

2<sup>nd</sup> November 2017

## **U.A.E. – LONG AWAITED NEW LEGAL FRAMEWORK FOR NON-MUSLIMS TO CREATE WILLS**

In his capacity as Ruler of Dubai, UAE Vice President and Prime Minister His Highness Sheikh Mohammed bin Rashid Al Maktoum issued end of October Law No. (15) of 2017 regulating inheritance, wills and probate for non-Muslims. The Law hasn't been published yet. Pursuant to the law, any non-Muslim who will register at Dubai Courts or DIFC Courts prior to this Law remains valid. This law annuls any other legislation that challenges or contradicts its articles. The law is valid from the date of publication and will be published in the Official Gazette.

The Law, which is applicable to the wills and assets of non-Muslims based in Dubai including the Dubai International Financial Centre (DIFC), creates a clear legal framework for non-Muslims to create wills according to their wishes. It also outlines clear legal procedures that will encourage residents to register their wills and manage their assets in Dubai, thereby creating increased confidence in Dubai's investment landscape.

The law affirms that non-Muslim expats living and working in Dubai can register a will in English under internationally recognized Common Law. The will may only contain movable and immovable property (or in the case of a property will, this will can only contain immovable property i.e. real estate) situated in the Emirate of Dubai; anything outside of the Emirate of Dubai cannot be included in the will.

The new law will help close a gap in the legal system. Previously, there was no clear mechanism for the registration of wills for non-Muslims in the emirate and the only way to secure their assets was to request the application of the law of their home country, in keeping with the UAE's personal status law. Otherwise, assets would be automatically distributed according to Sharia, which is based on a fixed share allocation system for the disbursement of assets.

The new registry will enable non-Muslims with assets in Dubai to have the option to bypass Sharia and instead allow their estates to apply the legal framework that they choose. It will also offer flexible legal options, where previously there was inflexibility, to assist non-Muslim families in the event of the death of one of the parents. This will better protect their intentions and ease a process that otherwise would be long, stressful and complicated. The growing number of non-Emirati property owners will also be able to ensure their houses are passed on to relatives without dispute.

Such clarity is to be warmly welcomed, although there is still the unanswered question of how courts will treat these new wills when the first case is put before them. For now, expats in the emirate can see a coherent legal framework being assembled. Too often in the past, the subject of non-Muslim wills has lacked any definitive answer and that has led to conflicting advice being handed out by legal experts. The new law brings that era of uncertainty to a close.

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### **Procedures for non-Muslims to register a will**

- A lawyer can draft a will according to the expatriates' national laws. The will can be notarized by the testator's embassy and then attested at the Ministry of Foreign Affairs in the UAE.
- There is also the option to have it done at the Notary Public of the Dubai Courts.
- Wills may also be written in English by duly licensed legal consultants registered with the Dubai International Financial Centre (DIFC) Wills and Probate Registry.

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