

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifteenth Delegated Legislation Committee

DRAFT JURISDICTION AND JUDGMENTS
(FAMILY) (AMENDMENT ETC.) (EU EXIT) (NO. 2)
REGULATIONS 2019

Thursday 14 March 2019

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Monday 18 March 2019

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The Committee consisted of the following Members:

Chair: MR VIRENDRA SHARMA

Afriyie, Adam (<i>Windsor</i>) (Con)	† Jones, Graham P. (<i>Hyndburn</i>) (Lab)
† Bradshaw, Mr Ben (<i>Exeter</i>) (Lab)	† Keegan, Gillian (<i>Chichester</i>) (Con)
† Cruddas, Jon (<i>Dagenham and Rainham</i>) (Lab)	† Milling, Amanda (<i>Cannock Chase</i>) (Con)
† Duguid, David (<i>Barff and Buchan</i>) (Con)	† Qureshi, Yasmin (<i>Bolton South East</i>) (Lab)
Eagle, Ms Angela (<i>Wallasey</i>) (Lab)	† Rashid, Faisal (<i>Warrington South</i>) (Lab)
† Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab)	† Rimmer, Ms Marie (<i>St Helens South and Whiston</i>) (Lab)
† Frazer, Lucy (<i>Parliamentary Under-Secretary of State for Justice</i>)	† Vickers, Martin (<i>Cleethorpes</i>) (Con)
† Heaton-Jones, Peter (<i>North Devon</i>) (Con)	Zoë Grünewald, <i>Committee Clerk</i>
† Hughes, Eddie (<i>Walsall North</i>) (Con)	
† Johnson, Dr Caroline (<i>Sleaford and North Hykeham</i>) (Con)	† attended the Committee

Fifteenth Delegated Legislation Committee

Thursday 14 March 2019

[MR VIRENDRA SHARMA *in the Chair*]

Draft Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) (No. 2) Regulations 2019

11.30 am

The Parliamentary Under-Secretary of State for Justice (Lucy Frazer): I beg to move,

That the Committee has considered the draft Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) (No. 2) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Sharma. The draft regulations form part of the Government's ongoing work to ensure that we have functioning domestic laws in the event that the UK leaves the European Union without a deal on cross-border co-operation on family law. They give effect to a commitment I gave on behalf of the Government during the Ninth Delegated Legislation Committee's consideration of our main no-deal family law instrument on 30 January.

That instrument, the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019, has now been made, putting in place the arrangements for cross-border family cases that will apply if we leave the EU without a deal. It revokes the retained EU law in relation to the Brussels IIa regulation and the maintenance regulation and makes consequential changes to domestic law, including changes to ensure that jurisdiction rules on cross-border maintenance matters are restored to their pre-EU form.

This is a very small amending statutory instrument to address a concern raised by our family law stakeholders. The issue is a very technical one, but the concern was raised that the amendments that our main family law SI makes to the Children Act 1989 and the Children (Northern Ireland) Order 1995 inadvertently narrow the jurisdiction of the court and the range of financial remedies that it may order, in comparison with the current position under the EU maintenance regulation. That was not the Government's intention.

The consequence of not fixing the issue would, in some cases, be to limit the financial remedies that the court can grant. For example, it would be able to make an order only for periodical payments, not for a lump sum or property settlement or transfer. I thank family law practitioners for bringing the issue to our attention. Although the existing approach is workable,

the Government have decided to address the concerns about it to ensure that jurisdiction grounds and remedies are not reduced as a result of a no-deal exit.

The draft regulations will therefore amend the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations so that, post exit, with no deal, the court in England and Wales or Northern Ireland will be able to order all types of financial remedies available under the Children Act or the Children (Northern Ireland) Order in circumstances in which a parent, guardian or child is habitually resident or domiciled in England and Wales or Northern Ireland at the date of the application. The draft regulations will also ensure that the court has jurisdiction to order a financial remedy in respect of a child in circumstances where the parents are not married, in a similar way to when child maintenance is considered, ancillary to divorce.

The impact of the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations was set out in an impact assessment published on 24 January. This instrument amends those regulations to rectify the unintended impact of their amendments to the Children Act and the Children (Northern Ireland) Order on the court's jurisdiction and remedies. The impact of the amended regulations will be as described in the original impact assessment.

I thank those who practise in the field for their interest in our statutory instruments and for coming back to us so that we could make these amendments to ensure that our family law works in the event of no deal. I commend the draft regulations to the Committee.

11.34 am

Yasmin Qureshi (Bolton South East) (Lab): It is a pleasure to serve under your chairmanship, Mr Sharma.

We will not seek to divide the Committee on the regulations. As the Minister set out, they are very much needed if we Brexit without a deal. This is a very narrow statutory instrument covering an important aspect of family law, so we welcome it.

I place on record my thanks to family law lawyers and to the Law Society. We consulted the Law Society, and it indicated that it accepted the necessity for this statutory instrument.

11.35 am

Lucy Frazer: I thank the hon. Lady for that constructive approach. If we exit the EU without a deal, we need to make sure that our laws work, and it is good to have a cross-House approach on this matter. I commend the SI to the Committee.

Question put and agreed to.

11.35 am

Committee rose.