

New EU inheritance law should prompt wills reviews, say experts

17 August 2015 By [Chloe Smith](#)

Lawyers are warning that UK residents with assets in Europe could unwittingly leave them subject to English law after new rules on cross-border inheritance in the European Union come into effect today.

The new rules aim to ease succession across the EU by giving individuals the chance to opt either for the law of the country of their nationality or their last habitual residence to be applicable to their inheritance across Europe. The default position will mean the law of the country where someone is a habitual resident when they die governs succession to their estate as a whole.

The UK has opted out of the new rules, but the changes will still have an impact on UK citizens with properties or other assets in the EU.

The rules allow people to opt out of 'forced heirship' rules that apply in a number of EU countries and govern how assets are passed on within a family after death. As an example of how the rule will work practically, the Society of Trust and Estate said previously a woman in the UK with a property in France would have been obliged to leave it to her husband and children under French forced heirship rules. Now under the new succession rule she could instead choose to apply UK law to the property, which would allow her to leave the house to her brother instead. But for citizens who were not born in the UK, it could mean that English laws will now be applied to their overseas assets without them realising.

'The fact is a lot of people won't understand the fact that if they have an English will it means they are automatically choosing English law,' Richard Frimston, partner at London firm Russell-Cooke and chair of the EU Society of Trust and Estate (STEP) Committee, told the Gazette.

This could create problems in countries such as France, which do not have experience in dealing with executors, the person named to deal with an estate, he said.

It will also mean that the Inheritance (Provision for Family and Dependants) Act 1975, which gained attention recently after the Court of Appeal awarded a woman £164,000 from her estranged mother's state, will apply in other EU countries.

Those who do not want English law to apply to assets which are held in a country that has opted into the regulation will need to alter their will to make that clear, said Simon Leney, partner at Kent firm Cripps and chair of the Law Society's Private Client Section executive committee.

George Hodgson, deputy chief executive of STEP, advised anyone who owns assets in the EU to review their inheritance plans. He added that the complexity of the new rules means that anyone seeking to change their will to take advantage of their potentially valuable new rights should seek specialist advice.

Many people have already revised their will ahead of the law being introduced, Frimston said.

Jon Gould, head of private client at DWF's Newcastle office, said whilst the intention of the new rules is to simplify the current situation, it is still a complex area.

'Conflicts may still arise in the future and the situation will not always be clear given that some EU member states, like the UK, have opted out of the new rules,' he said.

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