

THE RULES OF THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURT 2007

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PART 1

CITATION, COMMENCEMENT, APPLICATION AND THE OVERRIDING OBJECTIVE

Citation

1.1 These Rules may be cited as **The Rules of the Dubai International Financial Centre Court 2007** and may be abbreviated to “RDC”.

Commencement

1.2 These Rules are made by the President of the Dubai International Financial Centre on the date specified in the Enactment Notice in respect of these Rules.

1.3 These Rules come into force on the date specified in the Enactment Notice in respect of these Rules.

Application

1.4 These Rules apply to all proceedings in:

- (1) the Court of First Instance; and
- (2) the Court of Appeal
- (3) established in accordance with Article 3 of the Law of the Judicial Authority at Dubai International Financial Centre, Law No.12 of 2004, and
- (4) tribunals established in accordance with Article 14(3) of the DIFC Court Law 2004

which are collectively called the DIFC Court.

The Overriding Objective

1.5 These Rules have the overriding objective of enabling the Court to deal with cases justly. Dealing with a case justly includes, so far as is practicable:

- (1) ensuring that the parties are on an equal footing;
- (2) saving expense;
- (3) dealing with the case in ways which are proportionate –
 - (a) to the amount of money involved;
 - (b) to the importance of the case;
 - (c) to the complexity of the issues; and
 - (d) to the financial position of each party;
- (4) ensuring that it is dealt with expeditiously and fairly; and
- (5) allotting to it an appropriate share of the Court’s resources, while taking into account the need to allot resources to other cases.

Application by the Court of the overriding objective

1.6 The Court must seek to give effect to the overriding objective when it

- (1) exercises any power given to it by the Rules; or
- (2) interprets any Rule or Practice Direction subject only to the public interest.

Duty of the parties

1.7 The parties are required to help the Court to further the overriding objective.

Court's duty to manage cases

1.8 The Court must further the overriding objective by actively managing cases including:

- (1) encouraging the parties to co-operate with each other in the conduct of the proceedings;
- (2) identifying the issues at an early stage;
- (3) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
- (4) deciding the order in which issues are to be resolved;
- (5) encouraging the parties to use an alternative dispute resolution procedure if the Court considers that appropriate and facilitating the use of such procedure;
- (6) helping the parties to settle the whole or part of the case;
- (7) fixing timetables or otherwise controlling the progress of the case;
- (8) considering whether the likely benefits of taking a particular step justify the cost of taking it;
- (9) dealing with as many aspects of the case as it can on the same occasion;
- (10) dealing with the case without the parties needing to attend at Court;
- (11) making use of technology; and
- (12) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

COMMENT

- 1.7 PD 2/2009 introduced the DIFC Courts' Code of Conduct for Legal Practitioners (the Code is reproduced at Appendix 3). To assist parties comply with their duty under Rule 1.7, Part B. 2 of the Code requires that Practitioners be familiar with the provisions of the Overriding Objective. Although the Code falls short of expressly imposing a duty on Practitioners to help the Court further the Overriding Objective, such a duty would appear to be implicit from Part A of the Code, where it is stated as a Governing Principle that each Practitioner is to act "in support of the Court."

The practical importance of the Overriding Objective was discussed in *Ibrahim Saad v Rasmala Investment Limited* CFI 007/2009 [Justice David Williams, Reasons for Judgment issued 22 November 2009]. The Court emphasized that the disregard

PART 1

of timetable orders undermined the Overriding Objective and would not be tolerated. The Court observed that, separate to the parties' duty to assist the Court in furthering the Overriding Objective, by Part D. 13 of the Code 'lawyers are under a separate duty to behave co-operatively':

"54. This Court must indicate as clearly as possible that the cavalier disregard of timetable orders will not be tolerated. For it to allow such disregard would undermine the aims of case management and defeat the statutory objectives of the RDC, which include ensuring that cases are dealt with expeditiously and fairly (Rule 1.5 (4) of the RDC), saving expense (Rule 1.5 (2) of the RDC) and ensuring that the parties are on an equal footing (Rule 1.5 (1) of the RDC). It is also abundantly clear that the parties have a duty to assist the Court in furthering the statutory objectives of the RDC (Rule 1.7 of the RDC) and that lawyers are under a separate duty to behave co-operatively (paragraph 13 of DIFC Courts' Code of Professional Conduct for Legal Practitioners). In addition, the conduct of litigation is not merely a matter for the parties. The claims of other litigants and the public interest in achieving the most efficient use of resources must also be taken into account. The Court must avoid "the waste of public resources and the inefficiency occasioned by the need to revisit interlocutory processes..."."

PART 2

INTERPRETATION

Authentic text and language of proceedings

- 2.1 The English text is the authentic text of these Rules.
- 2.2 All proceedings before the Court shall be conducted in the English language.
- 2.3 All documents required to be filed or served in accordance with these Rules shall in the English language.
- 2.4 Where any judgment, order or direction is to be served outside the DIFC, unless the Court otherwise directs
- (1) in proceedings on notice the parties must agree and lodge with the Court an Arabic translation of the judgment, order or direction within 2 days of same being given, made or handed down as the case may be, in default of which the Court may accept one party's translation or suspend or revoke the judgment, order or direction on such terms as it thinks fit;
 - (2) in without notice proceedings the party seeking relief must provide an Arabic translation of the order sought and made;
 - (3) in the event of any inconsistency between the Arabic and English versions of any judgment, order or direction the English version shall prevail.

Definitions

- 2.5 Unless the context otherwise requires, the words and expressions set out in the Schedule to this Rule shall have the respective meanings assigned to each of them for all purposes in connection with these Rules.

Rules of interpretation

- 2.6 In these Rules, a reference to:
- (1) a person includes any natural person, body corporate or body unincorporate, including a company, partnership, unincorporated association, government or state;
 - (2) the masculine gender includes the feminine;
 - (3) an obligation to publish or cause to be published a particular document shall, unless expressly provided otherwise in these Rules, includes publishing or causing to be published in printed or electronic form.
- 2.7 The headings in these Rules shall not affect their interpretation.
- 2.8 References to legislation in these Rules shall be construed in accordance with the following provisions:

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- (1) Federal Law is law made by the federal government of the State;
- (2) Dubai Law is law made by the Ruler, as applicable in the Emirate;
- (3) DIFC Law is law made by the Ruler as applicable in the DIFC;
- (4) DIFC Regulations include any rules, regulations, bylaws, or orders relating to the Centre issued by the President or the Centre Bodies.
- (5) these Rules are made by the President on the recommendation of the Chief Justice;
- (6) legislation includes rules or regulations made under legislation;
- (7) reference to a statutory provision includes a reference to the statutory provision as amended or re-enacted from time to time.

2.9 Pending the enactment of a DIFC Interpretation Act and subject to the express provisions of these Rules and any other DIFC legislation, the English Interpretation Act 1978 shall apply as far as necessary for the interpretation of these Rules as it applies to English subordinate legislation made after the commencement of that Act.

Application of the CPR and the Guide

2.10 Until such time as the Rules are fully enacted and thereafter if no provision is made or no appropriate form is provided by the Rules or any law in force in the DIFC, the following rules of practice and procedure shall be followed and adopted:

- (1) Such Rules as shall have been enacted;
- (2) To the extent that no Rule or Practice Direction dealing with the matter shall have been enacted, with regard to the Court of First Instance, the Guide together with any prescribed forms with such changes as the Court considers appropriate to be applied in the circumstances;
- (3) Insofar as the Guide does not deal with the matter or makes reference to the CPR, the CPR together with any prescribed forms with such changes as the Court considers appropriate to be applied in the circumstances;
- (4) With regard to the Court of Appeal, Part 52 of the CPR and any associated practice directions, as therein defined, together with any prescribed forms with such changes as the Court considers appropriate to be applied in the circumstances.
- (5) With regard to insolvency proceedings, the English Insolvency Rules 1986.

Time

2.11 All dates shall be ascertained in accordance with the Gregorian calendar.

2.12 A day shall refer to a business day, being a normal working day in the DIFC.

2.13 A period of time expressed as a number of days shall be computed as clear days. "Clear days" means that in computing the number of days –

- (1) the day on which the period begins; and
- (2) If the end of the period is defined by reference to an event, the day on which that event occurs are not included.

2.14 Where the specified period –

- (1) is 5 days or less; and
- (2) includes a day which is not a business day

that day does not count.

2.15 When the period specified –

- (1) by these Rules; or
- (2) by any judgment or Court order,

for doing any act at the Registry ends on a day on which the Registry is closed, that act shall be in time if done on the next day on which the Registry is open.

Dates for compliance to be calendar dates and to include time of day

2.16 Where the Court gives a judgment, order or direction which imposes a time limit for doing any act, the last date for compliance must, wherever practicable –

- (1) be expressed as a calendar date; and
- (2) include the time of day by which the act must be done.

2.17 Where the date by which an act must be done is inserted in any document, the date must, wherever practicable, be expressed as a calendar date.

Meaning of 'month' in judgments, etc.

2.18 Where 'month' occurs in any judgment, order, direction or other document, it means a calendar month.

Time limits may be varied by parties

2.19 Unless these Rules provide otherwise or the Court orders otherwise, the time specified by a Rule or Practice Direction or by the Court for a person to do any act may be varied by the written agreement of the parties.

PART 2

SCHEDULE TO PART 2

<i>Terms</i>	<i>Definitions</i>
Affidavit	A written, sworn statement of evidence.
Arbitral Award	An award made in Arbitration proceedings under the DIFC Arbitration Law No.8 of 2004, DIFC Dispute Resolution Scheme, foreign awards, or any awards that satisfy the requirements of the Centre's laws.
Assessor	A person appointed under Article 18 of the Court Law.
Attorney General	The Attorney General of the Government of the Emirate of Dubai
Base Rate	The 1 month Emirates Interbank Offer Rate (EIBOR)
Business Day	A normal working day in the DIFC.
The Centre	Dubai International Financial Centre.
Centre Authority	Dubai International Financial Centre Authority.
Centre Bodies	Has the meaning given in Dubai Law No.9 for 2004.
Centre Establishments	Any entity or business duly established or carrying on activity in the Centre, including any Licensed Centre Establishment.
Chief Justice	The person appointed by the Ruler as Chief Justice of the DIFC Court.
Claim for personal injuries	Proceedings in which there is a claim for damages in respect of personal injuries to the claimant or any other person or in respect of a person's death, and 'personal injuries' includes any disease and any impairment of a person's physical or mental condition.
Claimant	A person who makes a claim.
Contribution	A right of someone to recover from a third person all or part of the amount which he himself is liable to pay.
Consultant Registrar	The person appointed by the Chief Justice under Article 6 of the Rules of Court (Interim Arrangements) Order No. 1 of 2005.

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<i>Terms</i>	<i>Definitions</i>
Counterclaim	A claim brought by a defendant in response to the claimant's claim, which is included in the same proceedings as the claimant's claim.
Court Law or the Law	The DIFC Court Law No.10 of 2004.
Court Officer	A member of the Court staff.
CPR	English Civil Procedure Rules as up-dated from time to time. The full text of the CPR may be found at www.dca.gov.uk/civil/procrules_fin/index.htm
Cross-examination	Questioning of a witness by a party other than the party who called the witness.
Damages	A sum of money awarded by the Court as compensation to the claimant.
Defence of tender before claim	A defence that, before the claimant started proceedings, the defendant unconditionally offered to the claimant the amount due or, if no specified amount is claimed, an amount sufficient to satisfy the claim.
Defendant	A person against whom a claim is made.
Deputy Registrar	Deputy Registrar appointed under Article 16 of the Court Law.
DFSA	The Dubai Financial Services Authority.
DIFC	The Dubai International Financial Centre.
DIFCA	Dubai International Financial Centre Authority.
DIFC Court or the Court	The Court of First Instance (including any circuit or division), the Court of Appeal and Tribunals established in accordance Article 14(3) of the Court Law.
Dubai Courts	The Emirate of Dubai Courts established pursuant to Dubai Law No.3 of 1992 in respect of the Formation of the Courts in Dubai.
Dubai Law No.9	Dubai Law No.9 of 2004 in respect of the Dubai International Financial Centre.
The Emirate	The Emirate of Dubai.
Evidence in chief	The evidence given by a witness for the party who called him.
Filing	In relation to a document, means delivering it, by post or otherwise, to the Registry.

PART 2

<i>Terms</i>	<i>Definitions</i>
The Financial Services Authority	Dubai Financial Services Authority.
The Government	The Government of the Emirate of Dubai.
The Governor	The Governor of the Dubai International Financial Centre
The Guide	The English Admiralty and Commercial Courts Guide 2006, as updated from time to time. The full text of the Guide may be found at www.hmcourts-service.gov.uk/publications/guidance/admiralcomm/index.htm
Indemnity	A right of someone to recover from a third party the whole amount which he himself is liable to pay.
Injunction	A Court order prohibiting a person from doing something or requiring a person to do something.
Joint liability	Parties who are jointly liable share a single liability and each party can be held liable for the whole of it.
Judge or Judges	Chief Justice and any Judges appointed under Article 9 of the DIFC Court Law 2004.
Judge of the DIFC Court	Chief Justice or any other Judge.
Judicial Authority Law	The Law of the Judicial Authority at Dubai International Financial Centre, Law No.12 of 2004.
Jurat	The jurat of an affidavit is a statement set out at the end of the document which authenticates the affidavit. The general form of jurat is set out in the Schedule to Part 29.
Jurisdiction	Unless the context requires otherwise, means the Dubai International Financial Centre.
Justice by Reconciliation	Collective description of methods of resolving disputes otherwise than through the normal trial process.
Limitation period	The period within which a person who has a right to claim against another person must start court proceedings to establish that right. The expiry of the period may be a defence to the claim.

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<i>Terms</i>	<i>Definitions</i>
Legal Representative	A person authorised to issue and conduct proceedings or to appear before the Court on behalf of others (as the context requires) who has been instructed to act for a party in relation to a claim.
Licensed Centre Establishments	Any entity licensed, registered or otherwise authorised to carry on financial and banking business including those activities and business referred to in Article 9 of Dubai Law No.9 in respect of the Dubai International Financial Centre.
Official copy	A copy of an official document supplied and marked as such by the Registry.
The President Privilege	The President of the DIFC. The right of a party to refuse to disclose a document or produce a document or to refuse to answer questions on the ground of some special interest recognised by law.
Registrar	Registrar appointed under Article 16 of the Court Law and includes, where the context requires, the Consultant and Deputy Registrars.
Registry	The Registry of the DIFC Court established in accordance with Article 17(1) of the Court Law.
Ruler	H.H. Ruler of the Emirate of Dubai.
Rules or Rules of Court	The Rules of the Dubai International Financial Centre Court 2006 or any re-enactment or modification thereof.
Seal	A seal is a mark which the Court puts on a document to indicate that the document has been issued by the Court.
Service	Steps required by rules of court to bring documents used in court proceedings to a person's attention.
Set aside	Cancelling a judgment or order or a step taken by a party in the proceedings.
Several liability	A person who is severally liable with others may remain liable for the whole claim even where judgment has been obtained against the others.
The State or UAE	The United Arab Emirates.

PART 2

<i>Terms</i>	<i>Definitions</i>
Statement of Case	(1) A claim form, particulars of claim where these are not included in a claim form, defence, additional claim notice, or reply to defence; and (2) Any formal written further information given in relation to a statement of case, whether given voluntarily or by court order.
Stay	A stay imposes a halt on proceedings, apart from taking any steps allowed by the Rules or the terms of the stay. Proceedings can be continued if a stay is lifted.
Strike out	Striking out means the Court ordering written material to be deleted so that it may no longer be relied upon.
Tribunal	Tribunal established by the Chief Justice of the DIFC Court under Article 14(3) of the Court Law.

COMMENT

PD 4/2008 introduces qualifications for Urgent Applications:

2.11 - 2.15

“2. Upon an application under the urgent applications procedure set out in RDC 25.11-15, the Court may consist of a resident Judge and the Registrar sitting together. **PD 4/2008**

3. When acting under the procedure set out in this Practice Direction, the Court shall set a Return Date for the hearing of the application before a Judge sitting alone, which shall not be later than three days from the date upon which the interim order is issued.”

RD 2/2009 clarifies Rules 2.12 and 2.14.

“2. Rule 2.14 provides that when computing a specified period of time that is 5 days or less, a day that is not a normal working day in the DIFC is not counted. **RD 2/2009**

3. For the sake of clarification, where the specified period of time (for the purposes of the Rules) is 6 days or more, both normal working days in the DIFC and non-working days in the DIFC shall be counted.”

PART 3

ORGANISATION OF THE COURT

I JUDGES, REGISTRAR AND COURT STAFF

Power of Judge or Registrar to perform functions of the Court

3.1 Where these Rules provide for the Court to perform any act then, except where an enactment, Rule or Practice Direction provides otherwise, that act may be performed by any Judge or the Registrar.

Allocation of cases to levels of judiciary

3.2 Only the Registrar may make the orders specified in Rules 3.6 to 3.13. Wherever the Registrar has jurisdiction, he may refer the matter to a Judge instead of dealing with it himself.

3.3 Subject to Rules 3.6 and 3.7 search orders (Rule 25.1(8)), freezing orders (Rule 25.1(6)), an ancillary order under Rule 25.1(7) and orders authorising a person to enter land to recover, inspect or sample property (Rule 25.1(4)) may only be made by a Judge.

3.4 Where the Court has made a freezing order under Rule 25.1(6) and has ordered a person to make a witness statement or affidavit about his assets and to be cross-examined on its contents, unless the Judge directs otherwise, the cross-examination may take place before the Registrar, or if a Judge or the Registrar directs, before an examiner of the Court.

3.5 Except where paragraphs 3.6, 3.7 or 3.9 apply, injunctions and orders relating to injunctions, including orders for specific performance where these involve an injunction must be made by a Judge.

3.6 Except where paragraph 3.9 applies, the Registrar may only make an injunction:

- (1) in cases of urgency where no Judge can be made available within the timescale requested by the applicant and then only
 - (a) if the Registrar considers it necessary in the interests of justice; and
 - (b) to the extent necessary to preserve the *status quo* until such time as a judge can made available;
- (2) in terms agreed by the parties;
- (3) in connection with or ancillary to a charging order;
- (4) in connection with or ancillary to an order appointing a receiver by way of equitable execution.

3.7 The Registrar may make an order varying or discharging an injunction or undertaking given to the Court if all parties to the proceedings have consented to the variation or discharge.

PART 3

- 3.8 The Registrar may not make orders or grant interim remedies:
- (1) relating to a claim for judicial review, except for interim applications;
 - (2) relating to any appeal, except as provided in Rule 44.149
- 3.9 The Registrar may, subject to any Practice Direction, try a case with the consent of the parties. Restrictions on the trial jurisdiction of the Registrar do not prevent them from hearing applications for immediate judgment or, if the parties consent, for the determination of a preliminary issue.
- 3.10 The Registrar may assess the damages or sum due to a party under a judgment without limit as to the amount.
- 3.11 With the consent of the Chief Justice, the Registrar may
- (1) approve compromises on behalf of a person under a disability and on behalf of absent, unborn and unascertained persons;
 - (2) make declarations;
 - (3) make final orders under article 28(3) or article 30(6) of the Trust Law, DIFC Law 11 of 2005, except for the removal of protective trusts where the interest of the principal beneficiary has not failed or determined;
 - (4) where the proceedings are brought by a Part 8 claim form, determine any question of law or as to the construction of a document which is raised by the claim form;
 - (5) give permission to executors, administrators and trustees to bring or defend proceedings or to continue the prosecution or defence of proceedings, and grant an indemnity for costs out of the trust estate, in straightforward cases;
 - (6) grant an indemnity for costs out of the assets of a company on the application of minority shareholders bringing a derivative action, in straightforward cases.
- 3.12 Where a winding-up order has been made against a company, any proceedings against the company by or on behalf of debenture holders may be dealt with by the Registrar.
- 3.13 Subject to Rules 3.3 to 3.12 and to any other Rule or Practice Direction, the Registrar may exercise the chambers jurisdiction of the Court.

Court staff

- 3.14 Where these Rules require or permit the Court to perform an act of a formal or administrative character, that act may be performed by a Court Officer.
- 3.15 A requirement that a Court Officer carry out any act at the request of a party is subject to the payment of any fee required by a fees order for the carrying out of that act.

II PRACTICE DIRECTIONS

3.16 Directions as to the practice and procedure of the Court may be made by the Chief Justice.

3.17 These Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions.

3.18 The power of the Chief Justice to make directions under Rule 3.16 includes power to vary or revoke directions made by him or any other person, and to make different provision for different cases or different areas, including different provision for a specific court, circuit or tribunal, or for specific proceedings, or a specific jurisdiction, specified in the directions.

3.19 References in Rules 3.16 and 3.18 to the Chief Justice include any person authorised by him to act on his behalf.

III COURT DOCUMENTS

Court documents to be sealed

3.20 The Court must seal the following documents on issue:

- (1) all process issued by the Court;
- (2) any order issued by the Court; and
- (3) any other document which a Rule or Practice Direction requires it to seal.

3.21 The Court may place the seal on the document

- (1) by hand; or
- (2) by printing a facsimile of the seal on the document whether electronically or otherwise.

3.22 A document purporting to bear the Court's seal shall be admissible in evidence without further proof.

Court documents to be signed

3.23 The following documents must be signed on issue by a Judge or the Registrar or by a Court Officer acting with the authority of the Registrar:

- (1) all process issued by the Court;
- (2) any order issued by the Court; and
- (3) any other document which is required by a Rule or Practice Direction to be so signed.

PART 3

IV VENUE AND SITTINGS

Court's discretion as to where it deals with cases

3.24 The Court may, with the consent of the parties, deal with a case at any place that it considers appropriate and may at any stage of the proceedings direct that

- (1) the proceedings or a part of the proceedings be conducted or continued at a place specified in the order, subject to such conditions as the DIFC Court may impose;
- (2) the Court Law shall continue to apply to the proceedings in that venue; and
- (3) these Rules shall continue to apply.

Court Office

3.25 The Court Office is located at the Ground Floor, Building 4, Gate District, Dubai, UAE.

Sittings of the Court

3.26 Sittings of the Court will take place on dates to be published on the Court's website (www.difccourts.ae) and on such other dates as may be specified by the Chief Justice or the Registrar on his behalf.

3.27 When it appears to him to be in the interest of justice the Court may hear an application by video link, telephone, electronic device or other appropriate means. Attention is drawn to the Video-conferencing Protocol and the guidance on telephone hearings at Schedules B and C to Part 23.

3.28 Sittings of the Court will take place in the Court Room at the Court premises. The Courts are located at the Ground Floor, Building 4, The Gate District, Dubai, UAE.

V COMMUNICATING WITH THE COURT BY E-MAIL

3.29 Guidance on communicating with the Court by e-mail is set out in the Schedule to this Part.

SCHEDULE TO PART 3

Communicating with the Court by E-mail

Documents for which E-mail may be used

1. E-mail may be used to communicate with Registry in relation to:
 - (a) any communication with the Registry concerning case management, including the lodging of progress monitoring information sheets;

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- (b) any communication with the Registry concerning
 - (i) the approval by the Judge of draft orders following a hearing before that Judge, queries on orders made, and general correspondence, including questions on practice; Note: Orders submitted for sealing must be submitted on paper;
 - (ii) any query in relation to an Order which has been made by a Judge;
- (c) any general matter properly raised in correspondence with the Registry relating to an action proceeding in the Court, including questions of practice;
- (d) any communication with the Registry concerning listing, including,
 - (i) a pre-trial checklist;
 - (ii) a skeleton argument;
 - (iii) a list of persons;
 - (iv) a chronology;
 - (v) a reading list;
 - (vi) a list of authorities (but not the authorities themselves);
 - (vii) a list of issues prepared for a hearing or
 - (viii) minor additions (of 20 pages or less) to any bundles already lodged with the Court (accompanied by clear instructions as to where such additions are to be inserted).

Restrictions

2. A party should not use e-mail to take any step in a claim which requires a fee to be paid for that step. If a party sends by e-mail a document for which a fee is payable upon filing, the document will be treated as not having been filed.
3. A large document may not be sent by email. A large document is
 - (a) any document which, when scanned as a PDF file, exceeds 10MB in size; or,
 - (b) any document which is incapable of being scanned in accordance with paragraph 16 below.
4. Where a party sends or lodges a document by e-mail he should still comply with any Rule or Practice Direction requiring the document to be served on any other person.
5. Nothing in this Schedule shall affect or otherwise alter any obligation on a party or his legal representative to file any document or bundle of documents with the Court or to serve any document or bundle of documents on any other party, but only the manner in which documents are filed with the Court.
6. Nothing in this Section requires any person to accept service of a document by e-mail.

PART 3

Sending e-mails to the Court: addresses

7. For listing matters, the e-mail address is: *listings@difccourts.ae*
8. For matters relating to case management the address is: *casemanagement@difccourts.ae*
9. For all correspondence for the Registry the address is: *registry@difccourts.ae*

The subject line

10. The subject line of the e-mail should contain only the following information which should be in the following order:

- (a) First, the proper title of the claim (abbreviated as necessary) with the claimant named first and the defendant named second;
- (b) Second, the claim number.

Form and content of the E-mail

11. Any e-mail filing with the Court must include the following information in the covering e-mail itself:

- (a) the name of the individual who has sent the e-mail and his firm;
- (b) the fullest possible contact details for the individual and the firm of which he is a member, ordinarily to including -
 - (i) the full postal address;
 - (ii) a landline telephone number (and a direct number if possible);
 - (iii) a fax number (if applicable);
 - (iv) a professional e-mail address;
 - (v) a business mobile or cellular telephone number (if applicable);
 - (vi) the name of an alternative person who may be contacted if the originator of the e-mail is unavailable;
- (c) a short description of the attachment which is being filed with the Court by e-mail;
- (d) if appropriate, the name of the Judge before whom the e-mail and any attachment is intended to be placed.

12. Any e-mail message sent to the Court must be in plain text and not in rich text or HTML format.

13. Where a party files a document by e-mail, he should not send a hard copy in addition, unless there are good reasons for so doing or the Court requires.

14. Parties are advised to bear in mind when sending correspondence or documents of a confidential or sensitive nature that the security of e-mails cannot be guaranteed.

15. Where a time limit applies, it remains the responsibility of the party to ensure that the document is filed in time. Parties are advised to allow for delays or downtime on their server or the servers used by the Court.

Attachments

16. Any attachment must comply with the following technical requirements:

- (a) in order to preserve the legibility and original pagination of documents filed by e-mail all documents filed electronically with the Court must be sent as a PDF file attachment (unless otherwise directed). Any document purporting to be filed by e-mail in any other format shall be treated by the Court as not having been received or filed; and
- (b) all documents e-mailed to the Court must be scanned as A4 pages with margins of at least 1 inch. All documents prepared by the parties for filing with the Court electronically should be paginated. Documents prepared using Word, WordPerfect or other software packages should be converted to PDF format either by scanning a physical copy of the document, or by using a PDF printer driver.

Receipt of e-mail by the Court

17. A document is not filed until the e-mail is received by the Court at the addressee's computer terminal, whatever time it is shown to have been sent.

18. The time of receipt of an e-mail at the addressee's computer terminal will be recorded.

19. If an e-mail is received after 4 p.m. it will be treated as having been received on the next day the Court office is open.

20. No automatic acknowledgment of the receipt of an e-mail will be sent; the subject matter of the e-mail will be considered in the ordinary way. If a response to the subject matter of the e-mail is not received within a reasonable period, the sender should assume that the Court has not received it and should send the e-mail again, or file the document by another means.

21. Parties should not telephone to enquire as to the receipt of an e-mail. They should observe the procedure set out in paragraph 20.

22. Exceptionally, if a document which is filed with the Court by email requires urgent attention, a party may contact the Court by telephone, but such contact should be rare.

PART 3

Replies to E-mails sent to the Court

23. The Court will normally send any reply by e-mail to documents or correspondence sent by e-mail.

- (a) All replies will be sent to the e-mail address from which the e-mail has been sent. If the sender wishes the reply to be copied to other parties or to another e-mail address used by the sender of the message, such e-mail addresses must be specified in the copy line.
- (b) The Court will not send copies to clients or others not on the record; the copy line must therefore not contain the addresses of such persons.
- (c) The e-mail should also contain in the body of the e-mail the name and telephone number of the sender.

24. It is important that legal representatives consider putting in place a system to deal with the absence of the individual who has sent the e-mail and to whom the Court will ordinarily reply. Two possible solutions are:

- (a) a central mail box within each firm, either from which the e-mail is sent to the Court (and which will therefore receive the reply) or to which it is copied by the individual sender who sends it direct to the Court (and who will receive a copy of the reply);
- (a) a second individual e-mail address within the firm to which the reply will be copied so that any reply can be monitored.

COMMENT

PD 4/2008 authorizes the Registry to sit with a resident Judge to hear Urgent Applications under Rules 25.11 – 25.15.

RD 3/2008 provides for the issuing of Orders electronically.

RD 3/2008 provides for electronic signature of Court documents.

RD 1/2008 provides for the mandatory electronic only filing of documents in the Court, subject to exceptions for hearing bundles and documents that require to be sealed.

RD 1/2010 reminds users that although paragraph 1(a) of the Schedule states that e-mail may be used to communicate with the Registry concerning case management issues, this is subject to the proviso at paragraph 2 of the Schedule concerning steps which require a fee. Users should be aware that the Registry is unlikely to advise a party that a step has not been effective because of a failure to pay the applicable fee. The Courts' fees are set out at PD 6/2008. The Table of Fees is reproduced at XXX

In *Dr. Lothar Ludwig Hardt and Hardt Trading F.Z.E. v DAMAC (DIFC) Company Limited et al* CFI 036/2009 [Judgment issued 04 April 2010] Justice Sir Anthony Colman held that in order to give effect to Rule 23.21, paragraph 2 of the Schedule did not apply where the step was an application that had to be made within a certain period of time. [See also Comment 23.2 – 23.3];

3.2 – 3.13

3.20

3.23

Sch.,
para.1

Sch.,
para.2

“22. It is provided by RDC 23.21 as follows:

23.21 Where an application must be made within a specified time, it is so made if the application notice is received by the Court within that time.

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23. It is to be observed that this last provision does not refer to filing of the Application Notice - a formal process including the delivery to the Registry of the hard copy notice and payment of the applicable court fee. This provision, therefore, could have been used in the present case and, because filing was not specified in RDC 12.15, the notice could properly have been transmitted by email in spite of Part 3, Schedule, paragraph 2. The applicability of the latter is clearly superseded by RDC 23.21. As to paragraph 2, I do not consider that this applies in a case where a time limit applies and a notice of application which attracts a fee is sent to the Registry by email. In such a case, that provision should be construed as referring to effective transmission of the email rather than filing in the formal sense. RDC 23.21 would otherwise be deprived of its essential purpose.

24. Further, it is also reasonably clear, in my judgment, that paragraph 19 of the Schedule is superseded by Rule 23.21 in the case of an application having to be made within a time limit. The period of 14 days in RDC 12.4 is thus not reduced to 4pm on the 14th day by RDC Schedule Para. 19.

25. Accordingly, in order to satisfy the RDC 12.5 time limit the Defendants' solicitors' email had to be received by as distinct from filed at, the Registry by 1700 on 21 January 2010. The supporting evidence did not have to be included and it did not have to be served on the Claimants by that time, having regard to RDC 23.21. Specifically, RDC 23.47 required no more than that the evidence must be filed when the application was filed and that the evidence must be served on the Claimant when the application was served on the Claimant.

26. There can be no doubt, therefore, that the application for a declaration of no-jurisdiction was not made within the time specified in RDC 12.5, for the Defendants' solicitors' email was not received at the Registry on 21 January 2010."

Sch., para.19 In *Dr. Lothar Ludwig Hardt and Hardt Trading F.Z.E. v Haussain Al Habib Sajwani and Peter Riddoch* CFI 036/2009 [Judgment issued 25 November 2010] Justice Sir Anthony Colman held that in order to give effect to Rule 23.21, paragraph 19 of the Schedule did not apply where the step was an application that had to be made within a certain period of time. In those cases the 4 pm cut-off would not apply and receipt could take place at any time on the actual day of receipt. See above.

PART 26

CASE MANAGEMENT

Fixing a Case Management Conference

26.1 The claimant must apply for a Case Management Conference –

- (1) for a Part 7 claim, within 14 days of the date when all defendants who intend to file and serve a defence have done so; and
- (2) for a Part 8 claim, within 14 days of the date when all defendants who intend to serve evidence have done so.

26.2 Any party may, at a time earlier than that provided in Rules 4.1(1) or 4.1(2), apply in writing to the Court to fix a Case Management Conference.

26.3 If the claimant does not make an application in accordance with Rules 4.1(1) or 4.1(2), any other party may apply for a Case Management Conference.

26.4 The Court may fix a Case Management Conference at any time on its own initiative. If it does so, the Court will give at least 7 days notice to the parties, unless there are compelling reasons for a shorter period of notice.

26.5 A Case Management Conference may not be postponed or adjourned without an order of the Court.

Requirements for a Case Management Conference

26.6 Not less than 7 days before a Case Management Conference, each party must file and serve –

- (1) a completed Case Management Information Sheet. A standard form of Case Management Information Sheet is set out in Schedule A to this Part; and
- (2) an application notice for any order which that party intends to seek at the Case Management Conference, other than directions referred to in the Case Management Information Sheet.

26.7 Where a party wishes to obtain an order not routinely made at a Case Management Conference and believes that his application will be opposed, he should issue and serve the application in time for it to be heard at the Case Management Conference.

26.8 If the time allowed for the Case Management Conference is likely to be insufficient for the application to be heard, the applicant should inform the Court at once so that a fresh date can be fixed.

26.9 A costs sanction may be imposed on a party who fails to comply with Rules 4.7 and 4.8.

26.10 Unless the Court orders otherwise, the claimant, in consultation with the other parties, must produce –

- (1) a Case Memorandum (see Rules 4.11 to 4.17);
- (2) a list of issues (see Rules 4.18 to 4.19); and
- (3) a Case Management Bundle (see Rules 4.20 to 4.24),

and provide copies of the Case Management Bundle for the Court and the other parties at least 7 days before the first Case Management Conference or any earlier hearing at which the Court may give case management directions.

Case Memorandum

26.11 In order that the Judge conducting the Case Management Conference may be informed of the general nature of the case and the issues which are expected to arise, after service of the defence and any reply, the legal representatives of each party shall agree a Case Memorandum.

26.12 The Case Memorandum should contain:

- (1) a short and uncontroversial description of what the case is about; and
- (2) a very short and uncontroversial summary of the material procedural history of the case.

26.13 Unless otherwise ordered, the legal representatives of the claimant are to be responsible for producing and filing the Case Memorandum.

26.14 The Case Memorandum should not refer to any application for an interim payment, to any order for an interim payment, to any voluntary interim payment, or to any payment or offer under Part 32 or Part 33.

26.15 It should be clearly understood that the only purpose of the Case Memorandum is to help the Judge understand broadly what the case is about. The Case Memorandum does not play any part in the trial. It is unnecessary, therefore, for parties to be unduly concerned about the precise terms in which it is drafted, provided it contains a reasonably fair and balanced description of the case.

26.16 Accordingly, in all but the most exceptional cases it should be possible for the parties to draft an agreed Case Memorandum. However, if it proves impossible to do so, the claimant must draft the Case Memorandum and send a copy to the defendant. The defendant may provide its comments to the Court (with a copy to the claimant) separately.

26.17 The failure of the parties to agree a Case Memorandum is a matter which the Court may wish to take into account when dealing with the costs of the Case Management Conference.

List of issues

26.18 After service of the defence (and any reply), the legal representatives of each party shall produce an agreed list of the important issues in the case. The list should include both issues of fact and issue of law. A separate section of the document should list what is common ground between the parties (or any of them, specifying which).

26.19 Unless otherwise ordered, the legal representatives of the claimant are to have responsibility for the production and revision of the list of issues.

Case Management Bundle

Preparation

26.20 Before the Case Management Conference, a Case Management Bundle should be prepared by the legal representatives of the claimant.

Contents

26.21 The Case Management Bundle should only contain the documents listed below (where the documents have been created by the relevant time):

- (1) the claim form;
- (2) all statements of case (excluding schedules), except that, if a summary has been prepared, the bundle should contain the summary, not the full statement of case;
- (3) the Case Memorandum;
- (4) the list of issues;
- (5) the Case Management Information Sheets and the pre-trial timetable if one has already been established;
- (6) the principal orders in the case; and
- (7) any agreement in writing made by the parties to produce documents without making a list or any agreement in writing that production shall take place in stages.

26.22 The Case Management Bundle must not include a copy of any order for an interim payment.

Lodging the Case Management Bundle

26.23 The Case Management bundle should be lodged with the Registry at least 7 days before the (first) Case Management Conference (or earlier hearing at which the parties are represented and at which the business of the Case Management Conference may be transacted).

Preparation and Upkeep

26.24 The claimant (or other party responsible for the preparation and upkeep of the Case Management Bundle), in consultation with the other parties, must revise and update the Case Management Bundle as the case proceeds.

Case Management Conference

Application to Postpone the Case Management Conference

26.25 An application to postpone the Case Management Conference must be made within 21 days after all defendants who intend to serve a defence have done so.

26.26 The application will be dealt with without a hearing unless the Court considers it appropriate to direct an oral hearing.

Attendance at the Case Management Conference

26.27 Clients need not attend a Case Management Conference unless the Court otherwise orders.

26.28 A legal representative must attend on behalf of each of the parties who

- (1) is familiar with the case; and
- (2) has sufficient authority to deal with any issues that are likely to arise.

26.29 That person should be someone who is personally involved in the conduct of the case, and who has the authority and information to deal with any matter which may reasonably be expected to be dealt with at such a hearing, including the fixing of the timetable, the identification of issues and matters of evidence.

26.30 Where the inadequacy of the person attending or of his instructions leads to the adjournment of a hearing, the Court will expect to make a costs order against the legal representative.

Applications

26.31 If by the time of the Case Management Conference a party wishes to apply for an order in respect of a matter not covered by Questions (1)–(14) in the Case Management Information Sheet, he should make that application at the Case Management Conference.



APPENDICES

APPENDIX 1

LEGISLATION ESTABLISHING THE DIFC COURTS

Appendix 1A: The Legal Framework Under Which the DIFC Courts Operate

The Dubai International Financial Centre (DIFC) is designed to be a financial free zone offering a unique, independent legal and regulatory framework in order to create an environment for growth, progress and economic development in the UAE and the wider region.

The unique independent regulatory framework creating the DIFC and the DIFC Courts was made possible through a synthesis of Federal and Dubai Law.

The steps taken are:

- An amendment to the UAE Constitution
- Federal Law No. 8 of 2004: Regarding the Financial Free Zones in the United Arab Emirates
- Federal Decree No. 35 of 2004: establishing the DIFC as a financial free zone in Dubai, accompanied by two Cabinet resolutions
- Dubai Law No. 9 of 2004: The Law Establishing the Dubai International Financial Centre
- Dubai Law No. 12 of 2004: The Law of the Judicial Authority at Dubai International Financial Centre

Federal Law

UAE Constitution

An amendment has been made to Article 121 of the UAE Constitution, which deals with the division of powers between Federal and Emirati authorities and which allows the Federation to enact a Financial Free Zone Law. This in turn allows an Emirati Government to create a Financial Free Zone within a particular Emirate.

Federal Law No. 8 of 2004

Federal Law No.8 of 2004: Regarding The Financial Free Zones in the United Arab Emirates (the Financial Free Zone Law), was gazetted on 27 March 2004.

This law allows a Financial Free Zone to be established in any Emirate of the UAE, by Federal Decree.

Importantly, it exempts Financial Free Zones from all federal civil and commercial laws within the UAE, although UAE criminal law still applies.

The DIFC is therefore empowered to create its own specific legal and regulatory framework for all civil and commercial matters.

Federal Decree No. 35 of 2004

A Federal Decree then specifically established the DIFC as a Financial Free Zone in the Emirate of Dubai.

Resolutions

1. A resolution of the Federal Cabinet prescribes the geographical area and location of the DIFC in the heart of Dubai. It is an area of approximately 110 acres located beside Sheikh Zayed Road, marked by the DIFC headquarters 'Gate' building. The area is designed as a self-contained and concentrated hub of financial activity.

APPENDIX 1

2. To allow for construction and a smooth transition for occupants, a further resolution of the Federal Cabinet permits DIFC participants to operate outside these physical boundaries for the first four years of the DIFC's operation.

APPENDIX 1B: CONSTITUTIONAL AMENDMENT No (1) OF 2004

Appendix 1B: Constitutional Amendment No (1) of 2004

THE SUPREME FEDERAL COUNCIL:

After looking at the Constitution of the UAE, based on the recommendation of the Supreme Federal Council and with the approval of the Federal National Council, and with the notarization of the Federal Supreme Council, it was decided:

Article One

To replace the text of Article 121 of the Constitution with the following text:

Article 121

Without prejudice to the provisions of the preceding Article, the Union shall have exclusive legislative jurisdiction in the following matter—

Labour relations and social security; real estate and expropriation in the public interest; extradition of criminals; banks; insurance of all kinds; protection of agricultural and animal wealth; major legislations relating to penal law, civil and commercial transactions and company law, procedures before the civil and criminal courts; protection of cultural technical and industrial property and copyright; printing and publishing; import of arms and ammunitions except for use by the armed forces or the security forces belonging to any Emirate; other aviation affairs which are not within the executive jurisdiction of the Union; delimitation of territorial waters and regulation of navigation on the high seas; the order and the manner of establishing Financial Free Zones and the boundaries within which they are exempted from having to apply rules and regulations of the Union.”

Article Two

This Constitutional Amendment shall be in effect from its date and shall be published in the official Gazette

Zayed Bin Sultan Al Nahyan
President of UAE

18th Thol Quaada 1424
10th January 2004

APPENDIX 2
DIFC COURT LAW
Appendix 2A: DIFC LAW No.10 of 2004

Part 1 General

1 Title

This Law may be cited as the “DIFC Court Law 2004”.

2 Legislative Authority

This Law is made by the Ruler of Dubai.

3 Date of enactment

This Law is enacted on the date specified in the Enactment Notice in respect of this Law.

4 Commencement

This Law comes into force on the date specified in the Enactment Notice in respect of this Law.

5 Interpretation

- (1) The Schedule contains:
 - (a) interpretative provisions which apply to the Law; and
 - (b) a list of defined terms used in the Law.

Part 2 Purpose

6 Purpose of the Law

The purpose of this Law is to provide for the independent administration of justice in the DIFC in accordance with Dubai Law No.9 of 2004 and the Judicial Authority Law.

Part 3 Constitution of the DIFC Court

7 The DIFC Court

The courts established in the DIFC pursuant to the Judicial Authority Law, that is the Court of First Instance and the Court of Appeal, are to be known as the DIFC Court.

8 Judges of the DIFC Court

- (1) The DIFC Court shall consist of at least four judges, one of whom shall be the Chief Justice.
- (2) The powers of the DIFC Court are vested in the Judges referred to in Article 9(1).

9 Appointment of Judges

- (1) The Judges appointed under Article 3(4) of the Judicial Authority Law, shall be appointed for a specified period not exceeding three years, and may be re-

APPENDIX 2

appointed, provided that such period may not extend beyond the day when the Judge turns 75 years of age.

- (2) Notwithstanding the fact a Judge has turned 75 years or the period of appointment has concluded, a Judge holding office may continue in office for so long as may be necessary to deliver judgment or to perform any other actions as may be necessary, in relation to the proceedings that were commenced before the Judge turns 75 years or before the conclusion of the appointment.
- (3) A person is qualified to be appointed as a Judge if:
 - (a) the person is or has been the holder of high judicial office in any jurisdiction recognised by the Government of the United Arab Emirates; and
 - (b) the person has significant experience as a qualified lawyer or judge in the common law system.
- (4) A Judge is not eligible for appointment if the Judge has any commercial association that may give rise to a conflict of interest with:
 - (a) any Centre Body or any subsidiary of a Centre Body other than the DIFC Judicial Authority;
 - (b) any licensed Centre Establishment or other institution which is part of or which is licensed to carry on any business in the DIFC; or
 - (c) any person employed by any Centre Body or any subsidiary of a Centre Body other than the DIFC Judicial Authority or any person referred to in (b).
- (5) A Judge shall take an oath of office before the Ruler or his delegate before commencing duties.

10 Removal of Judges of the DIFC Court

A Judge may be removed from office by a decree issued by the Ruler for reasons of inability, incapacity or misbehaviour that is found to have taken place by an independent inquiry established by the Ruler, and whose findings have been published.

11 Resignation of Judges of the DIFC Court

A Judge may at any time resign as a Judge of the DIFC Court by notice in writing addressed to the Ruler.

12 Remuneration of Judges

- (1) The Judges shall receive remuneration determined by the Ruler on the recommendation of the Chief Justice.
- (2) The rate of remuneration of a Judge shall not be diminished while the Judge is in office.

13 Court Proceedings

All proceedings before the Courts shall be:

- (1) conducted in the English language; and
- (2) open to the public unless otherwise conducted by the presiding Judge in the interest of justice.

APPENDIX 2A: DIFC LAW No.10 OF 2004

Part 4 Management of the DIFC Court

14 Administrative Procedures

- (1) The Chief Justice is responsible for managing the administrative affairs of the DIFC Court. The DIFC Court will receive funding for this purpose from the Government of Dubai in accordance with Article 8(5) of Dubai Law No.9.
 - (a) set up circuits and divisions of the DIFC Court;
 - (b) appoint and dismiss staff of the DIFC Court;
 - (c) appoint judicial officers of the DIFC Court but not Judges; and
 - (d) appoint judicial officers as members of Tribunals of the DIFC Court.
- (2) The Chief Justice may, where he considers it appropriate, set up and administer Tribunals of the DIFC Court and authorise rules for their administration, which shall be set out in the Rules of Court.
- (3) The Chief Justice may, in writing, delegate all or any of the administrative powers of the Chief Justice under this Part to one or more of the Judges or to the Registrar.

15 Seal of Court

- (1) The DIFC Court shall have a seal, the design of which shall be determined by the Chief Justice.
- (2) The seal of the DIFC Court shall be kept in the custody of the Registry as the Chief Justice directs.

16 The Registrar and Deputy Registrars of the DIFC Court

- (1) The Chief Justice shall appoint and shall have the right to dismiss a Registrar of the DIFC Court.
- (2) Subject to this Law, the Registrar holds office on the terms and conditions determined by the Chief Justice.
- (3) The Chief Justice may also appoint and shall have the right to dismiss Deputy Registrars and other officers necessary to fulfil the duties of the DIFC Court.
- (4) Appointments made under Articles 16(1) and (3) shall be for a specified period not exceeding three years. The appointment may not extend beyond the day when the Registrar, Deputy Registrar or other officer turns 75 years old.
- (5) Any person appointed under this Part shall take an oath or affirmation of office, as set out in the Rules of Court, before a Judge before discharging the duties of the office.

17 Powers and Duties of the Registrar and Deputy Registrars of the DIFC Court

- (1) The Registrar shall establish a Registry of the DIFC Court.
- (2) The Registrar shall have power to do all things necessary or convenient for the purpose of assisting the Judges of the DIFC Court in the exercise of their powers or duties as imposed on them by or under:
 - (a) the Judicial Authority Law;
 - (b) this Law;
 - (c) the Rules of Court; and
 - (d) by or under any DIFC Law or other law applicable in the DIFC.

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- (3) The Registrar shall have such other powers and duties as may be conferred, or expressed to be conferred, upon the Registrar by or under:
 - (a) this Law;
 - (b) any other law made by the Ruler; or
 - (c) a delegation from the Chief Justice.
- (4) Subject to the Rules of Court, the Deputy Registrars and officers may exercise the powers and duties of the Registrar.
- (5) The Chief Justice may give the Registrar directions regarding the exercise of the Registrar's powers under this Part.
- (6) The Registrar, Deputy Registrars and other officers shall as soon as becoming aware give written notice to the Chief Justice of all direct or indirect interests or any conflict of interest that may interfere with the exercise of their duties.

18 Appointment of Assessors

- (1) For the purposes of any case pending before the DIFC Court, a Judge may appoint one or more Assessors who shall be independent and an expert in their field, to assist the DIFC Court in the determination of any of the issues arising in a proceeding before the DIFC Court.
- (2) If an Assessor appointed under paragraph (1) of this Article provides advice to the DIFC Court, the parties to the proceedings shall be given an opportunity to make submissions on the Assessor's advice.
- (3) If in giving judgment on any contested proceeding, a Judge of the DIFC Court relies to any substantial extent on the expert advice of the Assessor, the judgment shall mention the issues on which and the extent to which advice was relied upon by the Judge.
- (4) The Registrar shall pay to any Assessor appointed under this Article a fee as set out in the Rules of Court for carrying out his duties and shall reimburse him for any expenses reasonably incurred.
- (5) Prior to commencing duties an Assessor shall take an oath or affirmation of office in accordance with the Rules of Court.
- (6) An Assessor who has or may have a conflict concerning the subject matter of the proceedings shall disclose the matters giving rise to that conflict to the Judge and the parties to the proceeding.
- (7) For the purposes of this Article, an Assessor has a conflict of interest in relation to proceedings if the Assessor has any interest, pecuniary or otherwise, that could conflict with the proper performance of the Assessor's functions in relation to the proceedings.

Part 5 Jurisdiction of the DIFC Court

Chapter 1 Jurisdiction of the Court of First Instance

19 Jurisdiction

- (1) The DIFC Court of First Instance has original jurisdiction pursuant to Article 5(A) of the Judicial Authority Law to hear any of the following:
 - (a) civil or commercial cases and disputes involving the Centre or any of the Centre's Bodies or any of the Centre's Establishments;

APPENDIX 2A: DIFC LAW No.10 OF 2004

- (b) civil or commercial cases and disputes arising from or related to a contract concluded or a transaction concluded by any of the Centre's Establishments or the Centre's Bodies;
 - (c) civil or commercial cases and disputes arising from or related to a contract that has been executed or a transaction that has been concluded, in whole or in part, in the Centre or an incident that has occurred in the Centre; and
 - (d) any application over which the DIFC Court has jurisdiction in accordance with DIFC Laws and Regulations;
- (2) The jurisdiction of the Court of First Instance shall be exercised by a single Judge sitting in open court or in chambers.
 - (3) The chambers jurisdiction of the Court of First Instance may be exercised by a Judge in relation to any:
 - (a) application relating to the conduct of a proceeding;
 - (b) application for orders or directions as to any matter which, by this Law, is made subject to the direction of a Judge sitting in chambers; and
 - (c) other application permitted under the Rules of Court.
 - (4) A Judge may order that a proceeding in chambers be adjourned to open court.
 - (5) Unless DIFC Law specifically provides to the contrary, no appeal shall lie from a decision of the Court of First Instance in relation to an appeal from a tribunal.

20 Making of Orders and Issuing of Writs

- (1) The Court of First Instance has the power, in matters over which it has jurisdiction to make any orders, including interlocutory orders, and to issue or direct the issue of any writs it considers appropriate.
- (2) The Court of First Instance has jurisdiction to waive any procedural requirements if the Court of First Instance is satisfied that the applicant is unable to meet the procedural requirements; and
- (3) An order of a Tribunal established under Article 14(3) has the same effect as if it were an order of the Court of First Instance.

21 Restitution, Disgorgement and Damages

Without limiting the generality of Article 20, in the course of or at the conclusion of any proceedings heard by the Court of First Instance under this Chapter, the Court of First Instance may make any orders it considers appropriate or just, including orders relating to:

- (a) restitution;
- (b) disgorgement;
- (c) compensation;
- (d) damages; or
- (e) damages in substitution for an injunction.

22 Judicial Review and Injunctions

- (1) The Court of First Instance may hear and determine applications for judicial review of statutory decisions as provided for in DIFC Law or in the Rules of Court.

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- (2) The Court of First Instance may order an injunction restraining a person from engaging in conduct or requiring a person to do an act or thing or other order the Court considers appropriate.

23 Decisions Relating to Fines

- (1) Where, by or under any DIFC Law, a person may be liable to pay a fine or penalty of any description, the question of liability, and the amount of any fine to be paid, will be determined by the Court of First Instance.
- (2) Article 23(1) does not apply where the authority to determine liability and impose fines and penalties has been given to another person or body under DIFC Law.
- (3) Penalties or fines are debts due and payable to the DIFC Court.

24 Ratification of Judgments

- (1) Pursuant to Article 7(4) of the Judicial Authority Law, the Court of First Instance has jurisdiction to ratify any judgment, order or award of any recognised:
 - (a) Foreign court;
 - (b) Courts of Dubai or the United Arab Emirates;
 - (c) Arbitral Award;
 - (d) Foreign Arbitral Award; or
 - (e) orders for the purposes of any subsequent application for enforcement in the courts of Dubai;
- (2) Where the UAE has entered into an applicable treaty for the mutual enforcement of judgments, orders or awards, the Court of First Instance shall comply with the terms of such treaty.

25 Receivers and Provisional Liquidators

- (1) The Court of First Instance may, by interlocutory order and at any stage of a proceeding, appoint a receiver or provisional liquidator; and
- (2) The Court of First Instance may attach any terms and conditions to the appointment the Court of First Instance considers appropriate and may provide the receiver and provisional liquidator with any powers the Court of First Instance considers necessary.

Chapter 2 Jurisdiction of the Court of Appeal

26 Appeals

- (1) The Court of Appeal has jurisdiction, pursuant to Article 5(B) of the Judicial Authority Law, to hear and determine appeals filed against judgments and awards made by the Court of First Instance.
- (2) The Court of Appeal may in exercising its appellate jurisdiction under Article 26(1):
 - (a) make or give any order that could have been made or given by the Court of First Instance or Tribunal appealed from;
 - (b) attach terms or conditions to an order it makes;
 - (c) annul or set aside a decision;
 - (d) require or prohibit the taking of a specific action or of action of a specified class;
 - (e) make a declaration of facts; or

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- (f) make any other order that the Court of Appeal considers appropriate or just.
- (3) A single Judge may exercise the appellate jurisdiction of the Court of Appeal concerning matters arising under this Part relating to an application for:
 - (a) leave to appeal to the Court of Appeal;
 - (b) an extension of time within which to institute an appeal to the Court of Appeal;
 - (c) leave to amend the grounds of an appeal to the Court of Appeal; or
 - (d) a stay.
- (4) The Rules of Court may prescribe the time period during which an appeal may be commenced and the manner in which an appeal is commenced and conducted.
- (5) The Rules of Court may permit applications to be made under Article 26(3) without an oral hearing.
- (6) No appeal shall lie from a decision of the Court of Appeal under this Article.

27 References

The Court of Appeal has jurisdiction, pursuant to Article 5(B) of the Judicial Authority Law, to determine the interpretation of any article of the Centre's Laws referred to it by:

- (a) the Court of First Instance concerning any matter before it;
- (b) any of the Centre's Bodies; or
- (c) any of the Centre's Establishments with leave of the Court of Appeal.

Chapter 3 Administrative Appeals

28 Appeals from DIFC Tribunals