



BRIEFING NOTE NOVEMBER 2015

The EU Succession Regulation: Brussels IV

Since the 17 August 2015, the EU Succession Regulation (No 650/12) (known as “**Brussels IV**”) has become part of EU Law and applies to all EU Member States other than the UK, Ireland and Denmark (whom opted out the regulation).

However, despite opting out, Brussels IV will still have an impact on UK citizens who have assets in other EU member states or may reside in other EU member’s states at the time of their passing.

The previous position

- Prior to Brussels IV the law governing the succession of a UK citizen’s estate would depend on the location of their assets.
- This resulted in the foreign property of many UK citizens being subject to “forced heirship” rules which require certain portions of their estate to be left to direct descendants or a surviving spouse.

Brussels IV

- Under Brussels IV any citizen of an EU member state can choose the law of a state whose nationality he or she possesses to rule on their succession.
- Where no election is made, the basic provision is that the courts of the member state in which the deceased had their “habitual residence” at the time of death shall have jurisdiction to rule on the succession as a whole.

Application to UK and what to do now

- If a UK citizen were to pass away habitually resident in the England and Wales but with assets in a foreign member state, the governing law would be that of England and Wales. However, if their UK Will did not deal with their foreign assets this would likely result in their foreign assets passing under the intestacy rules.
- If a UK national were to pass away ‘habitually resident’ in another EU member state they could now amend both their Wills so that the Courts of that member state would have to apply UK law. It is thought (although not certain) that this will result in the English Court applying English domestic law to the foreign property.
- Given the above, it is strongly suggested that UK nationals with assets in other member states should revisit both their UK and foreign Wills.