

How will a 'no-deal Brexit' affect you?

The impact on divorce, financial orders, children & nuptial agreements

The UK leaves the EU at 11 PM on 29 March 2019 ("exit day"). If there is no deal, EU law will no longer apply. Instead we will rely upon national law and international laws. [Please click here for more info](#)

Divorce

1. Is my E&W divorce recognised in the EU?

- E&W divorces are currently automatically recognised throughout the EU. Nevertheless if recognition in the EU is important to you, before exit day you should consider obtaining a Certificate sealed by the court which issued your decree absolute and then registering it in an EU country
- After exit day, about half of EU countries will continue automatically to recognise E&W divorces because of other international law.
- But there might be some difficulties after exit day with recognition in the remainder; Austria, Belgium, Bulgaria, Croatia, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Malta, Romania, Slovenia and Spain. The position is not yet clear. Advice should be taken.

2. Should I conclude my divorce before exit day?

- If there are existing E&W divorce proceedings which you want recognised in an EU country, you should finalise them urgently, obtain the Certificate and register the divorce with the court in the relevant EU country before exit day.
- If a decree nisi has been granted but decree absolute will not be made until after exit day, consider applying to reduce the time so that it is granted before exit day. Other steps should be taken to speed forward the divorce for its conclusion before exit day and relevant Certificate obtained.

3. Should I issue my divorce before exit day?

- At present, if a UK country and another EU country could deal with divorce proceedings, a so-called forum dispute, it proceeds in the country where the proceedings were lodged first.
- On leaving the EU with no deal and if there could be divorce proceedings in an EU country, E&W will decide the forum dispute on the basis of which country has the closest connection. There may be benefit for some therefore in issuing before exit day and for others in issuing after exit day. Advice should be taken.

Notice

If you would like to discuss any of these matters, or any other family law issues for international families, please contact us. None of this constitutes legal advice or opinion. Always take specialist advice in E&W and in the other country involved

Financial Orders

1. Should I conclude my financial proceedings before exit day?

- If you may want to enforce a family court financial order in the EU, it may benefit having an order made before exit day. This will need to be by consent as time is short.
- In any event you would also need to register it in the EU country before exit day in order to enforce and this may take some time.

2. My divorce is based on "sole domicile". Should I adjourn financial claims until after exit day?

- E&W courts do not currently have the power to provide for "needs" e.g. a home or alimony, if the only connection is the domicile of one spouse. This applies in all cases, not just with an EU element.
- Following exit day with no deal, the E&W court will be able to make an order to meet a person's needs. For some it may be sensible to adjourn claims until after exit day. This will need court permission.

Children

1. Will my children orders be recognised and enforced in the EU after exit day?

- If it is a residence order or parental responsibility order, you should not only obtain the Certificate but arrange for it to be registered in the other EU country before exit day
- If it is a contact order, it will probably need to be registered under other international law for enforcement, although the position is not clear.

Nuptial Agreements

1. Should I get a marital agreement before exit day?

- Presently some couples can make a binding decision about the court in the EU which will deal with maintenance claims should the relationship break down. This option appears to remain available in the UK even after a 'no-deal Brexit'.
- E&W will continue after exit day to give considerable weight to marital agreements entered into with legal advice and disclosure, as long as needs are provided for. With the economic uncertainty of Brexit, it continues to make sense for families with international connections to enter into marital agreements.