

The Dispute Resolution Authority
Order No. 1 of 2015
In Respect of the DIFC Wills and Probate Registry Rules

I, Michael Hwang, Head of the DRA, make the following Order:

In exercise of the powers conferred on me by Article 5 (b) of Dubai Law (7) of 2014 establishing ancillary tribunals and establishments of the Dispute Resolution Authority;

and

following a one-month public consultation period

and

after having reviewed:

1. The Dubai Law (7) of 2014 (“Dubai 7/2014”) Article (8) (1) (c) in respect of the Dispute Resolution Authority;
2. The Dubai Law (7) of 2014 (“Dubai 7/2014”) Article (3) in respect of duties and powers of the Dispute Resolution Authority;
3. Resolution (4) of 2014, issued by His Highness Sheikh Maktoum bin Mohammed bin Rashid Al Maktoum, President of the Dubai International Financial Centre (DIFC) in exercise of the powers conferred on him by Article 8 of Dubai Law (9) of 2004 (as amended by the Dubai Law (7) of 2014, and the Law on the Application of Civil and Commercial Laws in DIFC 2004 (1). The Resolution 4 of 2014, by approving the establishment of the DIFC Wills and Probate Registry for non-Muslims as an ancillary body of the DRA, and in respect of granting the powers to the Head of the DRA to set out the duties, powers and the structure of the DIFC Wills and Probate Registry, as set out in Article 2;
4. DIFC Law 3 of 2004, Part 2, Article (8) in respect of the application of laws, including DIFC law.

5. Dubai Law 16 of 2011, Article (5) (A) (1), in respect of the exclusive jurisdiction of the Court of First Instance of the DIFC Courts;

6. Dubai Law 16 of 2011, Article 6 in respect of the Governing Law;

7. Having set the General Powers of the DIFC Wills and Probate Registry, as set out in the Rules of the DIFC Wills and Probate Registry (“WPR Rules”) Part 2 Article (8), which shall read as follows:

“PART 2: The Registry, the Registrar and the Court

8. General powers of the Registry, the Director and the Court

A. There shall be established a Registry to be known as “The DIFC Wills and Probate Registry”.

B. The function of the Registry shall be the administration of Wills and Probate of the persons to whom it applies.

C. The Registry shall refer all matters requiring adjudication arising in the administration of the Estate and the issue of Grants, to the Court.

D. The Registry shall be under the management of a Director who shall be appointed by the Head of the DRA.

E. The Director shall have power to do all things necessary or convenient for the purpose of carrying out the function of the Registry and such other powers as may be conferred on him by or under these Rules or DIFC law.

F. All Grants, orders and other documents issued under these Rules shall be:

a.in the name of the Court;

b.under the seal of the Court; and

c.signed by a Judge or a Court Officer acting with the authority of the Court.”

By this Order, I issue the attached DIFC Wills and Probate Registry Rules. The DIFC Wills and Probate Registry Rules may be cited as “DIFC WPR Rules”. It shall be reflected in the online version publication of the DIFC WPR’s, by April 29, 2015.

Subject to this Order, the Rules shall have effect in relation to all proceedings in the Court of First Instance and the Court of Appeal of the DIFC Courts, insofar as the Probate matters to which the Rules relate, are within the jurisdiction of the Courts and should be read in conjunction with Part 55 of the Rules of the Courts (RDC).

Michael Hwang

Head of the DRA

Issued: April 29, 2015

The Dispute Resolution Authority

THE DIFC WILLS AND PROBATE REGISTRY RULES

(“WPR RULES”)

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A. WILLS

PART 1: General Provisions

1. Legislative Authority

The Head of the Dispute Resolution Authority (the “DRA”), with the approval of the President of the DIFC by the Resolution No (4) of 2014, in exercise of the powers conferred on him by Article 8 of Dubai Law No. 9 of 2004 (as amended by the Dubai Law 7 of 2014), and the Law on the Application of Civil and Commercial Laws in DIFC 2004, makes the following Rules.

2. Title

These Rules may be cited as the “DIFC Wills and Probate Registry Rules” and may be abbreviated to “WPR Rules”.

3. Date of Enactment

These Rules come into force on the date of execution by the Head of the DRA.

4. Amendments of the Rules

Any amendment to these Rules is to be made by the Head of the DRA and will come into force on the date specified.

5. Language and Interpretation

- (1) **Language:** The language used in the WPR is “gender neutral” and references (express or implied) to one gender shall be taken to refer also the other.
- (2) **Interpretation:** This provision contains a list of defined terms used in these Rules and interpretative provisions which apply to these Rules.
 - (a) In these Rules, unless the context otherwise requires, the defined terms listed below shall have the corresponding meanings.

Terms	DEFINITION
Account	an explanation of what has happened to the Property in the Estate
Administration	administration of an Estate pursuant to a Grant or Grant of Administration (with Will annexed)
Administrator	a person to whom a Grant of Administration (with Will annexed) is made
Age of Majority	the age of 21, according to the Gregorian calendar
Authorised Officer	any officer of the Registry who is for the time being authorised by the Director to supervise and witness the execution of a Will, seal and certify copies, and carry out the Director's function
Beneficiary	any person interested in the Estate under the Will and an Executor or Trustee may be a Beneficiary
Cleared Off	to establish that there is no applicant ranking higher in the order of priority (as set out in Rule 30) who wishes to apply for Probate
Court	the DIFC Court of First Instance
Deceased	a dead Testator
Discretionary Grant	a Grant under Rule 51
Donor	a person whose lawful attorney applies for a Grant under Rule 36
DRA	the Dispute Resolution Authority, as defined in Dubai Law No 7 of 2014
Estate	the Immovable and Movable Property of a Deceased and includes Property over which he exercises a general power of appointment by his Will
Estate Property	any Property comprised in the Estate of a Deceased
Executor	the executor, original or by representation, or, unless the context otherwise requires, the Administrator for the time being of the Deceased
Emirate of Dubai or Dubai	the Emirate of Dubai including the DIFC

Terms	DEFINITION
Firm	a partnership (including a limited liability partnership) or company or other corporation
Grant	a grant of Probate
Grant of Administration (with Will annexed)	a Grant to a person other than the executor named in the Will
Guardian	a guardian of a minor and his Property and includes an interim guardian
Immovable Property	includes all interests in land (but not money secured or charged on land)
Interim Grant	a Grant limited to the taking of steps for the preservation of the Estate
Intermeddled	a person who has acted in a way that the Court concludes shows that he has assumed the role of Executor and should be ordered to take a Grant
Inventory	a list of the assets that comprise the Estate
Issue	children and their lineal descendants and includes adopted children
Judge	the Chief Justice and any Judges appointed under Article 9 of the DIFC Court Law 10 of 2004
Life Interest	an interest given to a person under the Will which terminates on that person's death
Marriage	the legal union between a man and a woman as husband and wife
Minor	a person under the Age of Majority
Movable Property	all Property other than Immovable Property
Muslim	an individual who is at the date of death a Muslim according to the law and practice of the United Arab Emirates
Non-Muslim	an individual who at the date of death is not a Muslim according to the law and practice of the United Arab Emirates

Terms	DEFINITION
Notification	a document of the kind referred to in Part 12 of these Rules
Notifier	the person at whose request a Notification is issued
Objection	a notice filed in accordance with Part 13 of these Rules by a person who wishes to prevent the making of a Grant
Objector	a person who wishes to prevent the making of a Grant and for that purpose enters or wishes to enter an Objection
Possession	includes the receipt of (or right to receive) rents and profits
Practice Direction	any Practice Direction made in accordance with Rule 7
Probate	the probate of a Will and includes a Grant of Administration (with Will annexed)
Probate Claim	a claim as defined by Rule 55.1(2)(a) of the RDC
Probate Matters	any matters relating to obtaining Probate in accordance with these Rules
Probate Practitioner	a legal practitioner who is licensed to carry out Probate Matters in accordance with a Practice Direction
Property	anything capable of being owned and transferred
Purchaser	a person who in good faith acquires an interest in property for valuable consideration (which includes Marriage, but does not include a nominal consideration in money)
RDC	the Rules of the Dubai International Financial Centre Courts
Director	a Director of the Registry, appointed by the Head of the DRA
Registry	the DIFC Wills and Probate Registry
Rent	includes any sort of rent or periodical payment in money or money's worth for the use or occupancy of Immovable Property
Renunciation	the act by which a person having a right to Probate waives and abandons it

Terms	DEFINITION
Residuary Beneficiary	a person left the residue of the Estate
Residuary Trustee	a person left the residue of the Estate to hold on trust for someone else
Response	a person's response to an Objection filed in accordance with Part 13 of these Rules
The Rules	these Rules (The Wills and Probate Registry Rules)
Spouse	a person's husband or wife by Marriage
Statement of Truth	a statement that the maker of the document believes the facts stated in the document to be true
Testator	an individual who makes a will
Trustee	any person who receives a gift under the Will to hold on trust for someone else
Will	any will registered under these Rules

- (b) The provisions of the Rules shall, where appropriate, be construed in accordance with the applicable law as defined in Article 8(2)(e) of the Law on the Application of Civil and Commercial Laws in the DIFC 2004 and in cases not covered by the Rules, that law shall apply.

6. The Overriding Objective

The overriding objective of these Rules is to enable Wills and Probate Matters to be dealt with justly and expeditiously by the Registry, the Courts, Authorised Officers and persons dealing with them.

7. Practice Directions

These Rules may be supplemented by Practice Directions.

PART 2: The Registry, the Director and the Court

8. General powers of the Registry, the Director and the Court

- (1) There shall be established a Registry to be known as “The DIFC Wills and Probate Registry”.
- (2) The function of the Registry shall be the administration of Wills and Probate of the persons to whom it applies.
- (3) The Registry shall refer all matters requiring adjudication arising in the administration of the Estate and the issue of Grants to the Court.
- (4) The Registry shall be under the management of a Director who shall be appointed by the Head of the DRA.
- (5) The Director shall have power to do all things necessary or convenient for the purpose of carrying out the function of the Registry and such other powers as may be conferred on him by or under these Rules or DIFC law.
- (6) All Grants, orders and other documents issued under these Rules shall be:
 - (a) in the name of the Court;
 - (b) under the seal of the Court; and
 - (c) signed by a Judge or a Court Officer acting with the authority of the Court.

PART 3: Application of these Rules to the DIFC Will and its Validity

9. Application of these Rules to the DIFC Will

- (1) These Rules shall apply only to wills:
 - (a) of non-Muslim individuals over the Age of Majority;
 - (b) that are in the form set out in Schedule 1, in the English language, in writing, and are executed in front of and witnessed by the Director or an Authorised Officer, and witnessed also by at least one other witness of the age of majority;
 - (c) signed (in person) by the Testator;
 - (d) that appoint Executors over the Age of Majority;
 - (e) that appoint a Guardian, if at all, for a Minor who is habitually a resident with the Testator, in the Emirate of Dubai;
 - (f) that are deposited and (at the time of death remain) registered with the Registry; and
 - (g) that state that the Testator intends Administration and succession to the Property dealt with by the Will to be governed by these Rules and DIFC law.
- (2) These Rules shall apply only to such part of an Estate as is situated in the Emirate of Dubai to which the Testator is entitled at the time of his death and a Grant shall extend only to such part.
- (3) These Rules shall not apply to the Grant to or Administration of an intestate Estate or part of an intestate Estate. If a Will does not deal with part of an Estate situated in the Emirate of Dubai, the administration of, and all matters concerning that part, are to be dealt with by the Dubai Courts.
- (4) If the Testator becomes a Muslim after registration of the Will, these Rules shall not apply to the Will and the Estate shall be administered according to the law of the Emirate of Dubai.
- (5) Gifts and other dispositions (including future gifts and dispositions) shall only be valid to the extent that they are made in favour of persons (including legal entities). To the extent that they are not, the gift or disposition shall be void.
- (6) A person may upon payment of such fee, as may be specified by Practice Direction, apply in person to the Director to register a will.
- (7) Subject to the provisions of these Rules and to any enactment, the RDC shall apply including any further modifications to Probate Matters, and any reference in these Rules, to the RDC, shall be construed accordingly.

10. Director's Functions and Registration of Wills

- (1) 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 the form annexed in Schedule 1, and to register a will.
- (2) The Director or an Authorised Officer shall, upon registration, electronically store and preserve the Will, and issue the Testator with a copy.
- (3) Any document referred to in the Will or which accompanies it (including any letter of wishes) may be registered with the Will.
- (4) The Director shall have a discretion to refuse 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).
- (5) The Director shall be under no duty to check or ascertain the mental capacity of the Testator but may, if the Director so wishes, ask for a suitable report from an appropriately qualified individual before registering the Will.
- (6) Where the Testator wishes to appoint a Guardian for a Minor, the Director shall only register 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 DIFC law and to submit to the jurisdiction of the Court.
- (7) The Director shall refuse to register a Will if the requirements of these Rules are not met.
- (8) Where a Testator is physically incapable of attending the Registry, the Director may, if he thinks fit, attend a location within the Emirate of Dubai for the purpose of enabling the Testator to execute the will. Any additional fees and expenses incurred by the Registry, specified in a Practice Direction from time to time, must be paid by the Testator.
- (9) All registered Wills and other documents which are under the control of the Director shall be retained in the Registry's records in their electronic format, and the Director shall not be obliged to hold hard copies.
- (10) Any Wills or other documents so deposited shall, subject to the control of the Court and to the Rules, only be open to inspection to the Testator (or his legal representative authorised in writing to inspect the Will) and also after the Testator's death, his Executors, Guardians and Beneficiaries.
- (11) A Will and any other documents may be withdrawn from the Registry by the Testator by an application (made by him or by a legal representative authorised in writing to withdraw the Will) in writing made to the Director.

- (12) The Will and, if appropriate, any other documents shall be treated as revoked on the date of receipt of an application duly made to the Registry under Sub-Rule (11) and such revocation shall be confirmed in writing by the Director. From the date of such receipt, the Will and any documents withdrawn shall not be eligible for Probate under these Rules.
- (13) Additional copies of the Will certified by the Registry shall be issued to the Testator on the payment of such fee as may be specified by a Practice Direction.
- (14) A copy of any Will or part of a Will open to inspection (in compliance with Sub-Rule (10)) may, on payment of such fee as may be specified by a Practice Direction, be obtained from and certified by the Registry.
- (15) The conditions for the registration of the Will or any other documents, the manner and procedure for their deposit and registration and their withdrawal and cancellation of their registration, and the manner in which the Registry is to perform its functions in these regards may be further specified in a Practice Direction.
- (16) The registered Will shall be kept in the Registry's electronic system for 120 years from the date of birth of the Testator or for 10 years from the Grant, whichever is the sooner.
- (17) No legal advice shall be given by any officer of the Registry.
- (18) The procedure that will normally be adopted by the Registry is set out in Schedule 3.

11. All property in the Emirate of Dubai may be disposed of by Will

A Will may give or dispose of Immovable and Movable Property situated in the Emirate of Dubai, to which the Testator is entitled at the time of his death, whether the Testator became entitled to it before or after the registration of his Will, and shall not govern succession to any other Property.

12. Witnesses

- (1) The incapacity of a witness shall not invalidate the Will.
- (2) A Will shall be valid even if it makes a gift or appointment in favour of a witness or a witness's Spouse.
- (3) If a Will makes a gift or appointment in favour of a witness or a witness's Spouse such gift or appointment shall be void, provided that:

- (a) any charges or directions for the payment of any debt in favour of a witness or a witness's Spouse shall be valid;
 - (b) such gift or appointment shall be valid in favour of persons other than the witness or a witness's Spouse.
- (4) A person may be a witness even though he is an Executor.

PART 4: Construction and Effect of a Will

13. Rules of Construction applicable to Wills

- (1) The following rules of construction shall apply unless the Will shows a contrary intention.
- (2) A Will shall be construed and take effect as if executed immediately before the Testator's death.
- (3) If any gift of Immovable Property does not take effect, such property shall be included in the gift of residue (if any) contained in the Will.
- (4) A gift of land shall include any leasehold as well as freehold property.
- (5) A gift of Immovable Property without any words of limitation shall mean the whole estate or interest (in the immovable) which the Testator had power to dispose of by Will.
- (6) Words that indicate a failure of Issue of any person shall not be construed as a failure of Issue after the death of such person.
- (7) Sub-Rule (6) shall not apply to cases where such words are used to mean:
 - (a) if no Issue described in another gift shall be born; or
 - (b) if there shall be no Issue who shall take under another gift.
- (8) If a Will purports both to give Property absolutely to the Testator's Spouse and also to give an interest in that Property to the Testator's Issue, the gift to the Spouse shall be absolute (and the gift to the Issue shall be void).
- (9) Where:
 - (a) a Will contains a gift to one of the Testator's Issue;
 - (b) the intended Beneficiary dies before the Testator, leaving Issue; and
 - (c) Issue of the intended Beneficiary are living at the Testator's death,then the gift shall, subject to Sub-Rule (11) below, take effect as a gift to such Issue living at the Testator's death.
- (10) Where:
 - (a) a Will contains a gift to a class of the Testator's Issue;
 - (b) a member of the class dies before the Testator, leaving Issue; and
 - (c) Issue of that member are living at the Testator's death,then the gift shall, subject to Sub-Rule (11) below, take effect as if the class included the Issue of the deceased member living at the Testator's death.
- (11) Issue shall take under Sub-Rules (9) and (10) through all degrees, according to their stock, in equal shares if there is more than one Issue, any gift or share which their parent would have taken and so that (subject to Sub-Rule (12)) no Issue shall take whose parent is living at the Testator's death and so capable of taking.

- (12) For the purposes of these Rules:
 - (a) the illegitimacy of any person is to be disregarded; and
 - (b) a person conceived before the Testator's death and born thereafter is to be taken to have been living at the Testator's death.
- (13) A person may disclaim a gift in whole or part.
- (14) Where a Will contains a gift to a person who:
 - (a) disclaims it; or
 - (b) has been precluded by any applicable law from acquiring itthe person is, subject to any power conferred by law to modify such prohibition, to be treated as having died immediately before the Testator.
- (15) A Will is valid even if some of the gifts or provisions in it are invalid.

14. Interpretation of Wills—General Rules as to Evidence

- (1) This Rule applies to a Will in so far as:
 - (a) any part of it is meaningless;
 - (b) the language used in any part of it is ambiguous on the face of it;
 - (c) evidence, other than evidence of the Testator's intention, shows that the language used in any part of it is ambiguous in the light of surrounding circumstances.
- (2) In so far as this Rule applies to a Will, extrinsic evidence, including evidence of the Testator's intention, may be admitted to assist in its interpretation.

PART 5: Rectification of Wills

15. Rectification of Wills

- (1) If the Court is satisfied that a Will is so expressed that it fails to carry out the Testator's intentions, it may order that the Will shall be rectified so as to carry out his intentions.
- (2) An application for an order under Sub-Rule (1) shall not, except with the permission of the Court, be made after the end of the period of six months from the date of the Grant.
- (3) The provisions of this Rule shall not render the Executors liable for having distributed any part of the Estate, after the end of the period of six months from the date of the Grant and prior to the making of an application under Sub-Rule (1), on the ground that they ought to have taken into account the possibility that the Court might permit the making of an application for an order after the end of that period.
- (4) Rule 90 shall apply and subject to that, Sub-Rule (3) shall not prejudice any power to recover, by reason of the making of an order under this Rule, any part of the Estate so distributed.
- (5) For the purposes of this Rule, a Grant shall not be regarded as being taken out by virtue of:
 - (a) a Grant limited to trust property;
 - (b) a Grant limited to part of the Estate, unless a Grant limited to the remainder of the Estate has previously been made or is made at the same time; or
 - (c) a Grant that does not permit any Estate Property to be distributed.

16. Application for Rectification of a Will

- (1) An application for an order that a Will be rectified by virtue of Rule 15 may be made to the Director, unless a Probate Claim has been commenced.
- (2) The application shall be supported by a witness statement, setting out the grounds of the application, together with such evidence as can be adduced as to the Testator's intentions and as to whichever of the following matters as are in issue:
 - (a) in what respects the Testator's intentions were not understood; or
 - (b) the nature of any alleged clerical error.
- (3) Unless otherwise directed, notice of the application shall be given to every person having an interest under the Will whose interest might be adversely affected, or such other person who might be adversely affected by the rectification applied for and any

comments in writing by any such person shall be exhibited to the witness statement in support of the application.

- (4) If the Director is satisfied that, subject to any direction to the contrary, notice has been given to every person mentioned in Sub-Rule (3) and that the application is unopposed, it may refer the application to the Court for an order accordingly.
- (5) In all other cases, the Director shall refer an application under this Rule to the Court.

17. Rectified Wills to be admitted to Proof

Where a Will has been ordered to be rectified by virtue of Rule 15, the order of the Court shall be registered with the Will and stored electronically.

PART 6: Revocation of Wills

18. General Rule

- (1) No Will or any part shall be revoked otherwise than as provided for in these Rules, or
 - (a) by a later will validly executed (whether or not it complies with these Rules) which expressly or impliedly revokes the Will; or
 - (b) by a written declaration of intention to revoke, executed in the manner in which a will is required to be validly executed by the law of the Testator (whether or not it complies with Schedule 1 of these Rules).
- (2) Any revocation under Sub-Rule (1)(a) or (b) shall be confirmed by an order of the Courts, except in the case of a later will validly executed and registered in accordance with these rules.
- (3) An application for an order confirming the revocation of the Will shall be made under Part 55 of the RDC and supported by:
 - (a) a certified copy of the later will or written declaration of intention to revoke;
 - (b) extracts of the relevant law; and
 - (c) an affidavit of a suitably qualified lawyer confirming the relevant law.”

19. Revocation by changes in circumstance

- (1) A Will is revoked by the Testator’s Marriage, subject to Sub-Rules (2) and (3).
- (2) The exercise of a power of appointment by the Testator takes effect despite the Testator’s subsequent Marriage, unless the property so appointed would, in default of appointment, pass to the Testator’s executors.
- (3) If it appears from a Will that at the time it was made the Testator was expecting to marry and:
 - (a) he intended that the Will or a disposition in it should not be revoked by the Marriage, the Will or the disposition is not revoked by the Marriage.
 - (b) where the Testator intended that a disposition should not be revoked by the Marriage, other dispositions shall take effect unless it appears that the Testator intended them to be revoked by the Marriage.
- (4) Where, after a Testator has made a Will, his Marriage is dissolved or annulled by a court of competent jurisdiction:
 - (a) any appointment in the Will of the former Spouse as executor or trustee or conferring of a power of appointment on the former Spouse; and
 - (b) any Property given or disposed of to the former Spouse

shall pass or take effect, unless a contrary intention appears from the Will, as if the former Spouse had died on the date on which the Marriage is dissolved or annulled.

B. PROBATE

PART 7: Standard types of Grants

20. Grants in Common and Special Form

- (1) A Grant shall be made in either common or special form.
- (2) A Grant is made in common form where the validity of the Will is not contested or questioned.
- (3) A Grant in common form is revocable under Rule 50 or by a Probate Claim.
- (4) A Grant is made in special form where the Courts, after the trial of a Probate Claim, declares the validity of the Will (or part of the Will).
- (5) A Grant in special form is, provided proper notice has been given to all persons interested in the Probate Claim, irrevocable, except if it has been obtained by fraud.

21. Grants of Probate

- (1) Probate of a Will may only be granted in the case of a Will that has been registered under these Rules and which has remains registered at the date of the Testator's death and has not been revoked.
- (2) Probate of a Will may be granted to the executors named in the Will, or such of them as have not renounced.
- (3) If several executors are named in the Will, one or more of them may apply for Probate but power to apply for a Grant shall, unless the Court otherwise directs, be reserved to such of the others as have not renounced.

22. Administration (with Will annexed)

- (1) Administration (with Will annexed) shall be granted, subject to and in accordance with these Rules, in every case in which the Court has power to issue a Grant and it is to be made to a person other than an executor named in the Will.
- (2) Where Administration (with Will annexed) is granted, the Will shall be performed and observed in the same manner as if Probate of it had been granted to an executor.

PART 8: Criteria for Applications for a Grant

23. Where to make Applications

- (1) Applications for Grants shall be made to the Registry.
- (2) The Director may refer the application to the Court at any time.
- (3) Where the Director is satisfied that the provisions of Rules 27 and 28 have been complied with, he shall refer the application to the Court.
- (4) Applications for the revocation of a Grant shall be made to the Court.
- (5) Applications challenging the validity of the Will shall be made to the Court.

24. Who may apply

An application for a Grant may be made:

- (a) through a Probate Practitioner; or
- (b) by personal application.

25. Personal Applications

- (1) A personal applicant may not apply through an agent, whether paid or unpaid, and may not be attended at the Registry by any person acting or appearing to act as their adviser (other than a Probate Practitioner).
- (2) No personal application shall proceed if:
 - (a) it becomes necessary to bring the matter before the Court by claim or application, unless a Judge so permits;
 - (b) an application has already been made by a Probate Practitioner on behalf of the applicant and has not been withdrawn; or
 - (c) the Court so directs.

26. Applications made through a Probate Practitioner

Every Probate Practitioner through whom an application for a Grant is made, shall give the address of their place of business within the Emirate of Dubai.

27. How to apply

- (1) An application by a personal applicant shall be made as follows:

- (a) the applicant shall complete and deliver to the Registry a questionnaire in the form set out in the relevant Practice Direction;
 - (b) the applicant shall verify the truth of the answers in the manner required by the form;
 - (c) the application shall be supported by a witness statement (see also Rule 70) signed by the applicant stating that he undertakes to administer the Estate in accordance with these Rules and DIFC law and submits to the jurisdiction of the Court (or, alternatively, these undertakings may be given in person to the Director);
 - (d) the applicant shall deliver to the Registry such other papers as may be required by Practice Direction or the Director.
- (2) An application made through a Probate Practitioner shall:
- (a) specify the form of Grant being applied for;
 - (b) be supported by a witness statement (see also Rule 70) by the person seeking the Grant setting out:
 - (i) setting out all the facts necessary to be established if such a Grant is to be made; and
 - (ii) stating that he undertakes to administer the Estate in accordance with these Rules and DIFC law and submits to the jurisdiction of the Court (or, alternatively, these undertakings may be given in person to the Director);
 - (c) be accompanied by such other papers as may be required by Practice Direction or the Director.
- (3) All applications shall be accompanied by a death certificate (or a duly authorized copy of the death certificate) issued by the appropriate authority of the place of death provided that, in exceptional circumstances, a Grant may be issued on the fact of death being otherwise proved to the satisfaction of the Director.
- (4) For the purposes of Sub-Rule (3), if the death occurs abroad, then the Director may request such additional documents as is considered necessary to authenticate and translate the documents.

28. Provision of further Information or Documents or attendance for Interview

Any applicant shall, if requested by the Registry:

- (a) provide any further information or any copy or original document requested or specified by the Registry; and
- (b) attend for interview at the Registry or the Court.

PART 9: Who is Entitled to a Grant

29. Number of Executors

A Grant shall not be issued to more than four persons in respect of the same part of the Estate.

30. Order of Priority for Grant

The person or persons entitled to a Grant shall be determined in accordance with the following order of priority, namely –

- (1) the executor named in the Will;
- (2) any Residuary Trustee;
- (3) any Residuary Beneficiary (including one with a Life Interest)
- (4) the Executor of any Residuary Beneficiary (but not one with a Life Interest);
- (5) any other Beneficiary (including one with a Life Interest or one who is a Trustee) or any creditor of the Deceased;
- (6) the Executor of any other such Beneficiary or creditor of the Deceased.

31. Grants where two or more Persons entitled in same Degree

- (1) Where, on an application for Probate, power to apply for a Grant is to be reserved to other executors named in the Will who have not renounced Probate, notice of the application shall, subject to Sub-Rules (2)-(4), be given to those to whom power is to be reserved and, unless the Court otherwise directs, the witness statement in support of that application shall confirm that such notice has been given.
- (2) Where executors are members of a Firm described in the Will and any member of that Firm applies for Probate, notice need not be given to other members under Sub-Rule (1) if power is being reserved to them.
- (3) The Court may dispense with the giving of notice under Sub-Rule (1) if it is satisfied that the giving of such a notice is impracticable or would result in unreasonable delay or expense.
- (4) A Grant of Administration (with Will annexed) may be made to any person entitled thereto without notice to other persons entitled in the same degree.
- (5) Unless the Court otherwise directs, Administration (with Will annexed) shall be granted to:
 - (a) a person over the Age of Majority with full capacity, entitled thereto in preference to a Guardian of a Minor who is otherwise entitled in the same degree, and

- (b) to a living person entitled thereto in preference to the Executor of a deceased person who had been otherwise entitled in the same degree.
- (6) A dispute between persons entitled to a Grant in the same degree shall be brought before the Court by application.
- (7) The making of an application under Sub-Rule (6) shall be noted forthwith in the record of pending Grant applications.
- (8) If the issue of an application under Sub-Rule (6) is known to the Court, it shall not allow any Grant to be sealed until such application is finally disposed of.

32. Joinder of Co-administrator

- (1) A person entitled in priority to a Grant of Administration (with Will annexed) may, without the need to apply for permission, apply for the Grant to be made to that person together with a person entitled in a lower degree, provided that:
 - (a) there is no other person entitled in a higher degree to the co-administrator; or
 - (b) every person entitled in a higher degree to the co-administrator has renounced.
- (2) Subject to Sub-Rule (3) where Sub-Rule (1) does not apply, a person entitled in priority to a Grant of Administration (with Will annexed) may apply to the Court for permission for the making of a Grant to that person together with a person having no right or no immediate right to a Grant of Administration (with Will annexed) as co-administrator. Such application shall be supported by:
 - (a) a witness statement made by the person entitled in priority;
 - (b) the consent in writing of the co-administrator; and
 - (c) such other evidence as the Court may direct.
- (3) Unless the Court otherwise directs, a Grant of Administration (with Will annexed) may be made without the need to apply for permission, to a person entitled in priority to such a Grant, together with as co-administrator:
 - (a) any person who is nominated under Rule 39(3); or
 - (b) a company within Rule 37.

33. Right of Assignee to a Grant

- (1) Where all the persons entitled to the Estate have assigned their whole interest in the Estate to one or more persons, the assignee or assignees shall replace, in the order of priority for a Grant of Administration (with Will annexed), the assignor or, if there are two or more assignors, the assignor with the highest priority.
- (2) Where there are two or more assignees, a Grant may be made with the consent of the others to any one or more (not exceeding four) of them.

- (3) In any case where Administration is applied for by an assignee, the original instrument of assignment shall be produced and a copy of the same lodged in the Registry.

34. Grants to Attesting Witnesses, etc

Where a gift to any person fails by reason of Rule 12 (gifts to a witness or his Spouse), such person shall, without prejudice to his right in any other capacity, not have any right to a Grant as a Beneficiary.

35. Renunciation of Probate

- (1) Renunciation of Probate by an executor named in a Will shall not operate as Renunciation of any right which he may have to a Grant of Administration (with Will annexed) in some other capacity, unless he expressly renounces such right.
- (2) Renunciation of Probate by members of a Firm:
 - (a) may be effected; or
 - (b) subject to Sub-Rule (4) may be retractedby any one or more of them with the authority of the others and any such Renunciation or retraction shall recite such authority.
- (3) Unless the Court otherwise directs, no person who has renounced the right to Administration (with Will annexed) in one capacity may obtain a Grant thereof in some other capacity.
- (4) A Renunciation of Probate may be retracted at any time with the permission of the Court provided that only in exceptional circumstances may an Executor be given permission to retract a Renunciation of Probate, after a Grant has been made to some other person entitled in a lower degree.

PART 10: Applications for particular Types of Grant

36. Grants to Attorneys

- (1) Subject to Sub-Rules (2) and (3) where a person (referred to in this rule as “the donor”) is entitled to a Grant, the lawful attorney of the donor may apply for Administration for the use and benefit of the donor, and such Grant shall be limited until further representation be granted, or in such other way as the Court may direct.
- (2) The lawful attorney shall keep the donor informed of all matters relating to the administration of the Estate.
- (3) The donor shall be liable for the acts or defaults of the attorney as if they were the acts or defaults of the donor.
- (4) A Grant may only be issued under this rule to a Probate Practitioner.
- (5) Where the donor referred to in Sub-Rule (1) is an executor named in a Will, notice of the application shall be given to any other executor unless such notice is dispensed with by the Court.

37. Grants to Companies

- (1) Probate may only be granted to a company if it is either:
 - (a) licensed in the DIFC to act as an executor; or
 - (b) authorised to act as an executor in another jurisdiction
- (2) Probate may be granted to the company either solely or jointly with any other person.
- (3) Probate shall not be granted to any person as nominee of a company.
- (4) Any officer authorised for the purpose by a company or its directors or governing body may, on behalf of the corporation, do any other act which the Court may require with a view to the Grant to the company of Probate; and the acts of an officer so authorised shall be binding on the company.
- (5) For the purposes of Sub-Rule (1)(b), the company’s authority to act as an executor in another jurisdiction must be proved to the satisfaction of the Director.

38. Process for making Grants to Companies

- (1) An application for a Grant to a company shall be made through one of its officers, and such officer shall make a witness statement stating that the corporation is a company as defined by these Rules and that it has power to accept a Grant.
- (2) Where the company is the holder of an official position, any officer whose name is included on a list filed with the Director of persons authorised to make witness

statements and sign documents on behalf of the office holder may act as the officer through whom the holder of that official position applies for the Grant.

- (3) Where Sub-Rule (2) does not apply:
 - (a) a certified copy of the resolution of the company authorising the officer to make the application shall be lodged, or
 - (b) it shall be stated in the witness statement –
 - (i) that such certified copy has been filed with an officer of the Registry or an officer of the Court,
 - (ii) that the officer is therein identified by the position he holds, and
 - (iii) that such resolution is still in force.
- (4) A company may apply for Probate otherwise than as a Beneficiary or the attorney of some person, and on any such application there shall be lodged the consents of all persons entitled to a Grant and of all Residuary Beneficiaries save that the Court may dispense with any such consents as aforesaid on such terms, if any, as the Court may think fit.

39. Grants in case of Lack of Mental Capacity to Administer the Estate

- (1) Subject to Sub-Rule (2), where the Court is satisfied that a person entitled to a Grant lacks mental capacity to administer the Estate, Administration for the use and benefit of that person, limited until further representation be granted or in such other way as the Court may direct, may be granted in the following order of priority:
 - (a) to the person authorised by the Court to apply for a Grant;
 - (b) where there is no such person entitled to act, or if such person shall renounce Administration for the use and benefit of the person who lacks capacity, to the Residuary Beneficiary.
- (2) Unless the Court otherwise directs, no Grant shall be made under this rule unless all persons entitled in the same degree as the person who lacks capacity to administer the Estate referred to in Sub-Rule (1) have been Cleared Off.
- (3) Where a Grant is required to be made to not less than two Administrators, and there is only one person competent and willing to take a Grant under the foregoing provisions of this rule, Administration may, unless the Court otherwise directs, be granted jointly to such person and to any fit and proper person nominated by that person.
- (4) Notwithstanding the foregoing provisions of this rule, Administration for the use and benefit of the person who lacks capacity may be granted to such other person as the Court may, by order, direct.

40. Substitute Grants

- (1) In default of a Grant to an Executor, the Court may order that a Grant, limited in such way as the Court may direct, be made to any of the following persons-
 - (a) to the person entrusted with the administration of the Estate by the court having jurisdiction at the place where the Deceased was a national at his death; or
 - (b) where there is no person so entrusted, to the person beneficially entitled to the Estate by the law of the place where the Deceased was a national at his death or, if there is more than one person so entitled, to such of them as the Court may direct; or
 - (c) if in the opinion of Court the circumstances so require, to such person as the Court may direct.
- (2) A Grant made under Sub-Rule (1)(a) or (b) may be made jointly with such person as the Court may direct if the Grant is required to be made to not less than two Administrators.

41. Grants to Part of an Estate

An application under Rule 46 (power of the Court to sever Grant) for an order for a Grant to part of an Estate may be made to the Court, and shall be supported by a witness statement -

- (a) setting out the grounds of the application; and
- (b) stating whether the Estate is known to be insolvent; and
- (c) showing how any person entitled to a Grant in respect of the whole Estate in priority to the applicant has been Cleared Off.

42. Application for Grants under discretionary Powers of the Court and Interim Grants

An application for an order for:

- (a) a Discretionary Grant; or
- (b) an Interim Grant,

shall be made by application to the Court under RDC Part 55 and shall be supported by a witness statement setting out the grounds of the application.

PART 11: Duties and discretionary Powers of the Court

43. Duty of the Court on Receiving Application for Grant

- (1) The Court shall not allow any Grant to be made until all enquiries which it may see fit to make have been answered to its satisfaction and unless it is satisfied that the applicant has sufficiently complied with any requirements set out in these Rules and any Practice Direction.
- (2) Except with the leave of the Court, no Grant shall be made within seven days of the death of the Deceased.
- (3) If the Court is satisfied that a Grant shall be made, it shall make a Grant accordingly.

44. No Grant where dispute

No Grant shall be made in any case in which there is a dispute about entitlement to the Grant or the validity of the Will, until that dispute is resolved or determined

45. Summons to Executor to Prove or Renounce

- (1) The Court may summon any person named as executor in a Will to prove, or renounce Probate of the Will, and to do such other things concerning the Will.
- (2) The Court may summon any person named as a Guardian in a Will to accept or reject his appointment.

46. Power of the Court to Sever Grant and insolvency

- (1) The Court may grant Probate or Administration (with Will annexed) in respect of any part of the Estate, limited in any way, but subject to Sub-Rules (2) and (3).
- (2) Where the Estate is known to be insolvent, the grant of Probate to it shall not be severed except that a Grant may be made in respect only of property subject to a trust, in which the Testator had no beneficial interest.
- (3) Where an Estate is “insolvent”, that is, its assets are insufficient to meet the liabilities that should be paid out of it, the Executors shall administer it in accordance with the insolvency laws of the DIFC for the time being (so far as they may be applicable), and subject to that, apply to the Courts for the Estate to be administered or executed under the direction of the Courts.

- (4) An application under Sub-Rule (3) shall be made in accordance with Part 55 of the RDC.

47. Powers of Court Relating to Documents

- (1) Where it appears that there are reasonable grounds for believing that any person has knowledge of any document which is or purports to be a will or other testamentary document, the Court may, whether or not any legal proceedings are pending, order him to attend for the purpose of being examined in open Court.
- (2) The Court may:
- (a) require any person who is before it in compliance with an order under Sub-Rule (1) to answer any question relating to the document concerned; and
 - (b) if appropriate, order him to bring in the document in such manner as the Court may direct.
- (3) Any person who, having been required by the Court to do so under this Rule, fails to attend for examination, answer any question or bring in any document shall be guilty of contempt of Court, and Part 52 (Contempt of Court) of the RDC shall apply.
- (4) Where it appears that any person has in his possession, custody or power any document which is or purports to be a testamentary document, the Court may, whether or not any legal proceedings are pending, issue a witness summons requiring him to bring in the document in such manner as the Court may direct in the summons.

48. Power to Appoint trustees of Minor's Property

- (1) Where a Minor is absolutely entitled under a Will to any Property (not held on trust for the Minor), the Executors may appoint at least two and no more than four persons (who may include any of the Executors), to be the trustees of such Property, and may take any step necessary to vest such Property in such trustees.
- (2) Such an appointment shall discharge the Executors from all further liability as Executors in respect of such Property and the Property may be retained in its existing condition or state of investment, or may be converted into money, and such money may be invested in any authorised investment.

49. No Grant where Conflicting Applications

Subject to these Rules, no Grant in respect of the Estate, or part of it, shall be made by the Court on any application if, at any time before the making of a Grant, it appears to the Court that some other application has been made in respect of that Estate or, as the case may be,

that part of it and has not been either refused or withdrawn, but nothing in this rule shall affect the Court's power to make a limited or interim Grant.

50. Revocation (or amendment) of Grants

- (1) Where it appears that a Grant either ought not to have been made or contains an error, the Court may review the Grant.
- (2) If the Court is satisfied that the Grant should be amended or revoked, it may make an order accordingly.
- (3) A Grant may be amended or revoked under Sub-Rule (2) without being called in, if it cannot be called in.
- (4) Except on the application or with the consent of the person to whom the Grant was made, the power conferred in Sub-Rule (2) shall be exercised only in exceptional circumstances.

51. Power of Court to make Interim and Discretionary Grants

- (1) The Court may order a Grant to be made which is limited to the taking of steps for the preservation of the Estate (an Interim Grant) or in any other way.
- (2) The Court may appoint as Administrator some person other than the person who would otherwise have been entitled to the Grant.
- (3) Any Grant of Administration (with Will annexed) under this Rule may be limited in any way.

52. Power of the Court to appoint Substitute for, or to remove, Executors

- (1) Where an application relating to the Estate is made to the Court under this rule by or on behalf of an Executor or a Beneficiary, the Court may in its discretion:
 - (a) appoint a person (in this rule called a substituted Executor) to act as Executor in place of the existing Executor or any of them; or
 - (b) if there are two or more existing Executors, terminate the appointment of one or more, but not all, of those persons.
- (2) Where the Court appoints a person to act as a substituted Executor, then the appointment shall (except for the purpose of including him in any chain of representation) constitute him Executor as from the date of the appointment.
- (3) The Court may authorise a person appointed as a substituted Executor to charge remuneration for his services as such, on such terms as the Court may think fit.

- (4) In this rule “Beneficiary”, in relation to the Estate, means a person who is beneficially interested in the Estate.

53. Grants pending the Determination of a Probate Claim

- (1) Where a Probate Claim is pending, the Court may grant Administration of the Estate to a special Administration, who shall, subject to Sub-Rules (2) and (3), have all the rights, duties and powers of an Executor.
- (2) A special Administration shall be subject to the control of the Court and act under its direction.
- (3) No distribution of the Estate or any part of it shall be made without the permission of the Court.
- (4) The Court may authorise the payment of reasonable remuneration to a special Administration out of the Estate.

54. Compromise of Probate Claims

Where on a compromise of a Probate Claim:

- (a) the Court is invited to pronounce for the validity or against the validity of one or more Wills; and
- (b) the Court is satisfied that consent has been given (according to Part 55 RDC, Rule 55.14(4)) by or on behalf of every Beneficiary who the Court considers should give consent,

the Court may, without more action, pronounce accordingly and issue a Grant.

PART 12: Notifications

55. General

- (1) The Registry may issue a Notification requiring the person receiving the Notification either
 - (a) to accept or to refuse or to take a Grant in accordance with Rule 57, or
 - (b) to give reasons why that person should not be ordered to take a Grant in accordance with Rule 57, or
 - (c) to prove a Will by Probate Claim in accordance with Rule 58.
- (2) No Notification shall be issued (i) while proceedings as to the validity of the Will are pending or (ii) before the Notifier has entered an Objection in accordance with Rule 62.
- (3) Unless the Court by order made on application otherwise directs, any Objection in force at the commencement of the Notification proceedings shall, unless withdrawn pursuant to Rule 63, remain in force until application for a Grant is made by the person shown to be entitled thereto by the decision of the Court in such proceedings, and upon such application any Objection entered by a party who had knowledge of the proceedings shall cease to have effect.

56. Evidence and Procedure

- (1) The facts stated in a Notification, and such other information as the Court may require, shall be verified by a Statement of Truth made by the Notifier or where the Court permits by the Notifier's Probate Practitioner. The Notifier shall file a Form 1 set out in Schedule 2.
- (2) Any application under this Part shall be made in accordance with Part 55 of the RDC.
- (3) Subject to Sub-Rule (4), every Notification shall be served personally on the person to be notified.
- (4) The Court may, if satisfied by evidence contained in a witness statement, that it would be just and expedient, direct that the Notification may be served by some other appropriate method (including by advertisement).
- (5) A person who has been served with a Notification may, within eight days of being so served (inclusive of the day of such service), or at any time thereafter if no application has been made by the Notifier under Rule 57(2) or Rule 58(2), acknowledge service in the Registry by filing Form 2 set out in Schedule 2 and shall serve on the Notifier as soon as practicable, a copy of Form 2 sealed with the stamp of the Court.

57. Notification to accept or to refuse or to take a Grant

- (1) Subject to Rule 55(2), a Notification to accept or to refuse or to take a Grant may be issued to a person entitled to a Grant, at the request of any person who would be entitled to a Grant, in the event of the recipient of the notice renouncing his right thereto.
- (2) Subject to Rule 55(2), a Notification to accept or to refuse or to take a Grant may be issued to a person in respect of whom power to take a Grant has been reserved. Such a Notification may be issued at the request of executors who proved the Will or the survivor of them or by executors of the last survivor of Deceased executors who proved the Will.
- (3) Subject to Rule 55(2), a Notification may be issued at any time after the expiration of six months from the death of the Deceased, calling an executor who has Intermeddled in the Estate to give reasons why he should not be ordered to take a Grant. Such a Notification may be issued at the request of any person interested in the Estate.
- (4) A person receiving a Notification under Sub-Rule (1), (2) or (3) who is willing to accept or to take a Grant may, after acknowledging service, apply by witness statement to the Registry (without giving notice to any other person concerned) for an order for a Grant to that person.
- (5) If the time limited for acknowledging service has expired and the person receiving the Notification has not acknowledged service, the Notifier may –
 - (a) in the case of a Notification under Sub-Rule (1) apply to the Court for an order for a Grant to the Notifier;
 - (b) in the case of a Notification under Sub-Rule (2) apply to the Court for an order that a note be made on the Grant that the executor in respect of whom power was reserved has been duly notified and has not acknowledged service and has ceased to have any rights in respect of the executorship; or
 - (c) in the case of a Notification under Sub-Rule (3) apply to the Court by application (which shall be served on the person receiving the Notification) for an order requiring the person notified to take a Grant within a specified time or for a Grant to be made to the Notifier or to some other person specified in the application.
- (6) An application under Sub-Rule (5) shall be supported by a witness statement showing that the Notification was duly served.
- (7) If the person receiving the Notification has acknowledged service, but has not applied for a Grant under Sub-Rule (4) or has failed to pursue his application with reasonable diligence, the Notifier may –

- (a) in the case of a Notification under Sub-Rule (1), make an application to the Court for an order for a Grant to the Notifier;
- (b) in the case of a Notification under Sub-Rule (2) make an application to the Court for the endorsement on the Grant of such a note as is mentioned in Sub-Rule (5)(b); or
- (c) in the case of a Notification under Sub-Rule (3) make an application to the Court for an order requiring the person notified to take a Grant within a specified time or for a Grant to the Notifier or to some other person specified in the application; and the application shall be served on the person notified.

58. Notification to have a Will proved by a Probate Claim

- (1) Subject to Rule 55 (2), a Notification to have a Will proved by a Probate Claim shall be directed to the executors named in the Will and to all persons interested under it. A Notification may be issued at the request of any person.
- (2) Subject to Rule 55(2), if the time limited for acknowledging service has expired, the Notifier may –
 - (a) in the case where no person has acknowledged service, apply to the Court for an order for a Grant as if the Will were invalid and such application shall be supported by a witness statement showing that the Notification was duly served; or
 - (b) in the case where no person who has acknowledged service proceeds with reasonable diligence to prove the Will, apply to the Court by application, which shall be served on every person notified who has acknowledged service, for such an order as is mentioned in Sub-Rule (2)(a).

PART 13: Objection to the Making of a Grant

59. Objections against the making of a Grant

An Objection against the making of a grant of Probate or Administration (with Will annexed) may be entered in the Registry, subject to the RDC Part 55.

60. Entry and Effect of an Objection

- (1) An Objector or a Probate Practitioner on the Objector's behalf may enter an Objection by completing and filing at the Registry a notice of Objection in Form 3 set out in Schedule 2, setting out particulars of the Objection, including particulars of any contrary interest.
- (2) Upon the Registry receiving a completed notice of Objection, the Objection shall be entered in the record of Objections maintained by the Registry and an acknowledgement shall be provided to the Objector.
- (3) The Court shall not allow a Grant to be made (other than an Interim Grant or a Grant pending a Probate Claim), if it has knowledge of an Objection which remains effective.

61. Duration and Extension of Objection

- (1) An Objection shall have effect from the next business day following the date on which it is entered and, subject to the provisions of this rule or of Rules 63, 64 and 65 shall continue to have effect for a period of six months.
- (2) Subject to Sub-Rule (3), an Objector may seek to extend the period for which the Objection has effect by making a written request to the Registry; any such request must be received by the Registry within the last month before the Objection would otherwise cease to have effect and upon receipt of the request the Objection will be extended for a further period of twelve months, unless the Court directs otherwise.
- (3) Where a Response has been filed under Rule 62 any application to extend the period for which the Objection has effect must, unless the Court directs otherwise, be made by application notice.
- (4) Where an Objection is extended on a written request under Sub-Rule (2) or on an application under Sub-Rule (3), the provisions of this Rule and Rule 60(3) shall apply to the Objection so extended.
- (5) Any extension shall be entered in the record of Objections.

62. Response to an Objection

- (1) Any person who claims to have an interest in the Estate and who wishes to oppose the Objection must file at the Registry dealing with the matter a Response to the Objection in Form 4 set out in Schedule 2 setting out reasons for opposing the Objection, including particulars of any contrary interest.
- (2) Upon the filing of a completed form of Response, the Response shall be entered in the record of Objections, and a copy of the Response shall be provided to the Objector.
- (3) Any person who has filed a Response in accordance with Sub-Rule (1) may, on or after filing the Response, apply to the Court by application notice, for a direction that the Objection cease to have effect, or for further directions as to the continuation of the Objection.

63. Withdrawal of an Objection

- (1) An Objection may be withdrawn without the permission of the Court at any time before a Response is filed under Rule 62.
- (2) After a Response has been filed, an application to withdraw an Objection may, if all the parties consent, be made to the Court, by application notice.

64. Powers of the Court

- (1) On determining an application made under Rule 61(2), Rule 62(3) or Rule 63(2) the Court may order that the Objection continue to have effect or that it shall cease to have effect or may make such other orders or directions as may be appropriate, including any terms or conditions to be attached to the order.
- (2) An Objection which is effective when an application is made under Rule 61(2), Rule 62(3) or Rule 63(2) shall remain effective until the (final) determination of the application.

65. Further Objection

Except with the permission of the Court, no further Objection may be entered by an Objector whose Objection has been withdrawn, or has ceased to have effect under these Rules or by order of the Court.

PART 14: Probate Claims

66. Duties of the Court

- (1) Upon being advised of the issue of a Probate Claim, the Court shall give notice of the claim to every Objector other than the claimant in the claim, in respect of each Objection that is in force.
- (2) In respect of any Objection lodged after the commencement of a Probate Claim, the Court shall give notice to that Objector, of the existence of the claim.
- (3) Unless a Judge by order made on an application otherwise directs, the commencement of a Probate Claim shall operate to prevent the making of a Grant (other than a Grant pending a Probate Claim) until an application for a Grant is made by the person shown to be entitled thereto by the decision in the Probate Claim.
- (4) Upon such application for a Grant, any Objection entered by the claimant in the claim, and any Objection in respect of which notice of the action has been given, shall cease to have effect.

PART 15: Records, Publications and Searches

67. Record of Grant and Applications for Grants

- (1) The Registry shall maintain an electronic record of every pending application for a Grant and shall notify the Court of such application.
- (2) When an application is made, the Registry shall cause the record to be searched and shall note the result of the search and notify the Court of such result.
- (3) Records of all Grants which are made shall be kept in such form and with such particulars as the Director may direct and the Court shall be notified.

68. Publication of information

The Registry shall publish the following information about the Grant or application for a Grant:

- (a) the names and addresses of:
 - (i) the Deceased;
 - (ii) the Executors; and
 - (iii) the Guardians (if any);
- (b) the dates of:
 - (i) the Deceased's death; and
 - (ii) the Grant;
- (c) details of any Notification issued by or Objection entered in the Registry, and any Probate Claim;
- (d) such other information as the Director may direct.

69. Searches by Beneficiaries

- (1) On the payment of such fee as may be specified by Practice Direction, a person may require a search of all Wills where the Testator has died and to be informed of any such Will of which he is a Beneficiary.
- (2) The result of such search and, if the person is a Beneficiary of the Testator's Will, the Will shall be delivered to the applicant within 14 days of the application.
- (3) For the purposes of this rule:
 - (a) a charitable organization shall be treated as a Beneficiary of a Will under which Property is given to unnamed charities, and
 - (b) a member of a class to which Property is given shall be treated as a Beneficiary.

PART 16: Evidence in support of an Application for a Grant

70. Witness Statement in support of Grant

- (1) Every witness statement in support of a Grant shall be verified by a Statement of Truth.
- (2) Unless otherwise directed by the Court, the witness statement referred to in Sub-Rule (1) shall state:
 - (a) the full name of the Deceased;
 - (b) the date of birth of the Deceased as stated on the death certificate or as applicable to the circumstances;
 - (c) the date of death of the Deceased as stated on the death certificate or as applicable to the circumstances;
 - (d) the address of the principal residence of the Deceased; and
 - (e) the state or territory where the Deceased was a national at his death.
- (3) The witness statement referred to in Sub-Rule (1) shall also state:
 - (a) the basis on which the applicant claims to be entitled to a Grant;
 - (b) in what manner any person having a prior right to a Grant has been Cleared Off; and
 - (c) where the application is for a Grant of Administration (with Will annexed), whether any Minority or Life Interest arises under the Will.

71. Evidence where Grant in additional Name

Where it is sought to describe the Deceased in a Grant by some name in addition to his true name, the applicant's witness statement must:

- (a) state the name and (and any other name(s) of the Deceased including that shown on the death certificate),
- (b) identify any part or parts of the Estate which was held in the other name or names, and
- (c) give any other reason why the Deceased should be described in the Grant by the additional name as well as by his true name.

72. Evidence of Foreign Law

Where evidence as to the law of any country or territory outside the DIFC or Dubai is required on any application for a Grant, the Court or Registry may accept –

- (a) a witness statement from any person whom, having regard to the particulars of their knowledge or experience given in the statement, the Court or Registry regards as suitably qualified to give expert evidence of the law in question; or
- (b) a certificate by, or an act before, a notary practising in the country or territory concerned.

PART 17: Notices, applications, service and costs

73. Notices, and other Documents

- (1) Unless the Court otherwise directs or these Rules otherwise provide, any notice or other document required to be given to or served on any person may be given or served in the manner as prescribed by RDC Part 9.
- (2) Except in respect of parties who are resident outside the Dubai, all Objections, Notifications, Responses and acknowledgements of service shall contain an address for service in the DIFC or Dubai.

74. Application Notices

Where these Rules or any Practice Direction require, or the Court or Director directs, an application to be made by application notice, Part 23 of the RDC shall apply and the following persons shall be included as respondents:

- (a) any person to whom notice is required to be given under any provision of these Rules or any Practice Direction;
- (b) any person who has applied for a Grant in respect of the Estate;
- (c) any person to whom a Grant has been made in respect of the Estate;
- (d) any other person whom the Court directs.

75. Transfer of Applications

Where an application otherwise than by application notice is made to the Registry, the Director may, of his own initiative or on the application of any party, order the transfer of the application to the Court to be heard by a Judge.

76. Service of Applications

- (1) The Court may direct that an application, for the service of which no other provision is made by these Rules, shall be served on such person or persons and in such manner as the Court may direct.
- (2) Where the Court is satisfied that it is not practicable for an application to be served on any respondent, the Court may dispense with service on that respondent.
- (3) An application for an order under Sub-Rule (2) shall be made by filing a witness statement, setting out the grounds on which the applicant relies, and shall be verified by the Statement of Truth.

77. Service out of the DIFC or Dubai

The Rules in Section 3 of Part 9 of the RDC apply for the purposes of these Rules to the service out of the DIFC or the Emirate of Dubai.

78. Costs

Parts 38 and 40 of the RDC shall apply for the purposes of these Rules except Rules 38.15, 38.16 and 38.27

PART 18: Applications in Particular Cases

79. Application made to the Court

Any application under this Part shall be made to the Court by issuing an application notice.

80. Application for Permission to swear Death

An application for permission to swear to the death of a person in respect of whose Estate a Grant is sought shall be supported by a witness statement setting out the grounds of the application and containing particulars of any policies of insurance effected on the life of the presumed Deceased, together with such further evidence as the Court may require.

81. Application for Order to attend for Examination or for Witness Summons to bring in a Will

An application under Rule 28 for an order requiring a person to attend for interview may, unless a Probate Claim has been commenced, be made to the Court and shall be served on such person as aforesaid.

82. Inventory and Account

Anyone with an interest in an Estate may apply to the Court for an order for an Inventory and Account of the administration of the Estate.

PART 19: APPEALS

83. Appeals Process

- (1) An appeal against a decision or against the requirement of a Director shall be made to a Judge and shall be made by filing a notice of appeal at the Court.
- (2) The notice of appeal shall be filed at the Court within 21 days after the decision or requirement against which the appeal is brought, unless the Court specifies a different time, and the appellant shall, at the same time, serve a copy of the notice of appeal on every other party to the proceedings.
- (3) Any reference in Part 44 of the RDC to an appeal from a Judge shall be taken to include an officer of the Registry.
- (4) Rule 44.5 of the RDC does not apply to an appeal under this rule.

C. ADMINISTRATION OF ESTATES

PART 20: Duties & Rights of Grantees in Administration of Estates

84. Duties of Executors

The Executors shall be under a duty to:

- (a) collect and obtain control of the Estate and administer it according to the Will, these Rules and the laws of the DIFC;
- (b) preserve, protect and manage the Estate;
- (c) act with care and complete good faith;
- (d) administer the Estate for the benefit of those interested in it;
- (e) when required to do so by the Court, provide an Inventory and an Account;
- (f) when required to do so by the Court, value the Estate;
- (g) ascertain the debts and liabilities of the Deceased;
- (h) pay all expenses, debts and other liabilities as are properly payable;
- (i) distribute the remainder of the Estate to the Beneficiaries;
- (j) keep accurate accounts and records of the administration of the Estate;
- (k) keep the Estate separate from their personal property and any other property held in a different capacity;
- (l) not directly or indirectly profit from their office, unless authorised to do so by the Will, the Court or the Beneficiaries;
- (m) not enter into any transaction affected by (or otherwise place themselves in a position where there is) a conflict between his duty to the beneficiaries and creditors and his personal or other interests, unless authorised to do so by the Will, the Court or the Beneficiaries;
- (n) in appropriate cases, seek the Court's directions as regards matters arising in the administration;
- (o) when required to do so by the Court, deliver the Grant to the Court; and
- (p) take reasonable steps to notify the Beneficiaries of their interests.

85. Duties and powers of Administrators

A person to whom Administration (with Will annexed) is granted shall have the same duties and powers as an Executor would have had under a Grant of Probate (limited in any similar manner).

86. Guardians

- (1) A Testator who has parental responsibility for a minor child who habitually resides with the Testator in Dubai may appoint in accordance with the applicable law of the child a Guardian or Guardians of the child but subject always to the law of the UAE.

- (2) The guardianship shall, subject to that law, only take effect if there is no other parent or Guardian of the child alive at the date of the Testator's death.
- (3) After the Testator's death, the Guardian shall notify the Director in writing stating whether he accepts the appointment or not and if he accepts he shall confirm that he will act in accordance with the applicable law and that he submits to the jurisdiction of the DIFC Courts.
- (4) Subject to compliance with Sub-Rules (1) and (3), the Court shall make an order substantially in the form attached.
- (5) Nothing in these Rules shall prevent the Court appointing a different Guardian for the child in accordance with the applicable law.
- (6) No appointment of a Guardian shall be valid if such appointment would be contrary to the law and public order of the UAE.
- (7) The Guardian shall on the appointment taking effect have parental responsibility for the child.
- (8) "Parental responsibility" means all the rights, duties, powers, responsibilities and authority which under the law of the UAE a father has in relation to the child and his property and includes the right to remove the child from the UAE and the DIFC.
- (9) No more than two Guardians may be appointed to act.

87. Payment of debts etc

- (1) The Executors shall so far as necessary and appropriate dispose of the Estate and out of the net proceeds shall:
 - (a) pay all expenses, debts and other liabilities as are properly payable, and
 - (b) set aside a fund sufficient to provide for any pecuniary legacies bequeathed by the Will
- (2) While:
 - (a) any Beneficiary is aged less than the Age of Majority; or
 - (b) during the subsistence of any Life Interest; or
 - (c) pending the distribution of the whole or any part of the Estate,
 the Executors may invest in any manner authorised by the DIFC Trust Law 2005 the residue of the net proceeds or so much thereof as may not have been distributed.
- (3) Nothing in this Rule affects the rights of any creditor of the Testator.
- (4) This rule has effect subject to the provisions contained in the Will.

88. Administration of Assets

Where the Estate is solvent payment of the funeral, testamentary and administration expenses, debts and liabilities shall be governed by:

- (1) Any Rules of Court and the provisions of these Rules, and subject thereto
- (2) The provisions, if any, contained in his Will,

And subject to the above such expenses debts and liabilities shall be paid out of his Estate as specified below.

Order of payment

- (1) Property included in a residuary gift, subject to the retention out of such property of a fund sufficient to meet any pecuniary legacies, so far as not provided for, as above.
- (2) Property specifically appropriated or given (either by a specific or general description) for the payment of debts.
- (3) Property charged with, or given (either by a specific or general description) subject to a charge for the payment of debts.
- (4) The fund, if any, retained to meet pecuniary legacies.
- (5) Property specifically given, rateably according to value.
- (6) Property appointed by Will under a general power, rateably according to value.

89. Powers of Executors

- (1) The Executors shall have all the powers conferred by the Will, these Rules and DIFC law.
- (2) Subject to the terms of the Will, the Executors shall, for the purpose of exercising their functions, have all the powers of an absolute owner and, without limiting the generality of the same, they may:-
 - (a) sell, grant options, mortgage, pledge, lease and otherwise deal with or dispose of any Estate Property;
 - (b) exchange, partition or otherwise change the character of any Estate Property;
 - (c) open and deposit money in the Estate in an account in a regulated financial services institution;
 - (d) repair, maintain, develop or improve any Estate Property;
 - (e) borrow money, charge any Estate Property as security for any liability properly incurred by them or indemnify any person for any liability properly payable out of the Estate;
 - (f) bring or defend any claim on behalf of the Estate and represent the Estate in any proceedings and before any person or authority;

- (g) compromise claims on behalf of the Estate;
 - (h) appropriate any Estate Property in or towards satisfaction of the interest of a Beneficiary in such matter and in accordance with such valuation as they think fit;
 - (i) ascertain and fix the value of any Estate Property in such manner as they think fit;
 - (j) pay an amount distributable to a Beneficiary who is or the Executors reasonably believe is under a legal disability (including, but not limited to, a minor or person with mental disability or otherwise legally incapable of managing his property and affairs) by paying it directly to the Beneficiary or his Guardian (receipt of which shall constitute a full discharge) or by applying it for the Beneficiary's benefit or by managing it as a separate fund on the Beneficiary's behalf;
 - (k) with respect to interests in a partnership, company or other business organisation, continue the business or trade and take any action that may be taken by shareholders, members or holders of any other interest that was vested in the Deceased, including merging, dissolving or otherwise changing the form of the business organisation or contribution additional capital;
 - (l) with respect to stocks and securities, exercise the rights of an absolute owner, including the right to vote or give proxies to vote;
 - (m) deposit documents relating to the Estate with any person and vest any Estate Property (or place it in the possession or control of) any person as nominee;
 - (n) insure any Estate Property against damage or loss;
 - (o) pay expenses incurred in the Administration of the Estate;
 - (p) employ agents and delegate in writing any functions which DIFC law or the Will permit to be delegated;
 - (q) assent or transfer any Estate Property to or otherwise vest it in a Beneficiary;
 - (r) permit a Beneficiary to take possession of land before it is transferred to or otherwise vested in him;
 - (s) on completion of Administration of the Estate, exercise the powers appropriate to wind up the Administration of the Estate and distribute Estate Property to the persons entitled to it;
 - (t) sign all documents required to carry out their functions including signing documents in front of all competent authorities;
 - (u) do anything that is incidental or conducive to the exercise of their functions.
- (3) Without limiting the generality of the above, in dealing with the Estate, the Executors shall —

- (a) have the same functions, powers and discretions, including power to raise money by mortgage or charge (whether or not by deposit of documents), as an Executor has under the applicable law as defined in Article 8(2)(e) of the Law on the Application of Civil and Commercial Laws in DIFC 2004; and
- (b) power to make contracts binding on and enforceable against and by the Executor for the time being of the Deceased (and which may be varied or rescinded by him) as if it had been entered into by himself.

The above provision shall apply during Administration, the Minority of any Beneficiary or any Life Interest, or until the period of distribution arrives.

- (4) Nothing in this rule shall affect the right of any person to require an assent or transfer to be made.

90. Distributions

- (1) A person may at any time (including prior to the Grant) apply to the Court for a court order directing that sums shall be applied for specified purposes and an Executor (or such other person as the Court may specify) may act in accordance with any such directions without liability (even if the Will is subsequently found to be invalid).
- (2) The specified purposes shall include payment of funeral and testamentary expenses and maintenance of the Testator's dependants.
- (3) Subject to the foregoing provisions of these Rules, an Executor shall administer and distribute the Estate as soon as possible but is not bound to distribute the Estate, unless the Court otherwise directs, before the expiration of six months from the death.

91. Obligations of Executor as to giving Possession of Land and Powers of the Court

- (1) An Executor, before distributing or transferring land to any person entitled to the land, may permit that person to take possession of the land, provided that such possession shall not prejudicially affect:
 - (a) the right of the Executor to take or resume Possession
 - (b) his power to convey the land as if he were in still in Possession (subject to the interest of any lessee, tenant or occupier in possession or in actual occupation of the land).
- (2) Any person who (against the executor) claims rights or interests in Immovable Property (whether to possession or for a transfer, an assent or registration or otherwise) or the appointment of a receiver may apply to the Court for directions and the Court may make such vesting or other order as it thinks fit and the provisions of the DIFC Trust Law 2005 (Arts. 14, 15, 21, 23, 24, 29, 31, 40, 55, 58) and the

applicable law as defined in Article 8(2)(e) of the Law on the Application of Civil and Commercial Laws in DIFC 2004 shall apply (whether the Estate is situated in the DIFC or in Dubai).

92. Protection of Persons acting on Probate

- (1) The right to an indemnity and all other protection applying to a person making or permitting, under a Grant, any payment or disposition in good faith shall not be affected by any defect or circumstance whatsoever affecting the validity of the Grant.
- (2) Where a Grant is revoked:
 - (a) the revocation shall not affect any discharge obtained by persons acting in good faith who make payments or dispose of property to an Executor before revocation; and
 - (b) the Executor who acted under the revoked Grant is entitled to the same indemnities and protection in respect of any payments or dispositions made by him before revocation which an executor properly appointed could properly have made.

93. Miscellaneous Provisions about Vesting

- (1) An Executor may enforce for arrears of a Rent due or accruing to the Testator in his lifetime on the land affected or charged therewith, so long as the land remains in the possession of the person liable to pay the Rent or of the persons deriving title under him, and in like manner as the Testator might have done had he been living.
- (2) An Executor may enforce upon land for arrears of Rent due or accruing to the Testator in like manner as the Testator might have done had he been living.
- (3) Where:
 - (i) a Testator has died before or at the same time that damage is suffered; and
 - (ii) a cause of action in respect of the damage would have subsisted against the Testator had he not died

Then for the purpose of these Rules, there shall be deemed to have been subsisting against the Testator before his death, such cause of action as would have subsisted if he had died after the damage was suffered. Such damages are claimed against the Estate.

94. Liability of person fraudulently obtaining or retaining Estate

If a person:

- (a) for the purpose of defrauding creditors; or
- (b) without full valuable consideration,

obtains, receives or holds any of the Estate or effects the release of any debt or liability due to the Estate, he shall be liable as if he were an executor, to the extent of the Estate received or coming to his hands, or the debt or liability released, after deducting—

- (i) any debt properly (and without fraud) due to him from the Deceased at the time of his death; and
- (ii) any payment made by him which might properly be made by an executor.

95. Liability of Executors

- (1) An Executor's liability in respect of liabilities of the Deceased is limited to the Estate which has (or would, but for his wilful default, have) come into his hands.
- (2) Where a person as Executor (including one Intermeddling) is liable for wrongdoing as Executor (whether for mismanagement or destruction of the Estate or for appropriating the Estate or otherwise) in respect of any part of the Estate and dies, his Executor shall, to the extent of the available assets of the defaulter, be liable in the same manner as the defaulter would have been, if living.

96. Immovable and Movable Property are Assets for Payment of Debts

- (1) The debts and liabilities of a Testator shall be paid out of his Estate (including any Property which the Testator disposes by his Will in pursuance of any general power).
- (2) Any contrary disposition in the Will is void as against the creditors and the Court shall, if necessary, administer the Property for the purpose of the payment of the debts and liabilities.
- (3) The above Sub-Rules shall not prejudice the rights of creditors whose claims are secured on the Testator's Property.
- (4) If any person in whom any part of the Estate vests, disposes of it in good faith before an action is brought against him, he shall be personally liable for the value of the Property disposed of but no-one can bring a claim against the Property itself.

97. Charges on property of Deceased to be paid primarily out of the Property charged

- (1) Where Property in an Estate is charged with the payment of money (including a lien), the Property so charged shall, as between those claiming through the Testator, be primarily liable for the payment of the charge and every part of the charged Property, according to its value, shall bear a proportionate part of the charge on the whole Property.

- (2) Sub-Rule (1) above is subject to any contrary or other intention indicated by the Will but the following shall not on their own be taken to be a contrary or other intention:
 - (a) a general direction for the payment of debts or of all the debts of the Testator out of his Estate or out of any part of it; or
 - (b) by a charge of debts upon any such Estate.
- (3) Nothing in this Rule affects the right of a person entitled to the charge to obtain payment or satisfaction thereof either out of the other assets of the Testator or otherwise.

PART 21: Administration of Estates

98. Devolution of Estate on Executor

- (1) All Property to which a Deceased was entitled (other than an interest not ceasing on his death) shall, on his death, vest in his Executor (or subsequently in the Executor's successor(s)), who shall be the representative(s) of the Deceased.
- (2) The Executors for the time being of a Deceased are deemed to be his heirs and assigns.

99. Dealing with Immovable Property

- (1) Any dealing before Grant with Immovable Property that vests in executors shall require the concurrence of all the Executors (appointed or substitutes) and any dealing after Grant shall require the concurrence of all executors to whom a Grant is made, or (in either case) an order of the Court.
- (2) An executor, in regard of Immovable Property, shall (except as provided) pay due regard to:
 - (a) any rule as to administration of assets, if any such Rules are applicable;
 - (b) the beneficial interest in Immovable Property under any testamentary disposition;
 - (c) any mode of dealing with any beneficial interest in Immovable Property, or the proceeds of sale thereof;
 - (d) the right of any person claiming to be interested in the Immovable Property to take proceedings for the protection or recovery thereof, against any person other than the Executor;
 - (e) The appointment of an Executor shall not, except as provided by the Rules, affect the rights and interests of persons in respect of Immovable Property who are not Beneficiaries, but this shall not affect the rights and powers of the Executor.

100. Interpretation of Rules 98 and 99

In Rules 98 and 99-

If:

- (a) A Testator has an interest in Immovable Property;
- (b) that interest passes under a gift in his Will; and
- (c) the gift operates as an appointment under a general power to appoint that interest by the Will;

the Testator shall be deemed to have been entitled at his death to that interest.

101. Termination of Right of Executor to Prove

Where a person appointed executor by a Will—

- (1) survives the Testator but dies without having taken out Probate of the Will; or
- (2) receives a Notification to take out Probate of the Will and does not acknowledge service or apply for a Grant in accordance with these Rules; or
- (3) renounces Probate of the Will;

matters shall proceed, subject to Rule 106, as if he had not been appointed executor.

102. Withdrawal of Renunciation

Where an Executor who has renounced Probate has been permitted to withdraw the Renunciation and prove the Will, Probate shall take effect and be deemed always to have taken effect without prejudice to the previous acts and dealings of and notices to any other executor who has previously proved the Will or taken a Grant of Administration (with Will annexed), and a memorandum of the subsequent Probate shall be endorsed on the original Probate Grant of Administration (with Will annexed).

103. Devolution of the Estate and Transmission of the office of Executor

- (1) An Executor of a sole or last surviving executor of a Testator is the Executor of that Testator, provided that
 - (a) this provision shall not apply to an executor who does not prove the Will of his Testator, and
 - (b) in the case of an executor who on his death leaves surviving him some other executor of his Testator who afterwards proves the Will of that Testator, this provision shall cease to apply on such Probate being granted.
- (2) So long as the chain of such representation is unbroken (as set out in Sub-Rule (1)), the last Executor in the chain is the executor of every preceding Testator.
- (3) The chain of such representation is broken by—
 - (a) an intestacy; or
 - (b) the failure of a Testator to appoint an executor; or
 - (c) the failure to obtain Probate of a Will;but it is not broken if the person entitled to take Probate as executor has obtained a Grant of Probate after a limited Grant.
- (4) Every person in the chain of representation to a Testator—

- (a) has the same rights in respect of the Immovable and Movable Property of that Testator as the original executor would have had if living; and
 - (b) is, to the extent to which the Estate whether immovable or movable of that Testator has come to his hands, answerable as if he were an original executor.
- (5) An Executor by chain of representation shall confirm his title and authority by application to the Court for a Grant.

104. Right of Proving Executors to exercise Powers

If Probate is granted to one or some of two or more persons named as executors (“the Proving Executors”), whether or not power is reserved to the other or others (“the Named Executors”) to prove:

- (1) all powers conferred on the Named Executors may be exercised by the Proving Executor or Executors for the time being and
- (2) any exercise of such a power shall be as effectual as if all the Named Executors had concurred therein.

105. Rights and liabilities of Administrator

Every person to whom Administration of the Estate (with Will annexed) is granted, shall, subject to the limitations contained in the Grant, have the same rights and liabilities and be accountable in like manner as if he were the executor of the Deceased.

106. Vesting of Estate in the Head of the DRA where there is lack of Executors

- (1) Where a Testator dies and—
 - (a) at the time of his death there is no executor with power to obtain Probate of the Will, or
 - (b) at any time before Probate of the Will is granted there ceases to be any executor with power to obtain Probate,the Immovable and Movable Property of which he disposes by the Will shall vest in the Head of the DRA until the Grant of Probate.
- (2) The vesting of such property in the Head of the DRA, by virtue of this Rule does not confer on him any beneficial interest in, or impose on him any duty, obligation or liability in respect of, the Estate.

107. Executor not to act while Administration is in force

Where Administration has been granted in respect of any Immoveable or Movable Property of a Deceased, no person shall have power to bring any action or otherwise act as executor of the Deceased in respect of the Estate comprised in, or affected by, the Grant, until the grant has been recalled or revoked.

108. A Debtor, who becomes Creditor's Executor by Representation or Administrator, to account for Debt to Estate

- (1) Subject to Sub-Rule (2), where a debtor becomes his Deceased creditor's executor by representation or Administration—
 - (a) his debt shall be extinguished; but
 - (b) he shall be accountable for the amount of the debt as part of the creditor's estate in any case where he would be so accountable if he had been appointed as an executor by the creditor's Will.
- (2) Sub-Rule (1) does not apply where the debtor's authority to act as executor or Administration is limited to part only of the creditor's estate which does not include the debt; and Sub-Rule (1)(b) shall not apply if the debt was otherwise barred or extinguished before he became the creditor's executor or Administration.
- (3) In this Rule "debt" includes any liability, and "debtor" and "creditor" shall be construed accordingly.

109. Validity of Transfer not affected by Revocation of Representation

All transfers of property to a Purchaser by a person to whom a Grant has been made are valid notwithstanding any subsequent revocation or variation of the Grant.

110. Right to follow Property and Powers of the Court

- (1) A distribution or transfer by an executor to a person ("the transferee") does not prejudice the rights of any person to claim the relevant property itself (or any property or proceeds representing that property) from the transferee or of any other person but this does not apply, where the transferee or a person taking (directly or indirectly) under the transferee, is a Purchaser.
- (2) Notwithstanding any such distribution or transfer the Court may, on the application of any creditor or other person interested:
 - (a) order any transaction to be carried out, which the Court considers requisite for the purpose of giving effect to the rights of the persons interested;
 - (b) declare that the person, in whom the property is vested (not being a Purchaser) is a trustee for those purposes;

- (c) give directions respecting the preparation and execution of any instrument or as to any other matter required for giving effect to the order;
 - (d) make any vesting order, or appoint a person to transfer in accordance with the provisions of the DIFC Trust Law 2005.
- (3) This Rule does not prejudice the rights of a Purchaser or a person deriving title under him.

PART 22: FOREIGN LAW

111. Enforcement of foreign law

- (1) An application to enforce rights under a foreign law shall be made under Part 55 of the RDC and supported by:
 - (a) a certified copy of the grant or court order issued in the foreign jurisdiction;
 - (b) extracts of the relevant law; and
 - (c) an affidavit of a suitably qualified lawyer confirming the relevant law.
- (2) No application to enforce rights under a foreign law shall be made after the end of the period of six months from the date of the Grant, except with permission of the Court.
- (3) The provisions of this Rule shall not render the Executors liable for having distributed any part of the Estate, after the end of the period of six months from the date of the Grant and prior to the making of an application under Sub-Rule (1), on the ground that they ought to have taken into account the possibility that the Court might permit the making of an application after the end of that period.

SCHEDULE 1

Form of Will 1

I [name] of [address] declare this to be my last Will.

1. I declare that I am not Muslim and have never been a Muslim.
2. This Will is made in respect of my immovable and movable Property situated in the Emirate of Dubai (“my Dubai Estate”).
3. I revoke all my earlier testamentary dispositions to the extent that they relate to [my Dubai Estate or [specify part] of my Dubai Estate].
4. I appoint [] [(also known as [])] to be my executor[s] and trustee[s] in relation to my Dubai Estate.
5. [I appoint [my [wife/husband] or the children’s [father/mother]] to be the guardian of our child[ren] in the event of my death, unless such guardianship has been previously withdrawn/revoked from them by law (on the basis of their legal disability or if they have been found unfit). In the event that my [wife/husband or the children’s [father/mother]] predeceased me, then I appoint [] to be the [interim and permanent or (only) permanent] guardian[s] of my child[ren] during their minority .]
6. [Specific gifts]
7. My executors shall:
 - 7.1 pay my debts, funeral and testamentary expenses, legacies, administrative fees and other liabilities on all property which vests in them; and
 - 7.2 hold the remainder (“my Residuary Estate”) as set out below.
8. [Residuary gifts]
9. The law and the Rules of the Dubai International Financial Centre (including the Wills and Probate Registry (WPR) Rules) govern the validity of this Will and its constructions, effect and the administration of my Dubai Estate.

10. The Courts of the Dubai International Financial Centre (as established under Dubai Law No. 12 of 2004) have exclusive jurisdiction in any proceedings involving rights or obligations under this Will or the administration of my Dubai Estate.

Signed by [name] to give effect to this Will,
in the presence of the witness and the Director/Authorised Officer present at the same time,
who have each signed this Will in the presence of the Testator

[Signature of Testator]

Date

1st witness
Address

The Probate Director/authorised officer
Address

[Seal of Registry]

This Will will be void if the Testator is a Muslim at any time before [his/her] death.

Form of Will 2

I [name] of [address] declare this to be my last Will.

1. I declare that I am not Muslim and have never been a Muslim
2. [I appoint [my [wife/husband] or the children's [father/mother]] to be the guardian of our child[ren] in the event of my death, unless such guardianship has been previously withdrawn/revoked from them by law (on the basis of their legal disability or if they have been found unfit). In the event that my [wife/husband or the children's [father/mother]] predeceased me, then I appoint [] to be the [interim and permanent or (only) permanent] guardian[s] of my child[ren] during their minority .]
3. The law and the Rules of the Dubai International Financial Centre (including the Wills and Probate Registry (WPR) Rules) govern the validity of this Will and its constructions, effect and the administration of my Dubai Estate.
4. The Courts of the Dubai International Financial Centre (as established under Dubai Law No. 12 of 2004) have exclusive jurisdiction in any proceedings involving rights or obligations under this Will or the administration of my Dubai Estate.

Signed by [name] to give effect to this Will,
in the presence of the witness and the Director/Authorised Officer present at the same time,
who have each signed this Will in the presence of the Testator

[Signature of Testator]

Date

1st witness

Address

The Probate Director/authorised officer

Address

[Seal of Registry]

This Will will be void if the Testator is a Muslim at any time before [his/her] death.

SCHEDULE 2

Form 1

Notification - Part 12 of the WPR Rules

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

DIFC Wills and Probate Registry

In the estate of:

Full name and address of Deceased:

Full name and address of the Notifier:

Set out the interest of the Notifier, as shown in the notification:

Full name and address of the person notified:

Set out the interest of the person notified, stating the date of the Will under which that interest arises:

You have within eight days of being served with this Notification (inclusive of the day of service) to acknowledge service by filing Form 2 with the Registry. You must then serve a copy on the Notifier as soon as practicable.

If the time limit for acknowledging service has expired and the person receiving the notification has not acknowledged service, the Notifier may apply to the Court for

1. An order for a grant to the Notifier;
2. An order that a note be made on the Grant that the executor in respect of whom power was reserved has been duly notified and has not acknowledged and has ceased to have any rights in respect of the executorship;
3. An order requiring the person notified to take a Grant within a specified time or for a grant to be made to the Notifier or to some other person specified in the application.

Signed

Dated

Form 2

Acknowledgment of notification – Part 12 of the WPR Rules

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

DIFC Wills and Probate Registry

In the estate of:

Full name and address of Deceased

Full name and address of the Notifier

(here set out the interest of the Notifier, as shown in the notification)

Full name and address of the person notified

(here set out the interest of the person notified, stating the date of the Will under which that interest arises)

I am entitled to a Grant of Administration in the estate of [...] Deceased. I was notified to accept or refuse letters of administration [*or to take probate of the Will etc*] by a notification issued on [...] and served personally on me on the [...] 20[.] by [...]

Signed

Name in block letters

Full address

Reference No. (if any)

Form 3

Objection – Part 13 of the WPR Rules

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

DIFC Wills and Probate Registry

Let no grant be sealed in the estate of [...] Deceased, who died on [...] without notice to [*name of party by whom or on whose behalf the objection is entered*].

Dated

[*Signed*] [*to be signed by the objector's lawyer or by the objector if acting in person*]
whose address for service is:.....

Lawyer for the said [*If the objector is acting in person, substitute 'In person'.*]

Form 4

Response to objection – Part 13 of the WPR Rules

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

DIFC Wills and Probate Registry

To [party who has entered an objection in the estate of [] Deceased].

You have eight days (starting with the day on which this response was served on you):

- (i) to enter a response to the Objection either in person or by your lawyer, at the Registry, setting out what interest you have in the estate of the above-named **[name]** of **[address]** deceased contrary to that of the party issuing this response; or
- (ii) if you have no contrary interest but wish to show cause against the sealing of a Grant to such party, to issue and serve a summons for directions by a judge of the Court of First Instance.

If you fail to do either of these, the Court may proceed to issue a Grant of probate in the said estate notwithstanding your Objection.

Dated

Issued at the instance of

[Here set out the name and interest (including the date of the Will, if any, under which the interest arises) of the party responding, the name of his lawyer and the address for service. If the party responding is acting in person, this must be stated.]

SCHEDULE 3

Normal procedure for registering a Will

The following procedure shall normally be adopted for the registration of a Will under these Rules

- (a) the Director or Authorised Officer will read the content of the Will to the Testator.
- (b) if the Rules have been complied with, the Will will be registered.
- (c) after the Will registration is completed, the Registry will digitally save the relevant data pertaining to the Testator, Executor, Guardian, Beneficiaries and, if applicable, of the legal representative of the Testator.
- (d) once a case file is created, the Registry will either share the case file content with the Testator over electronic mail or via the means of a personal appointment at the Registry. The Testator will be given the opportunity to verify and correct, if required, the data accuracy and content.
- (e) the Testator will receive a copy (free of charge) of the executed will, at the end of the registration appointment.
- (f) additional fees and all registry fees will be changed only when considered appropriate, and will be specified in a Practice Direction.