Detailed Contents

Prefa	ice		IX	
Ackn	Acknowledgements			
Table	of Cas	ses	xiii	
Table	of Leg	gislation	xxix	
Table	of Inte	ernational Legislation and Treaties	ivxxx	
Table	of Fig	ures	lv	
1	Introduction to Conflict of Laws			
•	1.1	Introduction	1 2	
	1.2	Jurisdiction	2	
	1.3	Applicable law	3	
	1.4	Recognition and enforcement of foreign judgments	3	
	1.5	Sources of conflict of laws rules	4	
	1.6	How conflict of law issues arise in English cases	6	
	1.7	Some technical issues relating to applicable law	7	
	1.8	The legal philosophy behind conflict of laws rules	10	
	1.9	Justifications for the application of foreign law	10	
	1.10	Which law to apply?	11	
	1.11	Further reading	13	
2	Connecting Factors			
	2.1	Introduction	15	
	2.2	Domicile	15	
	2.3	Habitual residence	26	
	2.4	Further reading	32	
3	Jurisdiction of the English Courts in Commercial Disputes: The EU Regime			
	3.1	Introduction	34	
	3.2	Interpretation of the EU regime	35	
	3.3	Scope of the EU regime	36	
	3.4	Exclusive jurisdiction (Art 22)	37	
	3.5	Jurisdiction by appearance (Art 24)	38	
	3.6	Protective measures (Arts 8-21)	39	
	3.7	Jurisdiction agreements	44	
	3.8	The primary basis of jurisdiction under Article 2	51	
	3.9	Special jurisdiction (Arts 5–7)	52	
	3.10	Residual jurisdiction under Article 4	63	
	3.11	Provisional measures (Art 31)	64	
	3.12	Lis pendens and related actions	64	
	3.13	Jurisdiction within the UK	71	
	3.14	Further reading	72	

4	Juris	sdiction of the English Courts in Commercial Disputes: The Traditional Rules	73
	4.1	Introduction	74
	4.2	Service of claim forms	75
	4.3	Defendant's presence in England	75
	4.4	Service outside the jurisdiction	76
	4.5	Jurisdiction by agreement	83
	4.6	Staying proceedings in the English Courts	84
	4.7	Anti-suit injunctions	92
	4.8	Further reading	98
5	Reco	gnition and Enforcement of Judgments	99
	5.1	Introduction	100
	5.2	The recognition and enforcement of judgments	101
	5.3	Recognition and enforcement of judgments under Brussels I	102
	5.4	Authentic instruments and court settlements	113
	5.5	Simplified enforcement procedures for uncontested claims	114
	5.6	Simplified enforcement procedures for small claims	114
	5.7	The Mediation Settlement Enforcement Order	115
	5.8	English rules for recognition and enforcement of judgments	115
	5.9	Further reading	123
6	Arbitration		
	6.1	Introduction	125
	6.2	Introduction to arbitration	125
	6.3	Role of national courts in supporting arbitration	126
	6.4	Conflict of laws issues in international arbitration	127
	6.5	Further reading	144
7	Choice of Law in Contract		145
	7.1	Introduction	146
	7.2	The Rome Convention 1980	147
	7.3	From Convention to Regulation	149
	7.4	Rome I	150
	7.5	Special regimes for specific contracts	156
	7.6	The influence of the law of the forum and the place of performance	167
	7.7	Scope of applicable law	168
	7.8	Further reading	170
8	Tort		171
	8.1	Introduction	172
	8.2	Overview of the three legal regimes	173
	8.3	The Private International Law (Miscellaneous Provisions) Act 1995 (PILA)	174
	8.4	Rome II	177
	8.5	Scope of applicable law	183
	8.6	Defamation	186
	8.7	Further reading	191
9	Prop	erty	192
	9.1	Introduction	193
	02	The distinction between movable and immovable property	102

	9.3	Jurisdictional issues relating to immovable property	194	
	9.4	Applicable law	198	
	9.5	Transfers of movables	200	
	9.6	Transfer of property rights through succession	204	
	9.7	Cross-border succession and the EU Succession Regulation	208	
	9.8	Further reading	209	
10	Marriage and Civil Partnership			
, 0	10.1		213	
		When does the question of validity arise?	212	
		The definition of marriage in English domestic law	213	
		Applying this definition to foreign marriages	216	
		Applicable law when determining the validity of foreign marriages	217	
		Essential validity of foreign marriages	218	
		Formal validity of marriage	226	
	10.8	Characterisation of issues	228	
	10.9	Public policy issues	231	
		Where a marriage is found to be invalid on the application of foreign law	232	
	10.11	Civil partnership	233	
	10.12	Further reading	234	
11	Divo	ce and Financial Relief	235	
	11.1	Introduction	236	
	11.2	Jurisdiction to grant a divorce, annulment or judicial separation	237	
	11.3	Applicable law in applications for divorce	243	
	11.4	Recognition of foreign judgments	244	
	11.5	Financial relief after divorce	248	
	11.6	Applicable law in financial relief disputes	255	
	11.7	EU regulation of cross border aspects of same-sex marriage/ partnership	257	
		Cross-border aspects of civil partnership in English law	258	
	11.9	Further reading	259	
12	Parentage and Adoption			
	12.1	Introduction	261	
	12.2	Legal parenthood	261	
	12.3	Orders transferring legal parenthood	264	
	12.4	Adoption	268	
	12.5	The Hague Adoption Convention	270	
	12.6	Foreign adoption outside the Hague Adoption Convention	275	
	12.7	Further reading	278	
13	Parental Responsibility Disputes and Child Abduction			
	13.1	Introduction	280	
	13.2	Parental responsibility, rights of custody and access	281	
	13.3	Jurisdiction under Brussels II bis	282	
	13.4	The Hague Child Protection Convention 1996	286	
	13.5	Recognition and enforcement of orders relating to parental responsibility	289	
	13.6	Applicable law	292	
	13.7	Child abduction	293	
	13.8	The level of scrutiny required in Hague Abduction proceedings	300	

VIII

DETAILED CONTENTS

13.9 After return has been refused – Art 11(8) orders	3
13.10 Access rights under the Hague Abduction Convention	3
13.11 Abduction cases falling outside Brussels II bis or the Hague	
Abduction Convention	3
13.12 Further reading	3

Index

305