

The DIFC Wills Service Centre (DIFC Registry), based in the Dubai International Financial Centre (DIFC), has been operating since 2014 and was established as an authority for non-Muslims to register wills for their estate in Dubai. In February 2017, the territory has been extended to include the Emirate of Ras Al Khaimah as well. The DIFC Registry recently issued new Registry Rules (New Rules) which came into effect on 30 June 2019 that expand the geographical scope of the DIFC Registry and the applicable number of witnesses. This Legal Briefing provides an overview of the changes introduced by the New Rules.

1. Introduction

Inheritance matters in the United Arab Emirates (UAE) are generally governed by the UAE Civil Code (Federal Law No. 5/1985), the UAE Personal Status Law (Federal Law No. 28/2005) as well as Sharia principles.

Due to the applicability of Sharia principles, many non-Muslim expatriates in the UAE have sought alternatives in order to ensure that their estate planning is carried out in accordance with their wishes and not, for example, as per mandatory Sharia-based provisions.

One possible option for those wishing to draft an enforceable non-Sharia based will is by registering a will with the DIFC Registry (DIFC Will).

2. The DIFC Wills Service Centre

The DIFC Wills Service (DIFC Registry) is an authority allowing non-Muslims to register wills for their estate in Dubai and Ras Al Khaimah and for the appointment of guardians for minor children.

The DIFC Registry rules have been developed on the basis of international best

practices and are based on common law principles. The DIFC Registry recently issued new Registry Rules (New Rules) which came into effect on 30 June 2019.

3. New Rules - Two Major Changes

The New Rules introduce two important changes:

a. Amendment of Territory

The New Rules allow testators to include movable and immovable assets located outside of Dubai and Ras Al Khaimah – in any part of the world – into a DIFC Will (Part 3, Clause 11 of the New Rules).

This change greatly expands the applicability of the DIFC Will as non-Muslim expats holding assets in other Emirates can now make use of the DIFC Will as well (e.g. testators holding assets in the Emirate of Abu Dhabi). However, it remains to be seen whether the local courts would uphold the DIFC Will in case it is to be enforced in the Emirate of Abu Dhabi.

Guardianship provisions will remain valid only for minor children who are residing in Dubai or Ras Al Khaimah.

b. Number of Witnesses

Prior to the implementation of the Rules, the Authorized Officer/Probate Director could serve as a second witness to DIFC Wills. This is no longer possible. For DIFC Wills signed after 30 June 2019 it is required that testators must bring two witnesses when signing their DIFC Will (Part 3, Clause 9 of the New Rules).

4. Amendment of Existing DIFC Wills

Testators who already have a registered DIFC Will but would like to extend the jurisdiction to include assets in other Emirates or countries will have the opportunity to amend their DIFC Wills at no additional cost between June 30 and 29 August 2019. It should be noted that appointments for amending existing DIFC Wills can only be made by email (appointments@difcwills.ae).

Any modifications after 29 August 2019 will be subject to a fee of AED 550 (+ 5% VAT –

approx. EUR 135). Appointments must be booked through the online registration platform of the DIFC Registry.

5. Conclusion

The New Rules expand the applicability of the DIFC Will and allow non-Muslim expatriates holding assets anywhere in the UAE to register such assets with the DIFC Will. Holders of existing DIFC Wills have the opportunity to change their wills without additional charge until 29 August 2019. It is to be seen whether DIFC Wills will be enforceable in other Emirates than Dubai and Ras Al Khaimah. Testators should keep in mind to bring along two witnesses when making DIFC Will.

It should be pointed out that expatriates living in the UAE are often subject to multiple jurisdictions (e.g. home country and UAE) for their inheritance matters. It is recommended to seek appropriate legal advice at an early stage in order to eliminate inconsistencies.

Although SCHLÜTER GRAF Legal Consultants make every effort to provide correct and up to date information in our newsletters and briefings, we cannot take responsibility for the accuracy of the information provided. The information contained in this briefing is not meant to replace a personal consultation with a qualified lawyer. Liability claims regarding damage caused by the use or misuse of any information provided, including information which is incomplete or incorrect, will therefore be rejected, unless this misinformation is deliberate or grossly negligent.

SCHLÜTER GRAF

The Citadel Tower, Offices 2001-2005 Business Bay, P.O. Box 29337

Dubai / United Arab Emirates

Tel: +971 / 4 / 431 3060

Fax: +971 / 4 / 431 3050

Dounia Aghdoubé (aghdoubé@schlueter-graf.com)