

SCHEDULE 2

PART 2

Modification of subordinate legislation

Modification of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994

19.—(1) Article 8A of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994 (extension of time limits because of mediation in certain cross-border disputes) is modified as follows.

(2) Paragraph (1) is to be read as if for it there were substituted—

“(1) In this article—

- (a) “Mediation Directive” means [Directive 2008/52/EC](#) of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters;
- (b) “mediation” and “mediator” have the meanings given by Article 3 of the Mediation Directive, except that for the purpose of construing those expressions—
 - (i) Article 3(a) is to be read as if for “the law of a Member State” there were substituted “law”;
 - (ii) Article 3(b) is to be read as if for “Member State concerned” there were substituted “United Kingdom or the Member State concerned”;
- (c) “relevant dispute” means a dispute within Article 8(1) of the Mediation Directive (certain cross-border disputes), reading Article 8 as if—
 - (i) the obligation imposed on Member States by paragraph (1) were also imposed in relation to the United Kingdom; and
 - (ii) in paragraph (2), for “Member States” there were substituted “the United Kingdom and Member States”.

(1A) In construing the definition of “relevant dispute” in paragraph (1)(c), Article 2 of the Mediation Directive (which defines cross-border disputes for the purposes of the Mediation 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”;
- (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.

Status: This is the original version (as it was originally made).

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
- (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.”.”.