 2(1), from the registration of the judgment shall carry interest in accordance with the registered particulars.

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**Changes to legislation:** There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments Order 2001, SCHEDULE 1. (See end of Document for details)

(2) Costs or expenses recoverable by virtue of paragraph 2(1) shall carry interest as if they were the subject of an order for the payment of costs or expenses made by the registering court on the date of registration.

(3) Interest on arrears of sums payable under a maintenance order registered under the Regulation in a magistrates' court in England and Wales or Northern Ireland shall not be recoverable in that court, but without prejudice to the operation in relation to any such order of section 2A of the Maintenance Orders Act 1958 <sup>M8</sup> or section 11A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 <sup>M9</sup> (which enable interest to be recovered if the order is re-registered for enforcement in the High Court).

(4) Except as mentioned in sub-paragraph (3), debts under judgments registered under the Regulation shall carry interest only as provided by this paragraph.

**Modifications etc. (not altering text)**

**C1** Sch. 1 paras. 1-6 applied (with modifications) (1.3.2002) by [The Civil Jurisdiction and Judgments \(Authentic Instruments and Court Settlements\) Order 2001 \(S.I. 2001/3928\)](#), arts. 1(1), **2(1)-(3)**

**Marginal Citations**

**M8** 1958 c.39; [section 2A](#) was inserted by the [Civil Jurisdiction and Judgments Act 1982 \(c. 27\)](#), [section 37](#), [Schedule 1](#), Part II.

**M9** 1966 c.53, [section 11A](#) was inserted by the [Civil Jurisdiction and Judgments Act 1982 \(c.27\)](#), [paragraph 7](#) of [Schedule 11](#).

**Currency of payment under registered maintenance orders (section 8)**

6.—(1) Sums payable in the United Kingdom under a maintenance order by virtue of its registration under the Regulation, including any arrears so payable, shall be paid in the currency of the United Kingdom.

(2) Where the order is expressed in any other currency, the amounts shall be converted on the basis of the exchange rate prevailing on the date of registration of the order.

(3) For the purposes of this paragraph, a written certificate purporting to be signed by an officer of any bank in the United Kingdom and stating the exchange rate prevailing on a specified date shall be evidence, and in Scotland sufficient evidence, of the facts stated.

**Modifications etc. (not altering text)**

**C1** Sch. 1 paras. 1-6 applied (with modifications) (1.3.2002) by [The Civil Jurisdiction and Judgments \(Authentic Instruments and Court Settlements\) Order 2001 \(S.I. 2001/3928\)](#), arts. 1(1), **2(1)-(3)**

**Allocation within United Kingdom of jurisdiction with respect to trusts and consumer contracts (section 10)**

7.—(1) The provisions of this paragraph have effect for the purpose of allocating within the United Kingdom jurisdiction in certain proceedings in respect of which the Regulation confers jurisdiction on the courts of the United Kingdom generally and to which section 16 of the Act does not apply.

(2) Any proceedings which by virtue of Article 5(6) (trusts) are brought in the United Kingdom shall be brought in the courts of the part of the United Kingdom in which the trust is domiciled.

(3) Any proceedings which by virtue of the Article 16(1) (consumer contracts) are brought in the United Kingdom by a consumer on the ground that he is himself domiciled there shall be brought in the courts of the part of the United Kingdom in which he is domiciled.

### **Proof and admissibility of certain judgments and related documents (section 11)**

**8.—**(1) For the purposes of the Regulation—

- (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a Regulation State other than the United Kingdom shall without further proof be deemed to be a true copy, unless the contrary is shown; and
- (b) a certificate obtained in accordance with Article 54 and Annex V shall be evidence, and in Scotland sufficient evidence, that the judgment is enforceable in the Regulation State of origin.

(2) A document purporting to be a copy of a judgment given by any such court as is mentioned in sub-paragraph (1)(a) is duly authenticated for the purposes of this paragraph if it purports—

- (a) to bear the seal of that court; or
- (b) to be certified by any person in his capacity as a judge or officer of that court to be a true copy of a judgment given by that court.

(3) Nothing in this paragraph shall prejudice the admission in evidence of any document which is admissible apart from this paragraph.

#### **Modifications etc. (not altering text)**

**C2** Sch. 1 para. 8 applied (with modifications) (1.3.2002) by [The Civil Jurisdiction and Judgments \(Authentic Instruments and Court Settlements\) Order 2001 \(S.I. 2001/3928\)](#), arts. 1(1), **2(4)(5)**

### **Domicile of individuals (section 41)**

**9.—**(1) Subject to Article 59 (which contains provisions for determining whether a party is domiciled in a Regulation State), the following provisions of this paragraph determine, for the purposes of the Regulation, whether an individual is domiciled in the United Kingdom or in a particular part of, or place in, the United Kingdom or in a state other than a Regulation State.

(2) An individual is domiciled in the United Kingdom if and only if—

- (a) he is resident in the United Kingdom; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with the United Kingdom.

(3) Subject to sub-paragraph (5), an individual is domiciled in a particular part of the United Kingdom if and only if—

- (a) he is resident in that part; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that part.

(4) An individual is domiciled in a particular place in the United Kingdom if and only if he—

- (a) is domiciled in the part of the United Kingdom in which that place is situated; and
- (b) is resident in that place.

(5) An individual who is domiciled in the United Kingdom but in whose case the requirements of sub-paragraph (3)(b) are not satisfied in relation to any particular part of the United Kingdom shall be treated as domiciled in the part of the United Kingdom in which he is resident.

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(6) In the case of an individual who—

- (a) is resident in the United Kingdom, or in a particular part of the United Kingdom; and
- (b) has been so resident for the last three months or more,

the requirements of sub-paragraph (2)(b) or, as the case may be, sub-paragraph (3)(b) shall be presumed to be fulfilled unless the contrary is proved.

(7) An individual is domiciled in a state other than a Regulation State if and only if—

- (a) he is resident in that state; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that state.

**Seat of company, or other legal person or association for purposes of Article 22(2) (section 43)**

**10.**—(1) The following provisions of this paragraph determine where a company, legal person or association has its seat for the purposes of Article 22(2) (which confers exclusive jurisdiction over proceedings relating to the formation or dissolution of such bodies, or to the decisions of their organs).

(2) A company, legal person or association has its seat in the United Kingdom if and only if—

- (a) it was incorporated or formed under the law of a part of the United Kingdom; or
- (b) its central management and control is exercised in the United Kingdom.

(3) Subject to sub-paragraph (4), a company, legal person or association has its seat in a Regulation State other than the United Kingdom if and only if—

- (a) it was incorporated or formed under the law of that state; or
- (b) its central management and control is exercised in that state.

(4) A company, legal person or association shall not be regarded as having its seat in a Regulation State other than the United Kingdom if -

- (a) it has its seat in the United Kingdom by virtue of sub-paragraph (2)(a); or
- (b) it is shown that the courts of that other state would not regard it for the purposes of Article 22(2) as having its seat there.

**Persons deemed to be domiciled in the United Kingdom for certain purposes (section 44)**

**11.**—(1) This paragraph applies to

- (a) proceedings within Section 3 of Chapter II of the Regulation (insurance contracts),
- (b) proceedings within Section 4 of Chapter II of the Regulation (consumer contracts), and
- (c) proceedings within Section 5 of Chapter II of the Regulation (employment contracts).

(2) A person who, for the purposes of proceedings to which this paragraph applies arising out of the operations of a branch, agency or other establishment in the United Kingdom, is deemed for the purposes of the Regulation to be domiciled in the United Kingdom by virtue of—

- (a) Article 9(2) (insurers); or
- (b) Article 15(2) (suppliers of goods, services or credit to consumers), or
- (c) Article 18(2) (employers),

shall, for the purposes of those proceedings, be treated as so domiciled and as domiciled in the part of the United Kingdom in which the branch, agency or establishment in question is situated.

### **Domicile of trusts (section 45)**

**12.**—(1) The following provisions of this paragraph determine for the purposes of the Regulation where a trust is domiciled.

(2) A trust is domiciled in the United Kingdom if and only if it is by virtue of sub-paragraph (3) domiciled in a part of the United Kingdom.

(3) A trust is domiciled in a part of the United Kingdom if and only if the system of law of that part is the system of law with which the trust has its closest and most real connection.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments Order 2001, SCHEDULE 1.