

## ***European Union Succession Regulation (EU) No 650/2012***

### ***17 August 2015 Will Soon Be Here***

Different states have had completely different private international law rules ("PIL") for succession.

The Succession Regulation (EU) No 650/2012 ("SR") has attempted to harmonise PIL for succession throughout the EU without having too significant effect on the internal succession laws of EU Member States. The SR entered into force on 17 August 2012, although most of it will not become fully effective until 17 August 2015.

### **Opt ins**

Because of clawback and other matters, the UK and Irish Governments exercised their right not to opt in to the SR, but the SR will, however, still apply to assets situated in most EU Member States ("the SR Zone" - all EU Member States other than Denmark, Ireland and the United Kingdom) and to the succession of persons dying habitually resident there. If Singapore PIL, applies the law of an SR Zone State, because the deceased dies domiciled there or has immovable assets there, then Singapore will apply the SR to those assets. The SR will govern the PIL for succession in the SR Zone, not only between States within it, but also between them and States outside it.

Thus, the provisions of the SR, including those governing choice of law, are vital for all practitioners to understand.

### **Jurisdiction**

Under Art. 4 of the SR, the courts of the Member State in which the deceased had his habitual residence at the time of death, have jurisdiction to rule on the worldwide succession. Art. 10 sets out a hierarchy of subsidiary jurisdictions.

### **Applicable Law and Renvoi**

By Art 21.1 of the SR, the law applicable to the succession is the habitual residence at the time of death and is to apply to the whole of the succession. Art.34 abolishes *renvoi* unless the applicable law is that of a non-SR Zone State. If so, the PIL of that third State is included, in so far as it makes a *renvoi* back to the law of a SR Zone State or to the law of another third State which would apply its own law.

### **Choice of Law**

Art.22 of the SR provides that a person may choose the law of their nationality as the law to govern their succession as a whole. This applies whether or not the applicable law is the law of a SR Zone state. No *renvoi* is to apply to an Art.22 choice of law and some other limited matters.

### **Conclusion: Consider the Choice of Law Provisions Now**

It would be wrong to consider that the SR has no relevance to practice before it becomes fully effective on 17 August 2015. All practitioners would be wise to consider suitable choices of law now.

If clients have any EU cross border issue, a valid choice of law will become effective in 2015 even though made now. An existing Will may already exercise an effective implied choice of law. Clients need to be aware of the likely consequences of such a choice and consider whether or not it is appropriate.

Even though not fully effective until 2015, the SR is now in force. If a client has any EU connecting factor such as EU residence, nationality, domicile or the *situs* of assets, the effects of the SR cannot safely be ignored. Please click [HERE\\*](#) for the full link to this article.

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