



Marital Agreements and Private Autonomy in Comparative Perspective

Jens M Scherpe

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This book deals with a subject that has recently been the focus of debate and law reform in many jurisdictions: how much scope should spouses have to conclude agreements concerning their financial affairs - and under what circumstances should such agreements be binding and enforceable? These marital agreements include pre-nuptial, post-nuptial and separation agreements.

The book is the result of a British Academy-funded research project which investigated and compared the relevant law of England and Wales, Australia, Austria, Belgium, France, Germany, Ireland, the Netherlands, New Zealand, Scotland, Singapore, Spain, Sweden and the jurisdictions of the United States. In addition to chapters on these jurisdictions, the book includes a chapter on the 'English practitioner's view'. It also provides a comparative analysis of the different matrimonial property regimes and the rules on marital agreements that explores underlying themes and principles and makes recommendations for regulating marital agreements.

A key theme is the function and effect of marital agreements in the different jurisdictions. Thus, each chapter first explains the underlying 'default' rules for ancillary relief/matrimonial property and maintenance. It then analyses the current rules for marital agreements, and gives a brief account of the private international law rules.

The book provides a comprehensive source of reference on ancillary relief/matrimonial property and maintenance and the rules on pre-nuptial, post-nuptial and separation agreements in 14 jurisdictions. It offers guidance for academics and practitioners dealing with international matters, and a basis for discussions on law reform.

'I applaud the vision and perseverance of Jens Scherpe in having conceived this book and, with so much distinguished help, in now bringing it to birth. I will be using it for many years and I warmly invite my fellow family lawyers across the world to do likewise.'

Foreword by The Rt Hon Lord Wilson of Culworth, Justice of the Supreme Court of the United Kingdom

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