

An Introduction to Succession Law

Succession law is probably one of the most contentious rules for the British moving to France, as it seemingly infringes on our civil liberty to leave our money to whomsoever we please.

The idea in France is a Napoleonic one, that being that the family is protected and that money from the parents should filter down to their children. Children are deemed “reserved heirs” and so must inherit a certain fraction of their parent’s estate on their death. This law is entwined into the French constitution, thus these rules have significant importance and can be difficult to get round, though, of course, there are ways.

Succession law is especially problematic for those who have children from a former marriage, with the step parent being left to battle with their step children to hold onto house and home.

The amount of the estate to be left to the children is as follows:

1 child	one half of the estate
2 children	two thirds of the estate
3 children or more	three quarters of the estate

Obviously, the remaining fraction is unreserved and may be left to whoever the donor pleases.

To be clear, it is only that part of the deceased’s estate, thus if the deceased owned half the property and there was one child it would be half of the half, thus only a quarter. This clearly means that, in many cases, it does not give the child control of the property, but it is their right to demand their share on any sale.

However, for those that want the liberty to choose where their money goes there are solutions, but it involves some planning, ideally before buying any property in France, but it is never too late to take action.

It is usually possible to leave the surviving partner the right of use or “*usufruit*” of a property. The “*usufruitier*” can live in the property and make any alterations they wish. They may even rent out the property; however, on the sale of the property the children will generally have the right to their share.

This is probably the one area where we find that a little information is a dangerous thing. It is common where people copy each other’s solutions and this does not work as there is a different solution for every situation.

The worst action you can take is inaction. The only safety net for those who do nothing is the “right of living and right of use”. This literally means you have the right to use the property, with no rights to do anything to the property, or even rent it out, without the children’s agreement.

It is possible to reduce or even eliminate succession law issues, in many cases. This can be achieved using either legal or investment techniques or indeed a combination of the two.

The fact that this is such a complicated area, made worse by the international angle makes it imperative to get professional advice prior to taking any action.

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