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Latest Developments in UAE Inheritance Law

Sonya Bhalla

**Lawyer and Legal Consultant
at Meyer-Reumann & Partners**

Overview

- **BACKGROUND**
 - What is inheritance?
 - How individuals legally inherit wealth
 - What is a Will?
 - Reasons for having and not having a Will
- **WHAT HAPPENS IF THERE'S NO WILL**
 - UAE Laws to date
 - Recent Legal Changes
- **THE SOLUTION**
- **TYPES OF WILLS**
- **WHAT WILLS CAN INCLUDE**
- **SUMMARY**
- **Q & A**

What is inheritance?

Legal UAE definition:

Article 313 of the UAE Personal Status Law 2005

“the imperative devolution of the property and financial rights upon the death of their owner to those deserving”

Or, quite simply:

Money, property, and other assets passing to other people (usually family members) after the owner of them dies

How do individuals legally inherit wealth?

In most Countries there are two ways wealth is distributed:

1. According to the terms of a valid Will,

OR

2. If NO valid Will, the laws of the Country usually dictates:

- how
- to whom, and
- in what shares

This is known as ‘Intestate Succession’

Each Country differs and some have mandatory rules for dividing the assets, known as ‘forced heirship’ like Sharia Rules in the UAE.

What is a Will?

A Will is a **document** prepared in a person's **lifetime**, which provides **specific instructions** on how they would like their assets, money and possessions to be **distributed after their death**.

It can also provide instructions on who would **care for minor children** if anything happened to both parents.

Reasons for having a Will

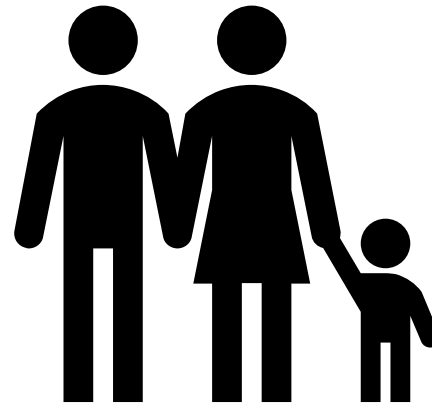
Financially provide for my family and access money after death

Simplify financial paperwork and not leave a mess for loved ones left behind

My children are in safe hands if anything happened to us both

Mitigate inheritance tax (in some countries like UK)

My hard earned wealth goes to my immediate family and no-one else



Avoid my grieving family the stress of going to Court and incurring substantial fees

Main reasons many clients don't have a Will

- a) I'd rather not think about death right now
- b) I'm still young and don't think I need one
- c) I have nothing valuable to pass to family
- d) I haven't had time to get it done
- e) Getting a Will is too expensive
- f) I don't know where or how to get a Will
- g) Recent legal changes mean I don't need one (is this true?)
- h) None of the above (please state in the chat box)

What happens if I have no will?

(g) Recent changes mean I don't need one (is this true?)

November
2020
Home Country
Laws can be
applied

2005
Sweeping law reforms
allow
home Country Wills

1st February
2023
Personal Status
Law Changes

2021
Abu Dhabi
Non-Muslim
Family Court
established

Sept' 2022
Specialist
Inheritance Court
launched in Dubai

What happens if I have no will?

(g) Recent changes mean I don't need one (is this true?)

- 90% of UAE population are expatriates
- Multiple nationalities (even within families)
- Non-Muslim & Muslim expatriates
- Own assets in the UAE
- Invest and run businesses in the UAE
- Many settle and buy family home in the UAE

What happens if I have no will?

VARIOUS FACTORS & COMPLICATIONS

Religion

Country of residence

**Probate Procedures
(How Countries recognise and enforce Wills)**

**Location of assets
"lex situs"**

Multiple Nationalities

**Mixed marriages
(faith & nationalities)**

**Type of assets
(moveable, immoveable, real estate)**

**Laws of each Country
(registration, drafting & execution formalities + default laws, forced heirship, etc)**

**Inheritance Tax & Domicile Status
in some countries**

Home country vs Country of residence

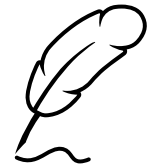
Which law takes priority?

Who decides in the absence of a Will?

What happens if I have no will? UAE Laws



Laws to date (theory)



VS

How applied (in practice)



What happens if I have no will?

UAE Laws

Sharia Law

- Primary source of laws
- Distribution rules directs certain shares to specific family members
- Males receive higher share than females
- A non-Muslim cannot inherit from a Muslim
- Example: family with children - only 1/8th share to the wife
- Legal guardianship is usually given to the closest paternal male
- In practice: more familiar than foreign laws

What happens if I have no will? UAE Laws

UAE Civil Codes & Personal Status Laws

- Pre Sep' 2020 - allowed for Home Country Will to be applied if one exists
 - NO WILL = Sharia rules applied
 - BUT IN PRACTICE: apply for this through the local Courts. In any event the vast number of people do not have a Will in their home Country (c.60%-65%)
- Post Sep' 2020 – national laws of their choice allowed to be applied to UAE assets
 - BUT real estate property excluded = subject to Sharia Law
 - In practice: apply for this through the Courts

What happens if I have no will?

UAE Laws

Home country laws or Foreign Will

1. How is this applied by Courts in practice?
2. What if the home Country default laws don't align with your wishes?
3. Doesn't apply to real estate property.
4. Guardianship is not clear and still follows Sharia principles.

What happens if I have no will? Recent Legal Changes

Law No. (41) Of 2022 on Civil Personal Status (effective from 1st February 2023)

- In the absence of a valid Will (Article 11(2)):
 - a surviving spouse is automatically entitled to half of the deceased's estate, with the other half passing to the surviving children in equal shares, regardless of gender
 - If there are no children, the parents of the deceased inherit
 - In the absence of spouse, children and parents, siblings shall inherit, again equally, with no distinction between brothers and sisters
- Removes traditional default distribution of unequal shares between males and females
- Implementing regulations for the new Federal Personal Status Law are yet to be released with further details, clarification on the above and information about a new register
- Still able to apply home country laws or Will as per previous slide but practical issues remain
- **Provides assurance that the terms of a (UAE registered) Will shall be upheld in relation to ALL UAE-based assets**

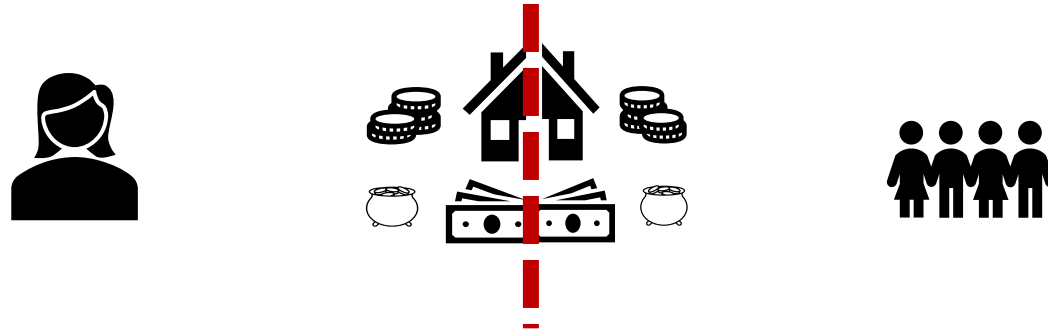
What happens if I don't have a Will?

BUT ...

- Do the new default distribution rules align with a person's wishes?
- How would this be applied in practice?
- What about guardianship?
- Is real estate still excluded and subject to Sharia Law?

What happens if I have no will?

Law No. (41) Of 2022 on Civil Personal Status
(effective from 1st February 2023)

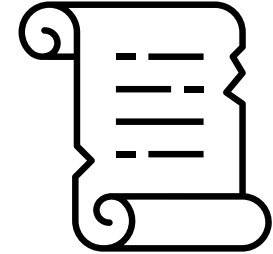


Family home and assets split between surviving
spouse and children

How will this be achieved?

The Solution

TO HAVE A UAE REGISTERED WILL



- **CERTAINTY** – legally recognized by the legal authorities as formally registered with them
- **OPT OUT** of Sharia Rules and new default rules
- **REAL ESTATE** is included
- **FREEDOM OF CHOICE** over who will:
 - care for your children ('legal guardians')
 - manage everything ('executors')
 - receive your assets ('beneficiaries')
 - and in what shares ('distribution')
- **BESPOKE** and tailored to your needs and circumstances
- **AVOID FAMILY DISPUTES** (e.g. estranged family members)
- **COST EFFECTIVE**
- **PROBATE** (post death procedure)
 - Quicker release of funds and assets with a Will

How can I have a Will registered in UAE?

1. Dubai International Financial Centre (DIFC)
2. Abu Dhabi Judicial Department (ADJD)
3. Dubai Courts (DC) – yet to see if a new Wills Registration procedure is established

DIFC Full Will & AD Will Comparison

	DIFC	ABU DHABI
Common benefits	<ul style="list-style-type: none"> • Separate registry for non-Muslim Wills • Covers all assets in the UAE, including real estate <ul style="list-style-type: none"> • Quick and easy virtual registration process • No local lawyer needed for probate process <ul style="list-style-type: none"> • Executor can process everything 	
Advantages	<ul style="list-style-type: none"> • Based on English Law • Can make modifications (nominal fee) • Certainty and tested for longer • Case progression officer is available 	<ul style="list-style-type: none"> • Very cost effective • Covers all Emirates • Covers guardianship in all Emirates • Simple procedures
Disadvantages	<ul style="list-style-type: none"> • Not suitable if family resides outside Dubai or RAK • Expensive • More procedural requirements 	<ul style="list-style-type: none"> • Re-do Will if any changes • Executor needs to attend AD Registry to get execution authorisation and documents issued
Court Fees	AED 10,000 Single / AED 15,000 Mirror	AED 950 per will
Probate Court Fees (est.)	AED 5,500	AED 600

Further Legal Development

ADJD Muslim Wills

- Muslim expats owning assets in the UAE can now register a Will with ADJD
- Exception: Muslim “UAE Nationals”
- Freedom of choice to leave assets as they wish
- New and untested
- Caveat: risks

What would my Will include?

- Guardianship for children under 21 years
- All moveable and immoveable assets
- Company shareholdings
- Specific gifts or cash sums
- End of Service Gratuity

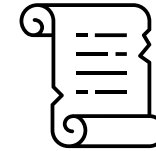
Summary

NO WILL



- Court process
- Not aligned with your wishes
- Practical problems and risks
- Additional costs
- Time consuming
- Cumbersome
- ? Real estate
- ? Guardianship

WILL



- Control how much and who receives your estate
- Nominate guardians of your choice
- Quicker
- Cost effective
- Easier probate process

Questions





Mrs. Sonya Bhalla

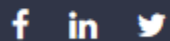
LEGAL CONSULTANT

Specialising in UAE & UK Wills

Email: sonya@meyer-reumann.com

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M&P are Legal Consultants in the Middle East since 1989.



Contact Info

Park Place Tower,
Office No. 503,
P.O. Box 9353,
Dubai,
United Arab Emirates

+971 4 331 7110
dubai@meyer-reumann.com

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