

The Dispute Resolution Authority

Practice Direction No. 6 of 2017

The DIFC Wills and Probate Registry Rules

Citation, commencement and interpretation.

In exercise of the powers conferred on me by Article 8 section (3) (a) of Dubai Law No. 9 of 2004, as amended, and Rules 4 and 7 of the DIFC Wills and Probate Registry Rules, I, Dr. Michael Hwang SC, Head of the DIFC Dispute Resolution Authority, issue the following Practice Direction after having reviewed the DIFC Wills and Probate Registry Rules, including, but not limited to, Rules 5, 9, 10, Schedule 1 and Schedule 3.

The purpose of this Practice Direction is to enable a person employed by an entity other than the DIFC Wills and Probate Registry to supervise and witness the execution of a will that is to be registered at the DIFC Wills and Probate Registry, and to permit the registration of a will at the DIFC Wills and Probate Registry that has been signed by the Testator in the presence of two witness, such persons being either virtually or physically present at the same time, who each sign as a witness in the virtual or physical presence of the Testator.

1. This Practice Direction will come into effect on the date of signature. It may be cited as **Practice Direction 6 of 2017 — The DIFC Wills and Probate Registry Rules** and may be abbreviated to **PD 6/2017**.
2. In this Practice Direction—
 - (a) “DIFC WPR” means the DIFC Wills and Probate Registry.
 - (b) “DIFC WPR Rules” means the DIFC Wills and Probate Registry Rules.

All other capitalized terms used in this PD6/2017 shall have the meaning ascribed to them in Rule 5 of the DIFC WPR Rules.

Amendments to the DIFC WPR Rules.

3. The definition of ‘Authorised Officer’ contained in Rule 5 section (2) (a) of the DIFC WPR Rules shall be amended to read as follows:

‘any officer of the Registry or person employed by an Authorised Service Provider who is for the time being authorised by the Director to supervise and witness the execution of a Will, certify copies, and carry out the Director’s function’.

4. The term ‘Authorised Service Provider’ shall be inserted at Rule 5 section (2) (a) of the DIFC WPR Rules with the corresponding meaning of ‘any entity that is authorised and regulated by agreement with the Registry to register a Will at the Registry in accordance with these Rules’.

5. Rule 9 section (1) (b) of the DIFC WPR Rules shall be subdivided into two separate sections to read as follows:

‘(b)(i) that are in a form as set out in Schedule 1, in the English language, in writing;

(b)(ii) witnessed by the Director or an Authorised Officer and at least one other witness of the age of majority, such persons being either physically or virtually present at the time of witnessing;’.

6. Rule 9 section (6) of the DIFC WPR Rules shall be amended to read as follows:

‘A person may upon payment of such fee, as may be specified by Practice Direction, apply in person to the Director or an Authorised Officer to register a Will’.

7. Rule 10 section (1) of the DIFC WPR Rules shall be amended to read as follows:

‘The Director or an Authorised Officer shall, on the payment of such fee as may be specified by Practice Direction, have authority to witness a Will that is in a form annexed in Schedule 1, and to register a Will at the Registry’.

8. Rule 10 section (2) of the DIFC WPR Rules shall be amended to read as follows:

‘The Director or an Authorised Officer shall upon registration electronically store and preserve the Will and, if requested, issue the Testator with a copy’.

9. Rule 10 section (4) of the DIFC WPR Rules shall be amended to read as follows:

'The Director or an Authorised Officer shall have a discretion to register a document including on grounds of confidentiality or sensitivity of information (such as sealed documents or documents containing confidential passwords and personal codes).'

10. Rule 10 section (5) of the DIFC WPR Rules shall be amended to read as follows:

'The Director or an Authorised Officer shall be under no duty to check or ascertain the mental capacity of the Testator but may, if the Director or Authorised Officer so wishes, ask for a suitable report from an appropriately qualified individual before witnessing the execution of the Will'.

11. Rule 10 section (6) of the DIFC WPR Rules shall be amended to read as follows:

'Where the Testator wishes to appoint a Guardian for a Minor, the Director or an Authorised Officer shall only witness the execution of the Will if the Guardian(s) have undertaken to him (whether in person or by a witness statement verified by a Statement of Truth) to act in accordance with these Rules and the laws of the DIFC and to submit to the jurisdiction of the Court'.

12. Rule 10 section (7) of the DIFC WPR Rules shall be amended to read as follows:

'The Director or an Authorised Officer shall refuse to register a Will if the requirements of these Rules are not met'.

13. Rule 10 section (9) of the DIFC WPR Rules shall be amended to read as follows:

'All registered Wills and other documents which are under the control of the Director or an Authorised Officer shall be retained in the Registry's records in their electronic format, and the Director or Authorised Officer shall not be obliged to hold hard copies'.

14. Rule 10 section (17) of the DIFC WPR Rules shall be amended to read as follows:

'No legal advice shall be given by the Director, an Authorised Officer or any officer of the Registry'.

15. The reference to 'Seal of Registry' contained in Schedule 1 of the DIFC WPR Rules at Form of Will 1 clause H, Form of Will 2 clause H, Form of Will 3 clause H and Form of Will 4 clause H shall be removed.

16. For the purposes of DIFC Dispute Resolution Authority Practice Direction 1 of 2016 – The Wills and Probate Registry's Register of Will Draftsmen, only a person employed by the DIFC WPR may carry out the function of an Authorised Officer with respect to the matters described therein.

Dated this 5th day of October 2017

Dr. Michael Hwang SC

Head of the Dispute Resolution Authority