

SCHEDULE 2

PART 1

Modification of primary legislation

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.

(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

Status: This is the original version (as it was originally made).

(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.”.”.