**Chapter 8: Jurisdiction**

* Chapter 8 confirms that the Council Regulation (EC) No 2201/2003 ceases to have effect in UK law after IP completion day.
* And the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019, SI 2019/519 provides alternative regulations.

**8.1 Introduction**

This chapter will discuss the European legislation that governs jurisdiction in relationship breakdown and the international law concepts that are a feature of this area of law. In June 2016, the EU referendum produced a majority vote in favour of leaving the EU. At the time of writing, the Implementation Period has ended.

**8.1.1 Why is Jurisdiction Important?**

In order to dissolve a marriage or civil partnership, the court must have jurisdiction to hear the case and as a result the law requires the parties to show a connection to courts in England and Wales. Prior to the UK leaving the EU, the law was found in the Council Regulation (EC) 2201/2003, relating to Jurisdiction. This was sometimes referred to as ‘Brussels II *bis*’. However, since IP completion day this ceases to be applicable. The Jurisdiction and Judgments (Family) (Amendment etc) (EU Exit) Regulations 2019, SI 2019/519 revoked ‘Brussels II *bis’* and provided alternative arrangements for certain matters.

The Jurisdiction and Judgments (Family) (Amendment etc) (EU Exit) Regulations 2019, SI 2019/519 amended The Domicile and Matrimonial Proceedings Act 1973. There are new provisions inserted into section 5(2) of the Domicile and Matrimonial Proceedings Act 1973. For cases instituted on or after 1 January 2021, the grounds for jurisdiction are slightly varied by regulation 7 and paragraph 7 of the Schedule to the Regulations:

The requirement of only habitual residence on the day of issue has changed from the original three months preceding. This makes it possible to bring more proceedings in England. The regulation states:

**Part 4 7(1)**

**7.**—(1) The Domicile and Matrimonial Proceedings Act 1973 is amended as follows.

(2) In section 5 (jurisdiction of High Court and family court)—

(a) in subsection (1A)—

(i) omit the definition of “the Council Regulation”;

(ii) omit the definition of “Contracting State”;

(b) in subsection (2) for the words from “if)—” to the end substitute “if) on the date of the application—

“(a) both parties to the marriage are habitually resident in England and Wales;

(b) both parties to the marriage were last habitually resident in England and Wales and one of them continues to reside there;

(c) the respondent is habitually resident in England and Wales;

(d)the applicant is habitually resident in England and Wales and has resided there for at least one year immediately before the application was made;

(e) the applicant is domiciled and habitually resident in England and Wales and has resided there for at least six months immediately before the application was made;

(f) both parties to the marriage are domiciled in England and Wales; or

(g) either of the parties to the marriage is domiciled in England and Wales.”;

Sole domicile has been added to the primary grounds.