

Decree No. (25) of 2023
Establishing the
Probate Court in the Emirate of Dubai¹

We, Mohammed bin Rashid Al Maktoum, Ruler of Dubai,

After perusal of:

Federal Law No. (5) of 1985 Issuing the Civil Code of the United Arab Emirates and its amendments;

Federal Law No. (28) of 2005 Concerning Family Affairs and its amendments;

Federal Law by Decree No. (42) of 2022 Issuing the Civil Procedure Code;

Law No. (21) of 2015 Concerning Judicial Fees of the Dubai Courts and its amendments;

Law No. (13) of 2016 Concerning the Judicial Authorities in the Emirate of Dubai and its amendments;

Law No. (14) of 2017 Regulating Endowments and Gifts in the Emirate of Dubai;

Law No. (9) of 2020 Regulating Family Property in the Emirate of Dubai and its amendments;

Law No. (13) of 2020 Regulating Expert Witness Work before the Judicial Authorities in the Emirate of Dubai;

Law No. (17) of 2022 Concerning the Endowment and Minors' Trust Foundation in Dubai;

Decree No. (23) of 2020 Regulating the Sale by Heirs of Residential Real Property in the Emirate of Dubai;

Decree No. (35) of 2021 Designating the Head of the Local Judiciary in the Emirate of Dubai for the Purposes of Implementing Federal Legislation;

Resolution No. (8) of 2021 Forming a Special Tribunal;

Resolution No. (3) 2020 Forming the Committee for Temporary Assignment of Judges of the Dubai Courts; and

Resolution No. (6) of 2022 Establishing the Probate Court,

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¹Every effort has been made to produce an accurate and complete English version of this legislation. However, for the purpose of its interpretation and application, reference must be made to the original Arabic text. In case of conflict, the Arabic text will prevail.

Do hereby issue this Decree.

Definitions
Article (1)

The following words and expressions, wherever mentioned in this Decree, will have the meaning indicated opposite each of them unless the context implies otherwise:

Emirate:	The Emirate of Dubai.
Ruler:	His Highness the Ruler of Dubai.
Judicial Council:	The Judicial Council of the Emirate.
Courts:	The Dubai Courts, including the Court of Cassation, the Court of Appeal, the Courts of First Instance, and any other court to be established therein.
Probate Court:	The probate court established pursuant to this Decree.
Estate:	Any property or financial rights left by a deceased person.
Inheritance and Estate Application:	Any application related to an inheritance or the beneficiaries thereof; or to the inventory or liquidation of an Estate or the division of its property among the Heirs.
Estate Claim:	Any dispute arising amongst the Heirs or between the Heirs and other parties in respect of Inheritance or Estate Applications. This includes civil, commercial, or real property claims; family lawsuits; and claims related to Gifts and Wills arising in respect of, or in connection with, rights to an inheritance or Estate.
Lawsuit for Subdivision of Property Co-owned in Undivided Shares:	A claim for the termination of co-ownership of undivided shares in Real Property or movables devolved to Heirs through inheritance, and for division of the same amongst the Heirs or between the Heirs and other parties.
Reporting Judge:	A Judge assigned to consider Inheritance and Estate Applications and applications for subdivision of property co-owned in undivided shares amongst the Heirs or between the Heirs and other parties; to issue the

relevant orders and decisions; and to register, prepare, and manage before the Probate Court Estate Claims and Lawsuits for Subdivision of Property Co-owned in Undivided Shares, in accordance with the provisions of this Decree, the resolutions issued in pursuance hereof, and other legislation in force in the Emirate.

Establishment of the Probate Court

Article (2)

Pursuant to this Decree, a court named the “**Probate Court**” is established at the Courts.

Seat of the Probate Court

Article (3)

The principal seat of the Probate Court will be at the Courts.

Objectives of the Probate Court

Article (4)

The Probate Court will have the following objectives:

1. to maintain social and family ties, and protect them from disputes that may arise over inheritance and Estates;
2. to consolidate the claims and applications related to, or arising out of, inheritance or Estates into a single lawsuit before one judicial authority instead of being heard by multiple judicial authorities as a result of applying the rules of jurisdiction;
3. to simplify litigation proceedings in, and ensure expeditious determination of, Estate Claims and Lawsuits for Subdivision of Property Co-owned in Undivided Shares without prejudice to the requirements of prompt justice;
4. to serve as a specialised judicial body capable of determining Estate Claims, Lawsuits for Subdivision of Property Co-owned in Undivided Shares, and their ancillary claims and applications; and
5. to implement flexible procedures in Estate Claims and Lawsuits for Subdivision of Property Co-owned in Undivided Shares which require innovative judicial solutions.

Jurisdiction of the Probate Court

Article (5)

- a. Without prejudice to the rules of jurisdiction of the federal and local judiciary in the United Arab Emirates, the Probate Court will have the exclusive jurisdiction to hear and determine Estate Claims, Lawsuits for Subdivision of Property Co-owned in Undivided Shares, and all claims and applications arising out of them.
- b. The Probate Court will not have jurisdiction to hear and determine the following claims:
 - 1. criminal lawsuits and labour claims arising in connection with Inheritance or Estate Applications;
 - 2. Estate Claims deemed under the jurisdiction of the Special Tribunals formed in the Emirate pursuant to a resolution of the Ruler; and
 - 3. claims filed by partners in companies whose ownership devolves to Heirs.
- c. The claims mentioned to in sub-paragraph (b)(2) of this Article may, pursuant to a resolution of the Ruler and upon the recommendation of the Chairman of the Judicial Council, be referred to the Probate Court.

Levels of Litigation before the Probate Court

Article (6)

Litigation before the Probate Court will be conducted in two levels, in accordance with the rules and requirements stipulated in this Decree, the resolutions issued in pursuance hereof, and other legislation in force in the Emirate.

Probate Court Divisions

Article (7)

- a. The Probate Court will be comprised of first instance and appellate Divisions whose Judges will be appointed or temporarily assigned in accordance with the provisions of the above-mentioned Law No. (13) of 2016.
- b. Each Division will be comprised of three (3) Judges. Divisions will be formed pursuant to a resolution of the Chief Justice of the Probate Court. In forming Divisions, it must be ensured that Judges have diverse specialisations as required to accommodate the nature of the Estate Claims and Lawsuits for Subdivision of Property Co-owned in Undivided Shares filed with the Probate Court.

Chief Justice of the Probate Court
Article (8)

- a. A chief justice whose grade is not lower than Cassation Judge will be appointed to the Probate Court pursuant to a resolution of the Judicial Council.
- b. The Chief Justice of the Probate Court will supervise the work of the Probate Court, and may preside over any of its appellate Divisions.

Reporting Judge
Article (9)

- a. One or more Reporting Judges will be appointed to the Probate Court. A Reporting Judge's grade may not be lower than senior First Instance Judge. Pursuant to a resolution of the Chief Justice of the Probate Court, a Reporting Judge may be a member of a Division other than that in which he has undertaken preparatory work or provided legal opinion.
- b. A Reporting Judge will have all the powers and responsibilities of a supervising Judge and a case manager under the above-mentioned Federal Law No. (42) of 2022, this Decree, and other legislation in force in the Emirate.
- c. A Reporting Judge will have all the powers, responsibilities, and functions related to managing Estate files as stipulated in the above-mentioned Federal Law No. (28) of 2005 and the legislation in force in the Emirate. In particular, the Reporting Judge will:
 - 1. consider and determine Inheritance and Estate Applications, and applications for subdivision of property co-owned in undivided shares;
 - 2. open Estate files and administer Estates in preparation for division among the Heirs or for referral to the competent Division;
 - 3. conduct an inventory of, and liquidate, the Estate; propose settlement and division of the Estate amongst the entitled Heirs; and finalise the division;
 - 4. appoint, upon the request of the Heirs or on his own initiative, an Estate Custodian;
 - 5. prepare Estate Claims and Lawsuits for Subdivision of Property Co-owned in Undivided Shares and manage them before the competent Division; and
 - 6. perform any other duties assigned to him by the Chief Justice of the Probate Court.

Filing Inheritance and Estate Applications

Article (10)

- a. Inheritance and Estate Applications will be filed with the Reporting Judge who will issue the appropriate certificates, decisions, or orders in respect thereof, in accordance with the legislation in force in the Emirate and the relevant adopted procedures.
- b. An Estate file will be opened at the Probate Court upon the request of a concerned party. The Reporting Judge will, either personally or through the Estate Custodian, take the necessary action to conduct an inventory, administration, and liquidation of the Estate's assets, in accordance with the legislation in force in the Emirate.

Proposing Settlements

Article (11)

The Reporting Judge will propose a settlement to the parties to the Estate Claim; and if they accept the settlement, the following procedures will apply:

1. A settlement agreement will be drafted under the supervision of the Reporting Judge, and will be signed by all the parties to the Estate Claim.
2. The settlement agreement will be ratified, approved, and documented by the Reporting Judge. The agreement will have the force of a writ of execution.
3. A copy of the settlement agreement will be delivered to each party to the Estate Claim, and another copy will be maintained by the Probate Court.

Failure to Reach a Settlement

Article (12)

- a. In the event of failure to reach a settlement between the parties to an Estate Claim, the Reporting Judge must document this in his decision, citing the legal classification of the subject matter of the dispute.
- b. The concerned parties may file the Estate Claim with the Probate Court within thirty (30) days from the date of issuance of the Reporting Judge's decision declaring failure to reach a settlement in accordance with the provisions of paragraph (a) of this Article.
- c. Where the Estate Claim is not filed with the Probate Court within the prescribed period referred to in paragraph (b) of this Article, the Reporting Judge may take any action he deems appropriate in this respect, including issuing a decision to close the Estate file. However, this will not preclude the concerned parties from submitting a subsequent application for filing the Estate Claim.

Preparation of Estate Claims Article (13)

After registering the Estate Claim, the Reporting Judge will, within a period not exceeding forty-five (45) days from the date on which the claim is registered, schedule a hearing for the parties to appear before the competent first instance Division of the Probate Court. Prior to the scheduled hearing, the Reporting Judge must:

1. order each of the parties to submit, within fifteen (15) days from the date of the order, a comprehensive statement containing his applications, the points of dispute with the other parties, and the relevant supporting evidence and documents;
2. prepare a memorandum with his legal opinion on the Estate Claim. The memorandum must state the subject matter of the Estate Claim, the disputes arising out of the claim, the claims and defence of each party, the points of disagreement between the parties, and the established legal principles applicable to similar disputes; and
3. refer the Estate Claim and his legal memorandum to the competent first instance Division of the Probate Court, and summon the parties to appear before it at the scheduled hearing.

Lawsuits for Subdivision of Property Co-owned in Undivided Shares Article (14)

- a. Applications related to subdivision of property co-owned in undivided shares will be filed with the Reporting Judge at the Probate Court.
- b. The Reporting Judge will propose to the parties a consensual subdivision. If the parties accept the proposal, the procedures stipulated in Article (11) of this Decree will apply.
- c. If the parties do not accept the proposed consensual subdivision, the Reporting Judge must issue a decision declaring failure to conduct consensual subdivision.
- d. The parties may file a Lawsuit for Subdivision of Property Co-owned in Undivided Shares with the Probate Court, within thirty (30) days from the date on which the Reporting Judge issues his decision declaring failure to conduct consensual subdivision as per the provisions of paragraph (c) of this Article.
- e. Where the Lawsuit for Subdivision of Property Co-owned in Undivided Shares is not filed within the prescribed period referred to in paragraph (d) of this Article, the Reporting Judge may take any action he deems appropriate in this respect, including dismissing the application. However, this will not preclude the parties from submitting a subsequent application for filing the lawsuit.

- f. The procedures stipulated in Article (13) of this Decree will apply to preparation for filing Lawsuits for Subdivision of Property Co-owned in Undivided Shares before the Probate Court.

Determining Claims Article (15)

- a. The competent Division of the Probate Court will hear and determine a claim referred to it within a period not exceeding one (1) year from the date on which the claim is registered with it. However, this period may, upon the approval of the Chief Justice of the Probate Court, be extended for any further period determined by him based on the circumstances of the claim and the progress of proceedings.
- b. The competent Division of the Probate Court must prepare a schedule stating the requirements and the procedures for determining the claim within the period prescribed in paragraph (a) of this Article. This schedule must be communicated to the parties to the claim at the first hearing.

Expert Witness Work before the Probate Court Article (16)

- a. The provisions of the above-mentioned Law No. (13) of 2020 and other legislation in force in the Emirate apply to regulating Expert Witness Work before the Probate Court.
- b. The Probate Court will determine the time limit for the Expert Witness to complete his assignment and submit his report. This time limit may be extended only at the discretion of the Probate Court based on substantial grounds, provided that the extension period does not exceed the originally prescribed period, and does not conflict with the schedule approved by the Probate Court for determining the claim.

Grievance against the Reporting Judge's Orders and Decisions Article (17)

- a. Any affected party may file a grievance with the first instance Division of the Probate Court against any order or decision rendered by the Reporting Judge by submitting a statement of grievance within five (5) working days from the day following the date on which he is notified of the contested order or decision. The statement of grievance must specify the contested order or decision and the grounds for the grievance.
- b. The first instance Division of the Probate Court will determine in camera the grievance presented to it. The decision rendered by the first instance Division on the grievance will be final and not be subject to any form of appeal.

Appeal of Judgements Article (18)

- a. A litigant may appeal a judgement rendered by the first instance Division of the Probate Court before the appellate Division of the Probate Court. The judgement rendered by the appellate Division will not be subject to appeal by cassation.
- b. A litigant may appeal a final judgement rendered by the Divisions of the Probate Court by way of a petition for review.
- c. The appeals referred to in paragraphs (a) and (b) of this Article will be filed in accordance with the time limits, cases, and procedures stipulated in the above-mentioned Federal Law by Decree No. (42) of 2022.

Enforcement of Judgements Article (19)

A judgement rendered by the Probate Court is enforceable through the regular methods of enforcement of judgements by the Courts.

Applicable Legislation Article (20)

The Probate Court will determine the applications, claims, and appeals filed with it by reference to:

1. the provisions of the federal and local legislation in force in the Emirate;
2. the provisions of Islamic Sharia;
3. the principles of natural justice, equity, and fairness; and
4. custom, provided that such custom does not contradict the legislation in force, public order, or public morals.

Transitional Provisions Article (21)

- a. The Probate Court hereby replaces the Probate Court established pursuant to the above-mentioned Resolution No. (6) of 2022.
- b. The Probate Court hereby replaces the Special Tribunal that was formed to consider and determine the applications, claims, disputes, and appeals filed with the Special

Tribunal in respect of the sale by Heirs of Residential Real Property; and whose functions were regulated pursuant to the above-mentioned Resolution No. (8) of 2021.

- c. The functions of the Courts of First Instance at the Courts which are related to Inheritance and Estate Applications, Estate Claims, and Lawsuits for Subdivision Property Co-owned in Undivided Shares are hereby transferred to the Probate Court.
- d. As of the effective date of this Decree, all Inheritance and Estate Applications, Estate Claims, and Lawsuits for Subdivision of Property Co-owned in Undivided Shares that are being heard by the Courts of First Instance of the Courts are hereby transferred to the Probate Court, in their current state, unless they are reserved for judgement.
- e. After the effective date of this Decree, no Court in the Emirate may admit any new application or claim that falls within the jurisdiction of the Probate Court.

Providing Support to the Probate Court

Article (22)

- a. The Courts will provide the administrative, financial, and technical support required to enable the Probate Court to exercise its functions under this Decree, the resolutions issued in pursuance hereof, and other legislation in force in the Emirate. This includes establishing a Case Management Office under the supervision of the Reporting Judge.
- b. The Case Management Office will exercise its duties and powers in accordance with the above-mentioned Federal Law by Decree No. (42) of 2022.

Issuing Implementing Resolutions

Article (23)

With the exception of the resolutions which the Ruler or the Chairman of the Judicial Council is exclusively authorised to issue under this Decree, the Chief Justice of the Probate Court will issue the resolutions required for implementing the provisions of this Decree.

Supersession and Repeals

Article (24)

- a. This Decree supersedes the above-mentioned Resolution No. (6) of 2022.
- b. The above-mentioned Resolution No. (8) of 2021 is hereby repealed. Any provision in any other legislation will also be repealed to the extent that it contradicts the provisions of this Decree.

Publication and Commencement
Article (25)

This Decree will be published in the Official Gazette and will come into force on the date following the day on which it is published.

Mohammed bin Rashid Al Maktoum
Ruler of Dubai

Issued in Dubai on 14 June 2023
Corresponding to 25 Thu al-Qidah 1444 A.H.