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Recent Legal Developments for Expats and Foreign Companies in the UAE

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1. Commercial Companies Law 2015

Sultan Bin Saeed Al Mansouri, Minister of Economy:

The new law will ensure the optimal use of production components of capital, administration, and employees. The law aims to contribute to the development of the business environment and the country's capabilities and economic status by organising companies based on global standards, especially those which relate to the rules of governance, the protection of the rights of shareholders and partners, the support of the flow of foreign investment and promotion of corporate social responsibility.

Dr. Habib Al Mullah (Emirati lawyer; as an example for other legal commentators):

There have been a few undeniable enhancements and improvements in the new Law. However, after a waiting period of more than a decade, for a country that is the second largest Arab economy and one that leads the region in innovation and leadership, one has to admit that the new Companies Law is disappointing.

1. Commercial Companies Law 2015

Unamended Key Provisions

- obligatory Emirati 51%-minimum shareholding in LLCs;
- 2 shareholders minimum rule (for foreigners);
- requirement of a “national agent” / “sponsor” / “service agent” for branches of foreign companies;
- limitation of activities for representative offices of foreign companies;
- requirement of an Emirati majority of board members and an Emirati chairman for public joint stock companies;
- regulation of joint ventures (still not recognised in law);
- limited transparency of the commercial registry.

1. Commercial Companies Law 2015

Major Changes

- General: Provisions on “corporate governance” (details to follow in Ministerial Decision);
- General: Introduction of a “holding company”;
- Public joint stock company: Changes in connection with IPOs (reduced floating requirement from 55% to 30%; allocation to strategic partner without pre-emption rights; book-building; agio possibility);
- LLC: For Emiratis: sole-owner LLC possible;
- LLC: explicit possibility to pledge one’s share in an LLC;
- LLC: no maximum number of managers (previously 5);
- LLC: 15 days notice for Invitations to General Assemblies, may be reduced / waived (previously 21 days without explicit option to reduce).

2. Amendments to Inheritance Laws

- Regulation (EU) No 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession

  Application of law of last legal domicile unless there is last will with a choice of law
- DIFC Wills and Probate Registry – newly established

2. Amendments to Inheritance Laws

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Overview of DIFC Wills and Probate Registry

- Option for non-Muslims to dispose of assets in Dubai by way of a will
- Avoidance of Sharia inheritance regime
- "Complements" existing UAE laws
- Wills must still also comply with obligatory provisions of the national law of succession of the testator

  → complex for expats from civil law countries with forced heirship rules

2. Amendments to Inheritance Laws

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DIFC Wills & Probate Registry - Key Requirements

- Testator non-Muslim
- Testator older than 21
- Only assets situated in the Emirate of Dubai
- Last will to be signed in front of, and witnessed by the DIFC Registrar or an authorised officer
- 1 witness (plus registrar / authorised officer)
- Registration with the DIFC
- Registration fee of USD 2,800

3. Cyber Crime Law 2012

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- Criminalization of full range of cyber crimes
- Use of the internet or any information technology tool to commit crimes
- Key offences :
  - hacking and phishing;
  - money laundering, credit card fraud, identity theft;
  - breach of privacy;
  - disclosure of confidential information;
  - intentionally seizing communications without permission;
  - defamation;
  - publishing illegal content;
  - inciting criminal and terrorist acts.
- Monetary penalties for some offences of up to AED 3 million, usually around AED 250,000
- Imprisonment of up to 10 years, for most crimes around six months
- Obligatory deportation for foreigners as a consequence of deportation
- Danger of misuse of the law in business

4. Legal Amendments Currently under Review

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- Majority local ownership in LLCs / Joint Stock Companies
- Tax Law (despite recent discussions and negotiations on GCC level regarding the introduction of a VAT or income tax)
- Insolvency Law
- Arbitration Law
- Cheque Law

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