
Executing a Will in the Dubai International Financial Centre



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1. The laws of the United Arab Emirates ("UAE") are drafted in accordance with the principles of Islamic law, or more commonly known as, Shariah law. Many expatriates, especially those from non-muslim jurisdictions are unaware of how Shariah law may affect their personal circumstances, especially in relation to any assets they may own or bank accounts that they may hold anywhere in the United Arab Emirates.
2. Shariah law has clearly defined inheritance laws on which basis the assets must be distributed amongst heirs of the deceased and unlike the European or American law, inheritance works as a pyramid under Shariah law wherein even remote relatives may have a claim on the assets of the deceased under certain circumstances.
3. In theory, the inheritance provisions under Shariah law in the UAE are exclusively for individuals following Islam and even though Article 17(1) of the UAE Civil Code stipulates that inheritance matters shall be dealt with in accordance with the laws of the deceased's home country, this is not necessarily the practice. In practice, at the time of death, Shariah law has been seen to be automatically applicable to non-muslims as well, especially in the absence of a duly executed Will by the deceased. Only the assets domiciled in the UAE are frozen upon demise of an individual.
4. The implications of death without leaving a Will could be distressful for heirs as any property owned by the deceased including bank accounts would be frozen until such time that the assets are distributed according to Shariah law. For example if there is a joint account between a husband and a wife, upon death of one or the other their joint account will be frozen by the courts until the assets are divided under Shariah law.
5. Awaiting a judgment from the courts in relation to inheritance cases can be especially time consuming and can take up to 2 years in certain cases to receive a judgment. This can be especially cumbersome for the surviving party if the assets of the deceased are the primary source of sustenance for the individual.
6. It is important to note that not only non-muslim residents of the UAE, but also other non-residents who own property in the United Arab Emirates or hold bank accounts in the jurisdiction are likely to face similar difficulties under Shariah law's inheritance provisions.
7. To assuage the concerns of non-muslim residents and other asset holders in the Emirate of Dubai, the Government of Dubai has established a Wills & Probate Registry through Resolution Number 4 of 2014. The Wills & Probate Registry is an ancillary body of the Dubai International Financial Centre's ("DIFC") Dispute Resolution Authority.
8. The Wills & Probate Registry will perform as a distinct entity. Duly executed Wills will be executable through the DIFC court system in the Emirate of Dubai only.
9. Insofar as the Wills and Probate Registry Rules are concerned, it is important to mention here that a duly executed Will in the DIFC may include immovable and movable property, located in any part of the world. Previously, the rules allowed non-Muslim testators to register a Will with the DIFC Wills and Probate Registry only if they had assets situated in Dubai and/or Ras al Khaimah. This has now been amended to include assets worldwide. Legal advice should be sought when a Will covers worldwide assets to ensure its enforceability. At KBH Kaanuun we can provide that advice too.
10. The DIFC in Dubai is the first jurisdiction in the Middle East region where non-muslims will be able to register a Will under common law principles. Therefore as opposed to the inheritance under Shariah laws, non-muslims will have the widest latitude to distribute their assets according to their own last Will and testament.
11. The DIFC has in place an existing protocol whereby courts on mainland Dubai may not challenge a decision given by the DIFC courts. Consequently, when the executor of a duly registered Will in the DIFC receives a grant of probate from the DIFC courts, they can enforce it with regards to any assets in Dubai without any recourse to

challenge in the local courts in Dubai.

12. There are several requirements that need to be fulfilled in order to register a valid Will. In the event a Will contains provisions that are contrary to the requisite law and rules thereof, or if there is any legal deficiency, the probate request will be denied by the DIFC courts.
13. The below mentioned list of requirements is not exhaustive but contains some of the material requirements in order to register a Will.
 - a) The first requirement to register a Will with the Wills & Probate Registry is that the party registering the Will must be a non-muslim.
 - b) Two witnesses are needed to witness the Will. The witnesses cannot be named as a beneficiary or guardian (or spouse of the beneficiary or guardian) in the Will.
 - c) The Testator and the Executor must be over the age of 21 at the time of registering the Will.
 - d) The Testator and the Executor must confirm that they accept the jurisdiction of DIFC and its' laws so that the probate may be recognized on mainland Dubai.
14. The cost of registering a valid Will with the DIFC varies between USD 1,400 and USD 4,100, depending on the nature of Will to be executed.
15. For a nominal fee, the Wills & Probate Registry also allows for the Will to be modified to add or remove any assets or modify any other details in the Will.
16. The Government of Dubai is the first jurisdiction in the region to have taken the bold decision of providing security to non-muslims regarding their assets and estate anywhere in the world. It is hoped that by providing this security more investments will be attracted to the Emirate of Dubai by providing security over those investments.
17. It is important to note that registering a Will is not a simple matter and often assets, such as gifts, which one may understand to be inconsequential can be subject to litigation if not properly covered in a Will. Therefore it is vital to seek professional advice whilst drafting a Will to avoid the asset being left out of the Will or its' ownership being later challenged in the courts.
18. KBH Kaanuun, being one of the oldest and most experienced law firms in the DIFC, have been at the forefront of providing expert advice to expatriates on safeguarding their assets in the Middle East region and have the requisite expertise to assist a client in drafting and executing a Will and the probate which would not only distribute their assets according to their wishes, but also ensure that the distribution is done in a professional and smooth manner.

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