

Rome I - Should the UK Opt In?

The Ministry of Justice has launched a public consultation on whether the UK should opt (back) in to the Rome I Regulation (see all Rome I entries on this site [here](#).) The press release states:

The Rome I proposal will provide clarity over which law applies if a dispute arises over a contract made between people or businesses from different countries, allowing cross border trade to continue with confidence.

When the European Commission first announced the proposals in 2005, the UK government took the unusual step of opting out of the proposals, as they would not have been in the interests of UK businesses. However, following intense negotiations, a substantially revised and hugely improved version has now been agreed.

Announcing the publication of the 'Rome I - Should the UK opt in?' consultation today, Bridget Prentice, Parliamentary Under Secretary of State said:

'The government has always said that we will not opt into EU measures which are not in our national interest. The original proposal was clearly not right for Britain, but the new and much improved regulation will help to ensure that the rules in this very technical area are applied uniformly. This will ensure a level playing field for British business in Europe.'

Notes to editors

- *The 1980 Rome Convention was implemented into UK law by the Contracts (Applicable Law) Act 1990. It applies throughout the UK.*
- *The original Rome I Regulation was released by the European Commission in December 2005.*
- *The UK exercised its right not to opt in to the proposed Regulation in May 2006 [see our news item [here](#)]. This was only the second time that the UK had opted out of a Regulation under its special arrangements on Title IV of the Treaty establishing the European Community. To opt in, it will have to seek the permission of the European Commission, and agree a timetable for implementation.*
- *Negotiations on the Rome I Regulation ended with political agreement*

among Member States in December 2007. Jurist-linguists are presently checking the text for linguistic integrity. The Regulation will be adopted at the next meeting of the Justice and Home Affairs Council in April of June. The main provisions of the Regulation will come into force 18 months later.

- *The UK government negotiated on behalf of all UK jurisdictions, and the consultation paper is a joint project of the Ministry of Justice and the devolved administrations.*

The conclusion in the (lengthy) consultation paper itself is that,

The Government's assessment of the Regulation as a whole is that it would be in the national interest for the UK to apply it, subject to gaining the approval of the Commission. Not only have the initial problems with the Commission's proposal generally been resolved, but also in some significant respects the Regulation represents an improvement on the Convention. Moreover, the maintenance of a single European instrument continues to be of benefit, as it was under the Rome Convention.

The questions posed by the consultation paper are:

- Is it in the national interest for the Government, in accordance with Article 4 of the UK's Protocol on Title IV measures, to seek to opt in to the Regulation? If not, please explain why.
- Should the Rome I rules apply throughout the UK if the UK opts in to the Regulation? If not, please explain why.
- Do you agree with the Partial Impact Assessment at Annex A of the consultation paper? If not, please explain why.

Your responses need to be received by the UK Government no later than **25 June 2008**.