

# Secure your legacy

Ajith Madhavan, managing partner of Ajith M Legal Consultancy, lists essential tips and considerations for crafting Wills in the United Arab Emirates.

**T**he UAE is known for its tolerance and is home to over 200 nationalities, including a large expatriate population practicing religions other than Islam. While the Federal Personal Status Law No. 28 of 2005 remains fundamental for Muslims in accordance with Islamic principles, the UAE has recognised the need for a legal system that accommodates the diverse legal needs of its non-Muslim expatriates. In response, the country has taken steps to modernise laws applicable to non-Muslims by enacting Federal Decree-Law No: 41 of 2022 on Civil Personal Status (“**Law No: 41 of 2022**”), addressing the diverse cultural and religious backgrounds of the expatriate population. This dealt with the diverse cultural and religious background of the country's expatriate population. Law No: 41 of 2022 is a historic regulatory revolution in the UAE regarding marriage, divorce, guardianship and inheritance.

Article 1(i) of Law No: 41 of 2022 sets out the real objectives as, “*the provisions of*

*this Decree-Law shall apply to non-Muslims who are national citizens of the United Arab Emirates, and to non-Muslim foreigners residing in the state, unless any of them adheres to the application of the law of their home country, with regard to the articles of marriage, divorce, inheritance, wills, and proof of parentage, without prejudice to the provisions of Articles (12), (13), (15), (16), and (17). of Federal Law No. (5) of 1985”.*

One of the major benefits of the Law No: 41 of 2022 to the expatriate population is to set their succession/inheritance strictly in accordance with their wishes, which is a significant departure from traditional Islamic law principles. By enacting this provision, the UAE legal system acknowledges the diverse cultural and legal expectations of its expatriate population, ensuring equitable treatment in the distribution of estates or as per the laws of their country of origin.

Generally, an expatriate living in the UAE will either face following issues after demise or are worried of below concerns during



their lifetime in the UAE:

- « Whether the assets owned in the UAE will be distributed as per his/her wishes;
- « Possibilities of bank accounts and joint accounts getting blocked;
- « Business succession planning, to ensure uninterrupted conduct of business;
- « Issues related to transfer of vehicle ownership of a deceased;
- « Protect the guardianship of your minor children by appointing a permanent & temporary guardian.

UAE Law No: 41 of 2022, Law No: 15 of 2017 concerning Administration of Estates and Implementation of Wills of non-Muslims in Dubai and DIFC Wills and Probate Registry Rules ("DIFC WPR Rules") provides effective and enforceable solution to address these genuine concerns of non-Muslim expatriates in the UAE.

Article 11(i) of the Law No: 41 of 2022 enables a non-Muslim resident in the UAE to register a Will as per his/her wishes, which states that *"a Testator may leave a Will with all his estates/assets in the State to anyone of his/her choice according to the controls set out by the Executive Regulations of this Decree Law"*.

Article 3 of Dubai Law No: 15 of 2017 states that the Law will apply to all Wills and Estates of non-Muslims in the Emirate, including the DIFC. Article 6(a) of Dubai Law No: 15 of 2017 states that, *"A register known as the Register of Wills of non-Muslims will be created at Dubai Courts and DIFC Courts for the purpose of registering Wills of non-Muslims"*.

As per the above said provisions of Dubai Law No: 15 of 2017, a non-Muslim resident of Dubai can register his/her Will at Dubai Courts or the DIFC Courts Wills Service Center. A Will, regardless of the place of registration Dubai Courts or the DIFC Courts Wills Service Center or Abu Dhabi Judicial Department (ADJD) shall outline how his/her assets and affairs are handled after his/her death. Following fundamental details shall be included in a Will.

1. Personal information of the (i) Testator (who makes the Will); (ii) Executor(s) (who is appointed by the Testator to administer the assets according to the terms of the Will); (iii) Beneficiaries (the individuals or entities who will inherit the Testator's assets).
2. Assets and liabilities including but not limited to Testator's list of movable and immovable properties, tangible and intangible assets, real estate properties,

shares in business, and legal entities, bank accounts, jewellery, any outstanding debts or liabilities.

3. Specific bequests and residuary estate: Testator may choose to make specific bequests, where particular assets are left to specific Beneficiaries. Testator can also outline how the residuary estate, which are the assets left after the Specific Bequests, to be distributed among the Beneficiaries.
4. Guardianship of minor children: In case Testator has minor children, the Will can appoint guardians who will be responsible for their care and upbringing in the event of the Testator's death.
5. Funeral and burial wishes: Testator can include instructions in the Will regarding the funeral arrangements and burial or cremation preferences.

Article 9(1) of DIFC WPR Rules sets out that a non-Muslim individual of the age of majority can register a Will in English language at DIFC Courts Wills Service Center, witnessed by at least two persons of the age of majority, such persons being either physically or virtually present in front of the Registrar or an Authorised Officer at the time of registration. In DIFC Will, a Testator may include all his/her estates located in the UAE and abroad.

An expat non-Muslim in the UAE can register his/her Will (Foreign Will) with their respective consulate or embassy, if such facilities are provided by the consulate/embassy.

The above stated are general guidelines of Will registration in the UAE. However, it's important to seek legal advice when drafting a Will to ensure that it complies with the relevant laws and accurately reflects the Testator's wishes. Additionally, specific customisation required in every Will, based on the specific applicable laws and regulations. Hence, it's crucial to consult with a legal professional familiar with the laws of Dubai and the UAE, prior to registering your Will. 📝



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