

ALPHA MANAGEMENT LIMITED

Corporate Advisors, Consultants and Administrators for Offshore Companies, Trusts and Free-Zones

PO Box 506556, Office 2408 South Tower, Emirates Financial Towers, DIFC - Dubai International Financial Centre, Dubai, UAE
Tel: +9714 354 4433 - Web: www.alphamanagement.com - Email: mail@alphamanagement.com - Fax: +9714 354 4432

DIFC WILLS AND PROBATE REGISTRY

The launch of the DIFC Wills & Probate Registry ("WPR") in May 2015 removes one of the greatest sources of confusion and uncertainty faced by expatriates living and investing in the UAE with respect to the distribution of their assets on death. The current system was riddled with a host of uncertainties and conflicting laws with plenty of advisors giving incorrect advice and selling inappropriate solutions at exorbitant costs. All this is now set to change!

The WPR is available to all non-Muslims who hold financial and real estate assets in Dubai who after making a DIFC Will, want certainty on the distribution of such assets on their death as well as the guardianship of minors. The registry will allow non-Muslims over the age of 21 to register Wills written in English in the DIFC Court. On death the DIFC Court will issue a court order (enforceable in the Dubai Courts) for the direct distribution of Dubai based assets in accordance with the registered Will and thereby removing any ambiguity as to how locally held assets are distributed and avoid the application of Shariah principles. Only assets in Dubai can be included in Wills although it is hoped that the DIFC's jurisdiction may be expanded to cover assets outside of Dubai in the future. Further details as follows:

What is WPR

An English language registry based at the DIFC Court enabling the formal registration of Wills.

Who can benefit

Non-Muslim individuals over the age of 21 with assets in Dubai. The WPR is not available to Muslims.

What assets are covered

Any asset physically located or registered in the Emirate of Dubai (i.e.: property, investments, bank balances, shares in local companies etc.). The WPR does not extend to assets located or registered in other Emirates or abroad.

Is real estate included

YES. Dubai property only.

Who can register

Non-Muslim UAE residents and non-residents can register a Will in the WPR. A declaration of being a non-Muslim will need to be made in the Will on registration and this status will also be tested on death to ensure that the testator did not convert to Islam after making the Will.

What is the legal position

The DIFC is a common law jurisdiction. The WPR's rules are based primarily on the principles contained in the UK Estates Act and Probate Rules. Shariah principles do not form part of the WPR's legal framework.

Any restrictions to the devolution of assets

The WPR provides for full testamentary freedom. Some restrictions may apply depending on the testator's citizenship and/or place of residency.

Do I need to appoint a Lawyer

Not essential but we highly recommend you seek proper professional advice. You only need to make a Will once and so we recommend you get it "right the first time". A good

professional will also ensure that your wishes are properly documented. Fees start at approximately Dhs 3,000 per Will.

What about guardianship issues

The guardianship of minor children resident in Dubai with the testator may be specifically addressed in a DIFC Will.

How does the WPR work in practice

An appointment is made online on www.difcprobate.ae. The execution of the will takes place at the time of registration in the presence of a registry officer and one other witness chosen by the testator. The Will is stored electronically at the DIFC Court with the original Will for 120 years from the date of birth of the testator.

What does this cost

Execution and registration of a DIFC Will before a registry officer will cost Dhs 10,000 (Dhs 15,000 for two mirror Wills). This does not include professional fees for assistance in drafting the Will, acting as witness, drafting the letter of wishes, being appointed and/or acting as executor. Each modification will cost Dhs 550. Execution and registration of a Guardianship Will before a registry officer will cost Dhs 5,000 (Dhs 7,500 for two mirror Guardianship Wills). Application for grant of probate or an order of guardianship will cost Dhs 5,500. A "grant of probate" is a legal instrument that gives authority to the executor to handle the disposal of the deceased's assets and debts. Other costs can be found on the DIFC website www.difcprobate.ae.

Who can act as executor

A family member, a friend or a legal representative. It is possible to appoint co-executors i.e.: a family member together with an attorney. Being appointed as executor is a formal legal position and comes with its own set of specific duties and responsibilities.

Challenge to WPR

A challenge may be lodged before the DIFC Court who will hear any claim made against a Will. Additional fees will apply.

We recommend that anyone wishing to draw up a Will for registration at the WPR should seek the guidance of a professional in drafting the Will and assisting with its registration. This will ensure that all matters are properly covered particularly with respect to guardianship of minors, drafting the Will and letter of Wishes, providing a witness if required and any tax issues that may arise on death. If you wish to "go it alone" please refer to the DIFC website www.difcprobate.ae for a Will template. Alternatively, we are happy to assist and recommend professionals that we consider are experienced in such matters. Finally please note that the WPR is a new system and there will inevitably be some modifications to the system before matters settle down.