

## BRUSSELS IV EU SUCCESSION REGULATION NO. 650/2012

# DOES THE BRUSSELS IV REGULATION AFFECT YOU?

Do you live in the UK but own assets in an EU Member State?

Do you own assets in the UK but are living in another Member State?

Are you a national of an EU Member State but live in another EU Member State?

If you said yes to any of the above questions, then the Brussels IV Regulation could affect you and you may need to update your Will.

### What is the Brussels IV Regulation?

The laws relating to succession differ between EU Member States. For example, many EU countries provide that certain shares in your Estate must go to certain members of the family. This is known as 'forced heirship'. Under English law, you have more freedom and can leave your property to whomever you wish in your Will.

Each country has its own rules and the interaction of the different rules is often complicated and can be uncertain. The Regulation seeks to reduce the complexity by harmonising the law relating to succession in different EU Member States.

The Regulation, which came into effect on 17 August 2015, enables people to choose the law which applies to their entire Estate by stating this in their Will.

### What does the Regulation do?

It enables EU citizens and those habitually in an EU State to plan and organise succession of their assets and avoid the complexity involved in cross-border estates. Historically, under private international law 'immovable property' (i.e. land and buildings) belonging to an English testator which was situated in another EU Member State would be subject to the succession law of the EU Member State where the property was situated.

The Regulation now allows EU citizens or those habitually resident in an EU State, wherever resident in the EU, to choose which succession law applies, provided they are a

national (at the time of making the Will, or at the date of death) of the country whose law is chosen, whether that is the law of a Member State or not.

If there is no explicit choice of law made in a Will, then the Regulation provides that the applicable law to a person's succession will be that of the Member State in which they had their last habitual residence, which may bring some unwelcome surprises.

### Does this affect me?

Whilst the UK opted out of the Regulation, it is still relevant to the wishes of any UK citizen who owns property in, or is habitually resident in, an EU Member State which is party to the Regulation. All 27 EU Member States are legally bound to implement it except the UK, Ireland and Denmark.

Wills made before 17 August 2015 need to be reviewed and people with assets in the EU need to consider putting a Will in place which includes an express choice of law clause.

People need to consider the tax effects as well and consider how to maximise upon tax exemptions in the different Member States. The Regulation deals with choice of succession law and not tax consequences.

### What action should you take?

If you think that the Regulation will affect you, we strongly recommend that you review any existing Will or make a Will if you do not have one. This will ensure that your Estate passes to the people that you wish to benefit in a tax efficient way and avoid costly disputes.

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