

Government to commission review of divorce law on asset splitting

Justice Minister states that the Law Commission is the most appropriate body for the task.

Justice Minister, Lord Christopher Bellamy, commented during a House of Lords debate on the law governing financial provision on divorce, held on 8 March, that the Matrimonial Causes Act 1973 will be subject to a forthcoming comprehensive review. Lord Bellamy goes on to clarify that the government is in close consultation with the Law Commission, which it considers to be the most appropriate body to carry out the review.

The Matrimonial Causes Act, which is almost 50 years old, determines how financial assets are split after divorce in England and Wales. Commenting during the same House of Lords debate, former family lawyer Baroness Fiona Shackleton called the law, “hopelessly out of date” and added that “it relies entirely on finance and the discretion of judges.”

Lord Bellamy stated that the review, which he hopes will be carried out by the Law Commission, will establish the remit of the existing law and practice and where the problems lie, as well as provide comparative analysis of various other countries. An announcement concerning the review is expected “immediately before or shortly after the Easter Recess,” added Lord Bellamy.

Calling explicitly for reform of the law during the House of Lords debate, Baroness Ruth Deech, opined, “The law that relates to splitting money on divorce is so antagonistic and unreformed that it undermines the alleged good points of the no-fault divorce law. We are lagging 50 years behind nearly every other country in the western world, including Australia. The amount of discretion in our law makes it very hard for unrepresented parties. Money that should go to the children is being spent on legal costs. Even judges have called this law ‘apocalyptic’ —accessible only to the rich. When will the Government reform this very bad law?”

Commenting on the matter, **Tony Roe, a Partner and Family Law Arbitrator at Dexter Montague LLP** said: “Practitioners and clients alike are working with financial remedies set out in a 50-year-old vehicle, the Matrimonial Causes Act 1973, which has not changed with the times. Certainly, there is scope for a detailed review and the fact that there are regional variations in outcomes for parties means this should be addressed, too. The Law Commission recommended qualifying nuptial agreements, ‘QNups’, back in 2014, but that recommendation was not taken up by the government and certainly should be considered now.”

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Solicitors Journal

Acknowledgements to Solicitors Journal.

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