

## Radical Changes To EU Succession

Hopefully you will be reading this note after returning from a lengthy and well-earned summer break on the continent. If this is the case, then you may have not been aware that 17 August 2015 heralded the introduction of EU Regulation 650/2012 also known as Brussels IV designed to simplify succession issues for EU nationals.

Prior to the introduction of this Regulation, where an individual died with connections in more than one member state, then the estate would devolve in accordance with the different private laws applying in each particular state. This has often led to confusion and uncertainty in relation to how assets passed on an individual's death. In addition, in certain EU countries, such as France, "forced heirship" rules apply which limit the ability of individuals to direct assets as they might intend under a UK Will. The purpose of this new legislation is to simplify the rules surrounding EU succession by allowing EU citizens to have their estates administered in accordance with the laws of just one member state.

### The Legislation

Brussels IV is binding on all member states of the EU with the exception of Ireland, Denmark and the United Kingdom.

The key elements of Brussels IV are as follows:

1. The new rules will apply in circumstances, both where the deceased has made a Will and also where there is no Will in place.
2. The default position is that the courts of the member state in which the deceased died habitually resident will have jurisdiction; therefore UK nationals living abroad may find that their estates will be administered under foreign law unless adequate steps are taken.
3. It is possible for an individual to choose the courts of the member state of his nationality in place of their country of habitual residence.
4. Decisions made in one member state will be recognised and enforceable in other member states.
5. A European Certificate of Succession will be created with a view to making proof of entitlement more consistent across the EU.

### Who will be affected by these new rules?

Although the UK has not opted into the agreement, the legislation will impact upon UK nationals with assets in EU member states which are subject to the agreement and UK nationals living in other EU member states who wish to ensure that their assets are administered in accordance with UK law.

UK Nationals who are living in other member states and therefore likely to be considered habitually resident, and UK nationals who hold assets within the EU should review their existing succession planning to ensure that it is still adequate and consider whether they wish to amend the terms of any Wills that are in place to take advantage of the increased flexibility that this new Regulation allows.

Rooks Rider Solicitors LLP has an experienced team able to advise you in respect of this new change in succession law should you require. For further information or to discuss any of the issues raised in this briefing note, please contact a member of the Rooks Rider Solicitors' team:



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