

Impact of Brexit on Family Law

22nd March 2017

The House of Lords Justice Committee has published its report on the impact of Brexit on Family Law. David Williams QC and Jacqueline Renton gave evidence to the Committee. The Committee refer to and adopt a number of the concerns expressed by David and Jacqueline

95. David Williams QC expressed similar reservations, dismissing the GRB as an “almost worthless” solution. As with the BIR, the fundamental difficulty was the impossibility of replicating the reciprocal arrangements that exist under EU law in a purely domestic statute. The great advantage of the BIIa was its “reciprocal parts”;¹⁴⁵ enacting this EU legislation via the GRB would mean that the Regulation would apply domestically, “but in any dispute between England and France you would have the 1996 Hague Convention rules applying”. He warned us that dealing with the BIIa and the MR via the GRB “would introduce an element of confusion”.¹⁴⁶

96. When these concerns were put to the Minister, he argued that the GRB would provide the solution, because “it will bring into UK law all the laws of the EU that we currently have in force for our country”. He acknowledged that there were “some areas of concern”, citing the example of matrimonial law, as this “is not covered by the Hague Conventions” (see Box 8). But he believed this would not be a problem, because the GRB “would ... bring [matrimonial law] home into our own law from the EU”.¹⁴⁷

97. It is clear that the Government’s promised Great Repeal Bill will be insufficient to ensure the continuing application of the Brussels II and Maintenance Regulations in the UK post-Brexit: we are unaware of any domestic legal mechanism that can replicate the reciprocal effect of the rules in these two Regulations. We are concerned that, when this point was put to him, the Minister did not acknowledge the fact that the Great Repeal Bill would not provide for the reciprocal nature of the rules contained in these Regulations.

98. We are not convinced that the Government has, as yet, a coherent or workable plan to address the significant problems that will arise in the UK’s family law legal system post-Brexit, if alternative arrangements are not put in place. It is therefore imperative that the Government secures adequate alternative arrangements, whether as part of a withdrawal agreement or under transitional arrangements.

The full report can be found downloaded [here](#)