



## **ADGM Court Procedure Rules 2016**

## TABLE OF CONTENTS

PART 1 – SCOPE AND INTERPRETATION .....	13
1. Citation and commencement .....	13
2. Scope and objective .....	13
3. Interpretation .....	13
4. Court documents .....	16
5. Forms .....	16
6. Time.....	16
7. Time limits.....	17
PART 2 – GENERAL POWERS OF MANAGEMENT .....	17
8. The Court’s general powers of management.....	17
9. Striking out a statement of case .....	18
10. Sanctions for non-payment of Court fees .....	18
11. Non-compliance with these Rules.....	18
PART 3 – COURT DOCUMENTS.....	19
12. Signature of documents.....	19
13. Filing and sending documents.....	19
14. Access to Court records .....	19
PART 4 – SERVICE OF DOCUMENTS.....	19
15. Methods of service .....	19
16. Personal service on an individual .....	21
17. Places for service of the claim form.....	24
18. Deemed time of service .....	24
19. Service of documents by an alternative method or at an alternative place .....	25
20. Power of the Court to dispense with service.....	25
21. Certificate of service.....	25
22. Address for service to be given after proceedings are started .....	25
23. Notification of change of address.....	26
24. Service of the claim form and other documents out of the Jurisdiction.....	26
25. Statement of grounds .....	27
26. Service of documents from Foreign Courts or Tribunals .....	27
PART 5 – COMMENCEMENT OF PROCEEDINGS.....	28
27. The claim form .....	28

28.	Service of a claim form .....	28
29.	Application by defendant for service of claim form.....	29
30.	Alternative Procedure for claims – Rule 30 Procedure .....	29
31.	Evidence under the alternative procedure .....	30
32.	Filing and serving written evidence under the alternative procedure .....	30
33.	Procedure where defendant objects to use of the Rule 30 procedure.....	30
34.	Modifications to the general rules .....	30
35.	Answering a claim .....	31
36.	Acknowledgment of service and consequence of not filing an acknowledgment of service ...	31
37.	Period for filing and serving acknowledgment of service .....	32
38.	Procedure for disputing the Court’s jurisdiction .....	32
39.	Default judgment.....	32
40.	Conditions to be satisfied .....	33
40A.	Supplementary provisions where applications for default judgment are made .....	33
41.	Setting aside or varying default judgment.....	34
42.	Admissions .....	35
43.	Request for time to pay .....	35
PART 6 – DEFENCE AND REPLY .....		36
44.	Filing and serving a defence .....	36
45.	Filing and serving a reply .....	36
46.	Extending the period for filing and serving a defence .....	36
47.	Claim stayed if not defended or admitted .....	36
48.	The defence .....	36
49.	Contents of defence .....	37
50.	Counterclaim .....	37
51.	Defendant’s additional claim .....	37
52.	Amendments of statements of case .....	38
53.	Permission to amend statements of case .....	38
54.	Further information.....	38
PART 7 – PARTIES AND GROUP LITIGATION .....		39
55.	Parties – general .....	39
56.	Addition and substitution of parties.....	39
57.	Representative parties.....	39
58.	Power to make judgments binding on non-parties.....	40

59.	Derivative claims .....	40
60.	Derivative claims under the Companies Regulations.....	40
61.	Derivative claims – other bodies corporate .....	41
62.	Derivative claims arising in other proceedings .....	41
63.	Group Litigation Orders.....	42
PART 8 – GENERAL RULES ABOUT APPLICATIONS FOR COURT ORDERS .....		42
64.	Application notices.....	42
65.	Service of application where application made without notice .....	43
66.	Applications to be disposed of without a hearing .....	44
67.	Dismissal of without merit application .....	44
PART 9 – SUMMARY JUDGMENT .....		44
68.	Grounds for summary judgment.....	44
69.	Evidence for the purpose of a summary judgment hearing.....	45
70.	Court’s power when it determines a summary judgment application .....	45
PART 10 – INTERIM REMEDIES .....		45
71.	Orders for interim remedies .....	45
72.	Timing and other considerations for an order for an interim remedy.....	47
73.	Interim payments .....	48
74.	Powers of Court where it has made an order for interim payment .....	49
PART 11 – SECURITY FOR COSTS.....		49
75.	Security for costs.....	49
76.	Security for costs of an appeal .....	49
PART 12 – CASE MANAGEMENT.....		50
77.	Directions .....	50
78.	Stay to allow for settlement of the case .....	50
79.	Case management conference .....	51
80.	Steps taken by the parties .....	51
81.	Variation of case management timetable .....	51
82.	Pre-trial checklist .....	51
83.	Setting a trial timetable.....	52
84.	Transfer of proceedings .....	52
PART 13 – DISCLOSURE AND INSPECTION OF DOCUMENTS.....		52
85.	Scope of disclosure .....	52
86.	Order for disclosure.....	52

87.	Duties where further or specific disclosure required .....	53
88.	Order against a non-party .....	53
89.	Use of disclosed documents.....	53
90.	Right of inspection.....	53
91.	Failure to disclose or to permit inspection .....	54
PART 14 – EVIDENCE.....		54
92.	Power of the Court to control evidence.....	54
93.	Evidence of witnesses .....	54
94.	Witness statements.....	55
95.	Evidence in proceedings other than at trial .....	55
96.	Order for cross-examination .....	55
97.	Witness statements and exhibits.....	55
98.	Filing of witness statements and exhibits.....	56
99.	Witness summaries .....	56
100.	Consequences of failure to file or serve a witness statement or witness summary .....	56
101.	Cross-examination on a witness statement .....	56
102.	Use of witness statements for other purposes .....	56
103.	Availability of witness statements for inspection.....	57
104.	Affidavit evidence .....	57
105.	Who may take affidavits .....	57
106.	Filing of affidavits.....	58
107.	Affidavit made outside the jurisdiction.....	58
108.	Circumstances where affidavit required .....	58
109.	Notice to admit facts or part of the case .....	58
110.	Notice to admit or produce documents .....	59
111.	Notarial acts and instruments .....	59
112.	Notice of intention to rely on hearsay evidence .....	59
113.	When notice of intention to rely on hearsay evidence is not required .....	59
114.	Power to call witness for cross-examination on hearsay evidence .....	59
115.	Credibility .....	60
116.	Use of plans, photographs and models as evidence.....	60
117.	Evidence on a question of foreign law.....	60
118.	Evidence of consent of trustee to act.....	60
PART 15 – WITNESSES AND DEPOSITIONS.....		61

119.	Scope and interpretation .....	61
120.	Witness summons.....	61
121.	Issue of a witness summons .....	61
122.	Witness summons in aid of another court, a tribunal or a panel.....	62
123.	Serving a witness summons .....	62
124.	Right of witness to travelling expenses and compensation .....	62
125.	Evidence by deposition .....	62
126.	Conduct of examination.....	63
127.	Enforcing attendance of deponent .....	63
128.	Use of deposition at a hearing .....	63
129.	Restrictions on subsequent use of deposition, regarding the deponent's or any other assets, taken for the purpose of any hearing except the trial .....	64
PART 16 – EVIDENCE FOR AND FROM OTHER JUDICIAL AUTHORITIES.....		64
130.	Letter of request .....	64
131.	Evidence for Foreign Courts .....	65
132.	Application for foreign assistance order .....	65
133.	Examination .....	65
134.	Dealing with deposition .....	65
135.	Claim to privilege.....	65
136.	Taking of Evidence – Scope and interpretation .....	66
137.	Where a person to be examined is outside the jurisdiction but in a Convention State .....	66
138.	Evidence for courts outside the jurisdiction but in a Convention State .....	67
PART 17 – EXPERTS AND ASSESSORS.....		67
139.	Interpretation .....	67
140.	Expert's overriding duty to the Court.....	67
141.	Expert's report.....	67
142.	Expert evidence .....	68
143.	Written questions to experts .....	68
144.	Court's power to direct that evidence is to be given by a single joint expert .....	68
145.	Instructions to a single joint expert .....	69
146.	Power of Court to direct a party to provide information.....	69
147.	Expert's right to ask Court for directions .....	69
148.	Assessors .....	69
PART 18 – OFFERS TO SETTLE.....		70

149.	Scope .....	70
150.	Application of Part 18 to appeals .....	70
151.	Restriction on disclosure of a Part 18 offer .....	71
152.	Who may make a Part 18 offer and in respect of what may it be made .....	71
153.	Defendant's offer .....	72
154.	Form and content of a Part 18 offer .....	72
155.	Clarification of a Part 18 offer .....	72
156.	Withdrawing or changing the terms of a Part 18 offer .....	73
157.	Withdrawal or change of terms of a Part 18 offer before the expiry of the relevant period .....	73
158.	Acceptance of a Part 18 offer .....	73
159.	Acceptance of Part 18 offer in a split trial case .....	74
160.	Acceptance of Part 18 offer made by one or more, but not all, defendants .....	74
161.	Consequences of accepting a Part 18 offer .....	74
162.	Other effects of accepting a Part 18 offer .....	74
163.	Unaccepted Part 18 Offers .....	75
164.	Personal injury claims for future pecuniary loss .....	76
165.	Offer to settle a claim for provisional damages .....	76
166.	Payments into Court .....	76
167.	Where defendant wishes to rely on a defence of tender before claim .....	77
168.	Payment out of Court .....	77
PART 19 – DISCONTINUANCE .....		77
169.	Right to discontinue claim .....	77
170.	Procedure for discontinuing .....	77
171.	Right to apply to have notice of discontinuance set aside .....	78
172.	Liability for costs .....	78
PART 20 – MISCELLANEOUS PROVISIONS RELATING TO HEARINGS .....		78
173.	Hearing to be in public .....	78
174.	Failure to attend the trial .....	78
175.	Rights of audience before the Court .....	79
PART 21 – JUDGMENTS AND ORDERS .....		79
176.	Standard requirements .....	79
177.	Effective date of judgments and orders .....	79
178.	Service of judgments and orders .....	79
179.	Interest on debt, damages and judgment debts .....	79

180.	Time for complying with a judgment or order.....	80
181.	Who may apply to set aside or vary a judgment or order .....	80
182.	Consent orders.....	80
183.	Correction of errors in judgments and orders.....	80
184.	Sale of Real Property.....	80
185.	Declaratory judgments .....	81
PART 22 – DAMAGES.....		81
186.	Award for provisional damages .....	81
187.	Application for further damages .....	81
188.	Periodical Payments.....	81
189.	Factors to be taken into account .....	82
PART 23 – CHANGE OF LAWYER.....		82
190.	Lawyer acting for a party .....	82
191.	Change of lawyer – duty to give notice .....	82
192.	Withdrawal of lawyer .....	82
193.	Removal of lawyer who has ceased to act on application of another party .....	83
PART 24 – FEES AND COSTS.....		83
194.	Fees.....	83
195.	Orders for costs.....	83
196.	Submissions as to costs .....	84
197.	Basis of assessment.....	84
198.	Standard basis .....	84
199.	Indemnity basis .....	84
200.	Procedure for assessing costs .....	84
201.	Time for complying with an order for costs.....	85
202.	Where the Court makes no order for costs.....	85
203.	The Court’s powers in relation to misconduct.....	85
204.	Set-off.....	85
PART 25 – APPEALS.....		86
205.	Appeals from the Small Claims Division to the Commercial and Civil Division.....	86
206.	Appeals from the Court of First Instance (except for the Small Claims Division) to the Court of Appeal – permission to appeal .....	86
207.	Objection by respondent to application for permission to appeal .....	87
208.	Determination of application for permission to appeal.....	87



209.	Appeals before Court of Appeal.....	88
210.	Judgment .....	89
211.	Powers of the Court of Appeal.....	89
212.	Stay .....	90
213.	Non-disclosure of Part 18 offers and payments.....	90
214.	Judicial review appeals from the Court of First Instance .....	91
215.	Reopening of final appeals .....	91
PART 26 – JUDICIAL REVIEW .....		91
216.	Interpretation .....	91
217.	When the judicial review procedure must be used .....	92
218.	Permission required to proceed with a claim for judicial review .....	92
219.	Claim form .....	92
220.	Filing and service of the claim form .....	92
221.	Acknowledgment of service .....	93
222.	Contents of the acknowledgment of service .....	93
223.	Filing and service of the acknowledgment of service .....	93
224.	Failure to file acknowledgment of service .....	93
225.	Permission given to proceed .....	93
226.	Service of order giving or refusing permission .....	94
227.	Response .....	94
228.	Claimant seeking to rely on additional grounds.....	94
229.	Evidence .....	94
230.	Court’s powers.....	94
PART 27 – ARBITRATION .....		95
231.	Arbitration Claims .....	95
232.	Recognition or Enforcement.....	95
233.	Evidence .....	96
234.	Orders for permission to enforce.....	96
235.	Enforcement of an award of interest.....	97
236.	Registration in Court of First Instance of foreign awards .....	97
PART 28 – COURT’S POWER TO APPOINT A RECEIVER .....		97
237.	Court’s power to appoint receiver .....	97
238.	Application for the appointment.....	97
239.	Service of order appointing receiver .....	97

240.	Security.....	98
241.	Discharge of receiver .....	98
242.	Receiver’s application for directions .....	98
243.	Receiver’s remuneration.....	98
244.	Non-compliance by receiver .....	99
PART 29 – GENERAL RULES ABOUT ENFORCEMENT OF JUDGMENTS AND ORDERS .....		99
245.	Scope and interpretation .....	99
246.	Methods of enforcing judgments or orders.....	99
247.	Court may order act to be done at expense of disobedient party.....	99
248.	Enforcement of judgment or order by or against non-party .....	100
249.	Enforcement of decisions of bodies other than the Court and compromises enforceable by ADGM enactment .....	100
250.	The application for enforcement .....	100
251.	The procedure .....	101
252.	Effect of setting aside judgment or order.....	101
PART 30 – ORDERS TO OBTAIN INFORMATION FROM JUDGMENT DEBTOR.....		101
253.	Application for order .....	101
254.	Terms of order .....	102
255.	Failure to comply with order.....	102
256.	Service of order .....	102
257.	Travelling expenses .....	102
258.	Judgment creditor’s affidavit .....	102
259.	Conduct of the hearing .....	103
PART 31 – THIRD PARTY DEBT ORDERS.....		103
260.	Scope and interpretation .....	103
261.	Application for third party debt order .....	103
262.	Interim third party debt order .....	103
263.	Service of interim third party debt order.....	103
264.	Obligations of third parties served with interim order .....	104
265.	Final third party debt order.....	104
266.	Further consideration of the application .....	104
267.	Effect of a final third party debt order.....	105
268.	Money in Court .....	105
PART 32 – CHARGING ORDERS, STOP ORDERS AND STOP NOTICES.....		106

269.	Scope of this Part and interpretation .....	106
270.	Charging orders .....	106
271.	Interim charging order.....	106
272.	Service of interim charging order .....	106
273.	Effect of interim charging order in relation to securities .....	107
274.	Effect of interim charging order in relation to funds in Court .....	107
275.	Further consideration of the application .....	107
276.	Enforcement of charging order by sale.....	108
277.	Stop Orders .....	108
278.	Application for stop order .....	108
279.	Stop order relating to funds in Court .....	108
280.	Stop order relating to securities.....	108
281.	Stop Notices .....	108
282.	Request for stop notice .....	109
283.	Effect of stop notice.....	109
284.	Amendment of stop notice .....	109
	<b>PART 33 – APPLICATIONS IN RELATION TO CONTEMPT OF COURT .....</b>	<b>109</b>
285.	Scope and interpretation .....	109
286.	Saving for other powers.....	110
287.	Penalty for breach of a Judgment, Order or Undertaking to do or abstain from doing an act	110
288.	Penalty application under Rule 287 .....	111
289.	Penalty for interference with the due administration of justice.....	111
290.	Penalty application under Rule 289 .....	111
291.	Contempt in the face of the Court .....	111
292.	False statement or disclosure .....	112
293.	Penalty application in relation to a false statement or disclosure statement .....	112
294.	Contravention of section 96 of the Regulations .....	112
295.	Non-payment of fine .....	112
296.	Repayment of fine.....	112
	<b>PART 34 – RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS OF RECOGNISED COURTS .....</b>	<b>113</b>
297.	Interpretation and scope.....	113
298.	Applications for registration .....	113
299.	Security for costs.....	113

300. Service of notice of registration of judgment .....	113
301. Applications to set aside registration.....	114
PART 35 – ENFORCEMENT OF THE COURTS’ JUDGMENTS .....	114
302. Procedure for enforcement of Courts’ judgments .....	114
PART 36 – COURT-ANNEXED MEDIATION .....	114
303. Interpretation .....	114
304. Referral to mediation .....	114
305. Voluntary referral to mediation.....	115
306. Court-ordered mediation .....	115
307. Costs .....	115
PART 37 – SMALL CLAIMS DIVISION.....	115
308. Application of this Part.....	115
309. The claim form .....	116
310. Service of the claim form .....	116
311. Responding to a small claim .....	116
312. Default judgment.....	117
313. Admissions and request for time to pay .....	117
PART 38 – EMPLOYMENT DIVISION.....	118
314. Application of this Part.....	118
315. The claim form .....	118
316. Service of the claim form .....	118
317. Responding to an employment claim.....	119
318. Default judgment.....	119
319. Admissions and request for time to pay .....	120
319A. Claim stayed if not defended or admitted .....	120
PART 39 – WRIT OF CONTROL .....	120
320. Interpretation and application.....	120
321. Request for writ of control.....	120
322. Permission of the Court .....	121
323. Duration of writ of control and priority .....	122

## **ADGM COURT PROCEDURE RULES 2016**

Date of Enactment: 30 May 2016

Re-Issued: 30 November 2023

The Chief Justice of the ADGM Courts, having power under section 187 of the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 to make court procedure rules, makes the following Rules –

### **PART 1 – SCOPE AND INTERPRETATION**

#### **1. Citation and commencement**

These Rules may be cited as the ADGM Court Procedure Rules 2016 and shall come into force on 30 May 2016.

#### **2. Scope and objective**

- (1) Except as provided by a rule, practice direction or ADGM enactment, these Rules apply to all proceedings in the Court of First Instance and in the Court of Appeal.
- (2) The overriding objective of these Rules is to secure that the system of civil justice in the ADGM Courts is accessible, fair and efficient.
- (3) The ADGM Courts must interpret and apply these Rules and any practice direction with a view to securing that the Court is accessible, fair and efficient and that unnecessary disputes over procedural matters are discouraged.
- (4) Practice directions may modify or disapply any provision of these Rules during the operation of pilot schemes for assessing the use of new practice directions and procedures.

#### **3. Interpretation**

- (1) In these Rules –
  - (a) “Abu Dhabi Global Market” means the financial free zone established by Federal Decree No. (15) of 2013 issued by the President of the United Arab Emirates, as delimited by Resolution No. (4) of 2013 of the Cabinet of the United Arab Emirates and as governed by the ADGM Founding Law, and “ADGM” is construed accordingly;
  - (b) “ADGM enactment” means a regulation or rule enacted by the Board;

- (c) “ADGM Founding Law” means Law No. (4) of 2013 concerning the Abu Dhabi Global Market, as amended by Law No. (12) of 2020, issued by His Highness the Ruler;
- (d) “appellant”, except where the context otherwise requires, means a person who files an application for permission to appeal or who files a notice of appeal;
- (e) “Board” means the Board of Directors of the Abu Dhabi Global Market as constituted by Article 4 of the ADGM Founding Law;
- (f) “business day” means any day other than a Saturday, Sunday or a public holiday;
- (g) “certificate of service” means a certificate given under Rule 21;
- (h) “claim” includes a petition and any application made before proceedings are commenced or made to commence proceedings;
- (i) “claimant” means a person who makes a claim;
- (j) “claim form” means any document which initiates proceedings, including a counterclaim;
- (k) “the Companies Regulations” means the Companies Regulations 2020;
- (l) “the Court” means the Court of First Instance or the Court of Appeal, as the context requires;
- (m) “the Courts” means the ADGM Courts;
- (n) “Court officer” means a member of the Court staff but does not include a Judge of the Courts;
- (o) “data message” means information generated, sent, received or stored by electronic, digital, magnetic, wireless, optical, electromagnetic or similar means;
- (p) “defendant” means a person against whom a claim is made;
- (q) “eCourts Platform” means the ADGM Courts electronic filing and case management systems;
- (r) “electronic means” means an electronic communication made by means of data messages;
- (s) “Emirate” means the Emirate of Abu Dhabi;
- (t) “file” and “filing”, in relation to a document, means filing in the registry in accordance with Rule 13, and related expressions have corresponding meanings;
- (u) “form” and the “form prescribed” have the meanings given by Rule 5;

- (v) “Global Market Authority” is to be interpreted having regard to the definition of ‘Global Market Authorities’ as set out in section 25(2) of the Regulations (as defined below);
- (w) “Judge” means, as the context requires, the Chief Justice, Justice of Appeal or Justice of First Instance;
- (x) “the jurisdiction” means, unless the context otherwise requires or provides, Abu Dhabi Global Market;
- (y) “lawyer” means someone who is authorised to practice law in any jurisdiction by the body authorised to regulate the admission, licensing and conduct of lawyers in that jurisdiction;
- (z) “legal representative” means a lawyer or lawyer’s employee who has been instructed to act for a party in relation to proceedings;
- (aa) “month”, where it occurs in any ADGM enactment, rule, practice direction, judgment, order, direction or other document, means a Gregorian calendar month;
- (bb) “original court” in relation to any judgment means the recognised court which gave the judgment;
- (cc) “party” means a claimant, defendant, applicant, respondent, appellant and a person who has been given permission to intervene under Part 7 of these Rules;
- (dd) “person” means any natural or legal person as the context requires;
- (ee) “public holiday” means New Year’s Day, Al-Mawlid Al Nabawi, Israa & Mi’raj Night, Start of Ramadan, Eid Al Fitr, Arafat (Haj) Day, Eid Al Adha, Hijri New Year’s Day, UAE National Day and any other day declared by the Emirate to be a public holiday;
- (ff) “Registrar” means the Registrar and Chief Executive of the ADGM Courts;
- (gg) “registration” means registration under sections 172 to 176 of the Regulations, the expressions “register” and “registered” shall be construed accordingly;
- (hh) “registry” means the office of the ADGM Courts;
- (ii) “the Regulations” means, unless the context otherwise requires or provides, the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015;
- (jj) “right of audience” means the right to appear before and address a court, including the right to call and examine witnesses;
- (kk) “right to conduct litigation” means the right to issue proceedings before any court in any jurisdiction, to commence, prosecute and defend such proceedings and to perform any ancillary functions in relation to such proceedings;

- (ll) “serve” and “service”, in relation to a document, mean service according to the methods set out in Part 4 of these Rules, and related expressions have corresponding meanings;
  - (mm) “statement of case” means a claim form, a defence, a claim under the Rule 30 procedure, or a reply to defence, and includes any further information given in relation to them voluntarily or by Court order in accordance with Rule 54;
  - (nn) “summary judgment” is to be interpreted in accordance with Part 9 of these Rules.
- (2) References in these Rules to a practice direction means a practice direction issued by the Chief Justice pursuant to section 191 of the Regulations.
  - (3) References in these Rules or in any practice direction or in any form to a party’s signing, filing or serving any document or taking any other procedural step include the signature, filing or service of that document or the taking of such other procedural step by the party’s lawyer.
  - (4) Where any of these Rules or any practice direction requires or permits the Court to perform an act of a formal or administrative character, that act may be performed by a Court officer.
  - (5) Any term that is not defined in these Rules has the same meaning as that attributed to it in the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015.

#### **4. Court documents**

- (1) The Court may place the Court’s seal on a document by hand or electronically.
- (2) A document purporting to bear the Court’s seal shall be admissible in evidence without further proof.

#### **5. Forms**

- (1) In these Rules, a “form” or “form prescribed” means a form required to be used in accordance with a practice direction.
- (2) The forms shall be used in the cases to which they apply and in the circumstances for which they are required under the relevant practice direction, but a form may be varied by the Court or a party if the variation is required by the circumstances of a particular case.

#### **6. Time**

- (1) A period of time expressed as a number of days shall be computed as clear days. So, in computing the number of days, the day on which the period begins and, if the end of the period is defined by reference to an event, the day on which the event occurs is not included.
- (2) Where the specified period is 5 days or less and includes a Saturday, Sunday or a public holiday, that day does not count.



## **7. Time limits**

- (1) 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 be expressed as a calendar date, and it must include the time of day by which the act must be done.
- (2) The Court may extend or shorten any time limit set by these Rules or any relevant practice direction (unless to do so would be contrary to any ADGM enactment), either on an application by one or more parties or of its own initiative.
- (3) The Registrar must notify the parties when a time limit is varied under this Rule.
- (4) An application for an extension of time may be granted after the time limit has expired.
- (5) Subject to the provisions of a relevant practice direction, when the period specified for doing any act at the registry ends on a day on which the office is closed, that act shall be in time if done on the next day on which the registry is open.

## **PART 2 – GENERAL POWERS OF MANAGEMENT**

### **8. The Court's general powers of management**

- (1) The Court may make any order, give any direction or take any step it considers appropriate for the purpose of managing the proceedings and furthering the overriding objective of these Rules as set out in Rule 2(2).
- (2) When the Court makes an order, it may make it subject to conditions, including a condition to pay a sum of money into Court; and must specify the consequences of failure to comply with the order or a condition.
- (3) The Court may order a party to pay a sum of money into Court if that party has, without good reason, failed to comply with a rule or practice direction and, in making such an order, the Court must have regard to the amount in dispute and the costs which the parties have incurred or which they may incur.
- (4) Where a party pays money into Court following an order under paragraph (3) of this Rule, the money shall be security for any sum payable by that party to any other party in the proceedings.
- (5) A power of the Court under these Rules or a practice direction to make an order includes a power to vary or revoke the order.
- (6) Except where a rule, practice direction or ADGM enactment provides otherwise, the Court may exercise its powers on an application or of its own initiative.

## **9. Striking out a statement of case**

- (1) In this Rule, reference to a statement of case includes reference to part of a statement of case.
- (2) The Court may strike out a statement of case if it appears to the Court –
  - (a) that the statement of case discloses no reasonable grounds for bringing or defending the claim;
  - (b) that the statement of case is an abuse of the Court’s process or is otherwise likely to obstruct the just disposal of the proceedings; or
  - (c) that there has been a material failure to comply with a rule, practice direction or Court order.
- (3) When the Court strikes out a statement of case it may make any consequential order it considers appropriate.

## **10. Sanctions for non-payment of Court fees**

- (1) Where a party to proceedings is required to make payment to the Court of a fee specified by the Court but does not pay or make an application for full or part remission or deferral of the fee by or at the time the fee is due, the Court may, in accordance with the relevant practice direction, impose on that party such sanctions as the practice directions may provide.
- (2) Where a fee is prescribed by any rule made by the Chief Justice under section 184(1) of the Regulations, or is determined by the Board pursuant to Article 6 of the ADGM Founding Law, the Registrar may refuse to accept a document or allow a party to take any step unless and until the relevant fee is paid.
- (3) A party may seek full or part remission or deferral of payment of any fee in accordance with the relevant practice direction.

## **11. Non-compliance with these Rules**

- (1) Any failure by a party to comply with these Rules or any relevant practice direction or Court order shall not have the effect of making the proceedings invalid.
- (2) Where any provision in these Rules or any relevant practice direction or Court order is not complied with, the Court may give whatever directions appear appropriate, having regard to the seriousness of the non-compliance and generally to the circumstances of the case.
- (3) The Registrar may refuse to accept any document which does not comply with any provision in these Rules or any relevant practice direction or Court order, and may give whatever directions appear appropriate.
- (4) Directions under this Rule may include the summary dismissal of the proceedings or debarring a respondent from resisting them.

## **PART 3 – COURT DOCUMENTS**

### **12. Signature of documents**

Where any of these Rules or any practice direction requires a document to be signed, that requirement shall be satisfied if the signature is electronic.

### **13. Filing and sending documents**

- (1) All documents must be filed by electronic means in accordance with the relevant practice direction.
- (2) Unless the Court otherwise directs, no document may be filed unless the relevant fee is paid.
- (3) The contents of documents filed by electronic means must also be provided to the registry in hard copy if this is required by a relevant practice direction.

### **14. Access to Court records**

- (1) A party to proceedings may obtain from the Court's records a copy of any document filed by a party or any communication between the Court and a party in accordance with the relevant practice direction.
- (2) Subject to any relevant practice direction or Rule, a person who is not a party to proceedings may, unless the Court orders otherwise, obtain from the Court's records a copy of:
  - (a) a statement of case (but not any documents filed with or attached to the statement of case);
  - (b) a judgment or order given or made in relation to proceedings held in public (whether or not made at a hearing); and
  - (c) a transcript of any hearing (including any case management conference) held in public.
- (3) A person wishing to obtain a copy of a document under paragraph (2) must pay any prescribed fee.

## **PART 4 – SERVICE OF DOCUMENTS**

### **15. Methods of service**

- (1) This Part applies to the service of documents except where any rule, practice direction, ADGM enactment or a Court order requires that a document, including a claim form, must be served by any other method.

- (1a) Part 37 applies to service of a claim in the Small Claims Division and Part 38 applies to service of a claim in the Employment Division.

***Methods of service – claim form***

- (2) The registry will serve the claim form on the defendant by any method permitted under Part 4 of these Rules, unless:
- (a) a defendant is to be served outside the United Arab Emirates, in which case the claim form must be served on the defendant by the claimant; or
  - (b) otherwise directed by the Court.
- (3) Subject to paragraphs (4) to (8) below, a claim form may be served –
- (a) by personal service on an individual in accordance with Rule 16;
  - (b) on a company, partnership or any other entity in accordance with Rule 16A;
  - (c) by email or other means of electronic communication in accordance with Rule 16B;
  - (d) by serving it at a place specified in Rule 17;
  - (e) by any other method authorised by the Court under Rule 19;
  - (f) in the case of a counterclaim, through the eCourts Platform where the person to be served has access (including through a legal representative) to the eCourts Platform; or
  - (g) by any other method agreed to by the parties.

***Methods of service – outside the jurisdiction***

- (4) A claim form may be served outside the jurisdiction in accordance with Rules 24 and 25.
- (5) Permission to serve a claim form outside the jurisdiction is not required.
- (6) Where a claim form is to be served outside the jurisdiction but within the United Arab Emirates, it may be served by a method of service prescribed under this Part or the rules regarding service of the place in which it is to be served.
- (7) Where a claim form is to be served outside the United Arab Emirates, it may be served by any method permitted by an applicable treaty or convention or the rules regarding service of the place in which it is to be served.
- (8) Nothing in these Rules or any practice direction or Court order shall authorise or require any person to do anything in the place where the claim form is to be served which is against the law of that place.

***Methods of service - other documents***

- (9) Subject to Rule 15(1),
- (a) where a person to be served has access to the eCourts Platform (including through a legal representative), all documents shall be served on that person through the eCourts Platform; and
  - (b) where a person to be served does not have access to the eCourts Platform (including through a legal representative), a document other than a claim form may be served on that person under this Part as if the document were a claim form.

**16. Personal service on an individual**

- (1) A claim form is served personally on an individual by leaving it –
- (a) at his place of residence;
  - (b) at his workplace; or
  - (c) in any other location, provided the individual physically receives the document.

***Personal service on individual - place of residence***

- (2) In relation to Rule 16(1)(a) –
- (a) if the individual to be served refuses to receive the document and the person serving the document leaves the document in the individual's presence, the document is deemed to have been served on the individual at the time of the refusal;
  - (b) if the individual to be served is not able to be located at his place of residence at the time of service, the server may leave the document with a person at that place provided that the person who receives the document:
    - (i) is, or appears to be, over the age of 18; and
    - (ii) signs for receipt of the document;
  - (c) if:
    - (i) a person refuses to receive the document under Rule 16(2)(b); or
    - (ii) the server has attended the individual's place of residence on at least two separate occasions and can find no one at the individual's residence to whom the document validly can be left, then on the second or any subsequent occasion,

the server may affix the document clearly on the door or gate of the residence.

- (3) For the purpose of Rules 16(2)(b) and (c), the claim form shall only be deemed to have been served on the individual when a follow up email, mobile text message (SMS), or WhatsApp or like messaging is sent by the person effecting service to the individual informing them of the arrangements that have been made to serve the document, unless such contact details are not available in which case this paragraph shall not apply.

***Personal service on individual – workplace***

- (4) In relation to Rule 16(1)(b) –
- (a) if the individual to be served refuses to receive the document and the person serving the document leaves the document in the individual's presence, the document is deemed to have been served on the individual at the time of the refusal;
  - (b) if the individual to be served is not able to be located at his workplace at the time of service, the server may leave the document with a member of management or a co-worker provided that the member of management or co-worker who receives the document:
    - (i) is, or appears to be, over the age of 18; and
    - (ii) signs for receipt of the document;
  - (c) if:
    - (i) a member of management or a co-worker refuses to receive the document under Rule 16(4)(b); or
    - (ii) the server has attended the individual's workplace on at least two separate occasions and can find no one at the individual's workplace with whom the document validly can be left, then on the second or any subsequent occasion,

the server may affix the document clearly on the door or gate of the individual's workplace.

- (5) For the purpose of Rules 16(4)(b) and (c), the claim form shall only be deemed to have been served on the individual when a follow up email, mobile text message (SMS), or WhatsApp or like messaging is sent by the person effecting service to the individual informing them of the arrangements that have been made to serve the document, unless such contact details are not available in which case this paragraph shall not apply.

***Personal service on individual – general provision***

- (6) Where a claimant has reason to believe that an address of the individual to be served is an address at which that individual no longer resides or works, the claimant must take reasonable steps to ascertain the address of the individual's current residence or workplace in order for service to be effected there.

**16A. Service on a company, partnership or any other entity**

- (1) A claim form is served on a company by:
  - (a) leaving it at, or sending it by post to, the company's registered office or any place of business of the company which has a real connection with the claim; or
  - (b) any other method permitted under this Part.
- (2) A claim form is served on a partnership by:
  - (a) leaving it at, or sending it by post to, the partnership's registered office or any place of business of the partnership which has a real connection with the claim; or
  - (b) any other method permitted under this Part.
- (3) A claim form is served on any other entity by:
  - (a) leaving it at, or sending it by post to, the entity's registered office or any place of business of the entity which has a real connection with the claim; or
  - (b) any other method permitted under this Part.

**16B. Service by email or other means of electronic communication**

- (1) A claim form may be served electronically.
- (2) In this Rule, "notice" has the meaning ascribed to it in the relevant practice direction.
- (3) A claim form is served electronically on a person –
  - (a) by email, provided that it must be shown that the email account to which the document is sent belongs to the person to be served;
  - (b) by mobile text message (SMS), WhatsApp or like messaging, provided that it must be shown that the mobile number to which the document, or notice of the document, is sent belongs to the person to be served; or
  - (c) by email, mobile text message, (SMS), WhatsApp or like messaging to a lawyer nominated by the person to be served as authorised to accept service.
- (4) In relation to Rule 16B(3), a record or copy of the email, mobile text message (SMS), WhatsApp or like messaging, including any confirmation of delivery or confirmation of receipt (as the case may be), must be included with the certificate of service filed pursuant to Rule 21.

## **17. Places for service of the claim form**

### ***Service on lawyer***

- (1) Where a person or a lawyer acting for that person has given in writing an address of the lawyer at which that person may be served with a claim form, the claim form must be served at the address of that lawyer.

### ***Specified address for service***

- (2) A person may be served with the claim form by leaving it at any address which that person has given for the purpose of being served.

### ***Service of the claim form by contractually agreed method***

- (3) Where a contract contains a term providing that, in the event of a claim being commenced in relation to a dispute under the contract, the claim form may be served by a method or at a place or on a person specified in the contract (including on an agent or principal), the claim form may be served by the method or at the place or on the person specified in the contract.

### ***Proceedings against ADGM and Authorities***

- (4) For the purpose of proceedings to which:

- (a) ADGM;
- (b) ADGM Registration Authority; or
- (c) ADGM Financial Services Regulatory Authority,

is a party, a claim form must be served by email in accordance with the relevant practice direction.

## **18. Deemed time of service**

A claim form served in accordance with this Part is deemed to be served as follows –

- (a) by personal service, if served personally before 4 pm, on that day; or in any other case, on the next day after that day;
- (b) by delivering it to or leaving it at a permitted address, if it is delivered to or left at the permitted address before 4 pm, on that day; or in any other case, on the next day after that day; or
- (c) by email, mobile text message (SMS), WhatsApp or like messaging if the email, WhatsApp or like messaging is sent before 4 pm, on that day; or in any other case, on the next day after that day.



**19. Service of documents by an alternative method or at an alternative place**

- (1) Where it appears to the Court that there is a good reason to authorise service of the claim form or any other document by a method or at a place not otherwise permitted by this Part, the Court may make an order permitting service by an alternative method or at an alternative place.
- (2) On an application under this Rule, the Court may order that steps already taken to bring the claim form or any other document to a person's attention by an alternative method or at an alternative place is effective service.
- (3) An application under this Rule must be supported by evidence, and may be made without notice to the other party.

**20. Power of the Court to dispense with service**

- (1) The Court may dispense with service of a document, including a claim form, in exceptional circumstances.
- (2) An application for an order under Rule 20(1) may be made at any time.

**21. Certificate of service**

- (1) This Rule applies where the claim form has not been served on a defendant by the registry in accordance with Rule 15(2).
- (2) The claimant must file a certificate of service within 21 days of service of the claim form, unless all other parties to the proceedings have filed acknowledgments of service within that time, and may not obtain judgment in default under Rule 39 unless a certificate of service has been filed.
- (3) The certificate of service must give details of the person served, the method of service used, the date on which the claim form was served, and it must contain sufficient detail to demonstrate that service was effected in accordance with the rule relied upon.

**22. Address for service to be given after proceedings are started**

- (1) A party to proceedings must give an address at which that party may be served with documents relating to those proceedings. The address must include a current email address and mobile telephone number unless the Court orders otherwise.
- (2) Except where any other rule or relevant practice direction makes different provision, a party's address for service must be –
  - (a) an address of a lawyer acting for the party to be served;
  - (b) an address of a lawyer nominated to accept service of documents; or

- (c) where there is no lawyer acting for the party or no lawyer nominated to accept service of documents, an address of the party.
- (3) Subject to Rules 15(1) and 15(3)(f), service of all documents, except a claim form, will be effected on all parties who have appeared in the case by the Court's acceptance of the document and its appearance on the Court file via the ADGM eCourts Platform. Once the document appears on the Court file, all other parties to the proceedings will be notified by email or text message at the address provided for those parties under Rule 22(2). No other means of service is required of the parties, except as may be ordered otherwise by the Court.

### **23. Notification of change of address**

Where the address for service of a party changes, that party must give notice in writing of the change as soon as it has taken place to the Court and to every other party.

### **24. Service of the claim form and other documents out of the Jurisdiction**

- (1) A claim form may, in accordance with this Part, be served on a person out of the jurisdiction where each claim made against the person to be served and included in the claim form is a claim which the Court has power to determine under –
  - (a) the Regulations;
  - (b) any ADGM enactment other than the Regulations; or
  - (c) the ADGM Founding Law,notwithstanding that the person against whom the claim is made is not resident or domiciled within the jurisdiction or the facts giving rise to the claim did not occur within the jurisdiction.
- (2) A claim form may, in accordance with this Part, be served on a person out of the jurisdiction where:
  - (a) there is between the claimant and the defendant a real issue which it is reasonable for the Court to try; and
  - (b) the claimant wishes to serve the claim form, or have the claim form served, on another person who is a necessary or proper party to that claim.
- (3) Paragraph 2 applies to a counterclaim brought pursuant to Rule 50 or an additional claim brought pursuant to Rule 51 where the person to be served is a necessary or proper party to the counterclaim or additional claim.
- (4) A claim form may be served on a defendant in reliance on paragraph (1) where a further claim is made against the same defendant which arises out of the same or closely connected facts.
- (5) A person served outside the jurisdiction who wishes to dispute the Court's jurisdiction to try the claim, or who wishes to argue that the Court should not exercise its jurisdiction, must do

so in accordance with Rule 38. This paragraph does not apply to a claim filed in the Small Claims Division to which Part 37 applies or to a claim filed in the Employment Division to which Part 38 applies.

## **25. Statement of grounds**

- (1) Where the claimant requires to serve the claim form on a person under Rule 24, the claimant must include in the claim form a statement of grounds on which the claimant is entitled to serve the claim form out of the jurisdiction in accordance with the relevant practice direction.
- (2) The statement of grounds referred to in paragraph (1) need only be included in the claim form, and the claimant may serve any other documents in the proceedings out of the jurisdiction without such a notice.

## **26. Service of documents from Foreign Courts or Tribunals**

- (1) This Rule applies to the service in the jurisdiction of any document in connection with civil or commercial proceedings in a foreign court or tribunal.
- (2) In this Rule –
  - (a) “foreign court or tribunal” means a court or tribunal outside the jurisdiction;
  - (b) “GCC Convention” means the 1996 Gulf Cooperation Council Convention for the Execution of Judgments, Delegations and Judicial Notifications; and
  - (c) “Riyadh Convention” means the 1983 Riyadh Arab Agreement for Judicial Cooperation.
- (3) The Registrar will serve a document to which this Rule applies upon receipt of a written request for service –
  - (a) where the foreign court or tribunal is in a GCC Convention country, from the competent judicial authority or employee of that country;
  - (b) where the foreign court or tribunal is in a Riyadh Convention country, from the judicial body or officer concerned of that country;
  - (c) where the foreign court or tribunal is in any other country, from a consular or other authority of that country; or
  - (d) from the Chairman of the Board, with a recommendation that service should be effected.
- (4) Unless the foreign court or tribunal certifies that the person to be served understands the language of the document to be served, the Registrar must be provided before service with two copies of a translation of the document into English.

- (5) Where service of a document has been effected by a third party, the third party must send to the Registrar a copy of the document, together with proof of service or a statement why the document could not be served and, if the Registrar directs, specify the costs incurred in serving or attempting to serve the document.
- (6) The Registrar will send to the person who requested service a copy of the document together with a certificate, sealed with the seal of the ADGM Courts for use out of the jurisdiction, stating when and how the document was served or the reason why it has not been served and, where appropriate, an amount certified to be the costs of serving or attempting to serve the document.

## **PART 5 – COMMENCEMENT OF PROCEEDINGS**

### **27. The claim form**

- (1) Proceedings are started on the date entered on the claim form when the Court issues the claim form at the claimant's request.
- (2) A claimant may use a single claim form to start all claims which can be conveniently disposed of in the same proceedings.
- (3) The claim form must –
  - (a) state what final orders the claimant seeks;
  - (b) include the particulars of the claimant's case;
  - (c) if the claimant seeks damages by way of interest, the details required in the relevant practice direction; and
  - (d) contain any other matter that may be set out in a practice direction.

### **28. Service of a claim form**

- (1) This Rule does not apply to a claim form filed in the Small Claims Division to which Part 37 applies or to a claim form filed in the Employment Division to which Part 38 applies.
- (2) Where the claim form is served within the jurisdiction, the claimant must complete the step required in relation to the particular method of service chosen within 4 months after the date of issue of the claim form.
- (3) Where the claim form is to be served out of the jurisdiction, the claim form must be served in accordance with Rule 24 within 6 months of the date after the date of issue of the claim form.

- (4) The claimant may apply for an order extending the period for compliance with paragraph (2) or (3).
- (5) Subject to paragraph (6), an application under paragraph (4) must be made within the period specified by paragraph (2) or (3) or, when an order has been made under paragraph (4), within the period for service specified by that order.
- (6) If the claimant applies for an order to extend the time for compliance after the end of the period specified by paragraph (2) or (3) or by an order made under paragraph (4), the Court may make such an order only if the claimant has taken all reasonable steps to comply with paragraph (2) or (3) or the order made under paragraph (4) but has been unable to do so and acted promptly in making the application.

## **29. Application by defendant for service of claim form**

- (1) Where a claim form has been issued against a defendant, but has not yet been served on him, the defendant may serve a notice on the claimant requiring him to serve the claim form or discontinue the claim within a period specified in the notice.
- (2) If the claimant fails to comply with the notice, the Court may, on the application of the defendant dismiss the claim or make any other order it thinks fit.

## **30. Alternative Procedure for claims – Rule 30 Procedure**

- (1) This Rule does not apply to a claim filed in the Small Claims Division to which Part 37 applies or to a claim filed in the Employment Division to which Part 38 applies.
- (2) A claimant may use a simplified procedure (“the Rule 30 procedure”) in accordance with the relevant practice direction where he seeks the Court’s decision on a question which is unlikely to involve a substantial dispute of fact.
- (3) The Court may at any stage order the claim to continue as if the claimant had not used this procedure and, if it does so, the Court may give any directions it considers appropriate.
- (4) Paragraph (2) does not apply if a practice direction provides that the Rule 30 procedure may not be used in relation to the type of claim in question.
- (5) Where the claimant uses the Rule 30 procedure, he may not obtain default judgment under Rule 39 without the Court’s permission.
- (6) A practice direction may require or permit the use of the Rule 30 procedure in relation to a specified type of proceedings, and may disapply or modify any of the rules or practice directions as they apply to those proceedings.
- (7) A practice direction may set out the circumstances in which a claim form may be issued under the Rule 30 procedure without naming a defendant.

### **31. Evidence under the alternative procedure**

- (1) No written evidence may be relied on at the hearing of a claim under the Rule 30 procedure unless it has been served in accordance with Rule 32, or the Court gives permission.
- (2) The Court may require or permit a party to give oral evidence at the hearing, and may give directions requiring the attendance for cross-examination of a witness who has given written evidence.

### **32. Filing and serving written evidence under the alternative procedure**

- (1) The claimant who seeks to use the Rule 30 procedure must file, in accordance with the relevant practice direction, the written evidence on which he intends to rely when he files his claim form and must serve that evidence on the defendant with the claim form.
- (2) A defendant who wishes to rely on written evidence must file and serve on the other parties:
  - (a) an acknowledgment of service in accordance with Rule 37;
  - (b) his evidence within 28 days after service of the claim form and evidence under paragraph (1).
- (3) The claimant may, within 14 days of service of the defendant's evidence on him, file further written evidence in reply and, if he does so, he must also, at the same time, serve a copy of his evidence on the other parties.

### **33. Procedure where defendant objects to use of the Rule 30 procedure**

- (1) Where the defendant contends that the Rule 30 procedure should not be used because there is a substantial dispute of fact, because the use of the procedure is not required or permitted by a rule or practice direction, or for some other substantive reason, he must state his reasons when he files his written evidence.
- (2) When the Court receives the acknowledgment of service and any written evidence, it will give directions as to the future management of the case.

### **34. Modifications to the general rules**

Where the Rule 30 procedure is followed –

- (a) the defendant is not required to file a defence, and therefore Part 6 of these Rules (Defence and Reply) does not apply;
- (b) any time limit in these Rules or a relevant practice direction which prevents the parties from taking a step before a defence is filed does not apply; and
- (c) the claimant may not obtain judgment by request on an admission and, therefore, Rule 42 does not apply.

**35. Answering a claim**

- (1) This Rule does not apply to a claim form filed in the Small Claims Division to which Part 37 applies or to a claim form filed in the Employment Division to which Part 38 applies.
- (2) Where the defendant is served with a claim form he must file and serve an acknowledgment of service within the period specified in Rule 37.
- (3) Within 28 days after the defendant is served with the claim, the defendant must file and serve in accordance with the relevant practice direction:
  - (a) an admission and any request for time to pay in accordance with Rules 42 and 43;
  - (b) an admission and any request for time to pay in accordance with Rules 42 and 43 and a defence, together with any counterclaim, if the defendant admits only part of the claim;
  - (c) a defence, together with any counterclaim, if the defendant disputes the whole of the claim; or
  - (d) an application to dispute the Court's jurisdiction to try the claim in accordance with Rule 38.
- (4) Paragraph (2) does not affect the operation of Rule 36.
- (5) Paragraph (3) does not affect the operation of Rules 46 and 50.

**36. Acknowledgment of service and consequence of not filing an acknowledgment of service**

- (1) This Rule does not apply to:
  - (a) a claim form filed in the Small Claims Division to which Part 37 applies or to a claim form filed in the Employment Division to which Part 38 applies; or
  - (b) a counterclaim where Rule 15(3)(f) applies.
- (2) A defendant must file and, at the same time, serve a copy of the acknowledgment of service on the claimant and every other party in accordance with Rule 37.
- (3) A defendant must file an acknowledgment of service even if he is unable to file a defence within the period specified in Rule 44 or he wishes to dispute the Court's jurisdiction.
- (4) If a defendant fails to file an acknowledgment of service within the period specified in Rule 37, the claimant may obtain default judgment if Rule 39 allows him to do so.
- (5) If the claim was issued under the Rule 30 procedure, the defendant may attend the hearing of the claim but may not take part in the hearing unless the Court gives permission.

### **37. Period for filing and serving acknowledgment of service**

The period for filing and serving an acknowledgment of service is 14 days after service of the claim form.

### **38. Procedure for disputing the Court's jurisdiction**

- (1) This Rule does not apply to a claim form filed in the Small Claims Division to which Part 37 applies or to a claim form filed in the Employment Division to which Part 38 applies.
- (2) A defendant who wishes to dispute the Court's jurisdiction to try the claim, or who wishes to argue that the Court should not exercise its jurisdiction, may apply to the Court for an order declaring that it has no such jurisdiction or should not exercise any jurisdiction which it may have.
- (3) A defendant who wishes to make such an application must first file and serve an acknowledgment of service in accordance with Rules 35 and 37.
- (4) A defendant does not lose any right that he may have to dispute the Court's jurisdiction by filing and serving an acknowledgment of service.
- (5) An application under this Rule must be made within 28 days after being served with the claim and be supported by written evidence.
- (6) If the defendant files an acknowledgment of service but does not make such an application within the period specified in paragraph (5), he is to be treated as having accepted that the Court has jurisdiction to try the claim.
- (7) An order containing a declaration that the Court has no jurisdiction or will not exercise its jurisdiction may make such further provision as to the future conduct of the proceedings or otherwise as the Court considers appropriate.
- (8) If, on an application under this Rule, the Court does not make a declaration, the Court shall give directions as to the filing and service of the defence or, in the case of a claim under the Rule 30 procedure, any written evidence.
- (9) If a defendant makes an application under this Rule, he must file and serve his written evidence in support with the application notice, but he need not, before the hearing of the application, file a defence or, in the case of a claim under the Rule 30 procedure, any other written evidence.

### **39. Default judgment**

- (1) This Rule does not apply to a default judgment in the Small Claims Division to which Part 37 applies or to a default judgment in the Employment Division to which Part 38 applies.



- (2) In these Rules, “default judgment” means judgment without trial or hearing where a defendant has failed to file and serve an acknowledgment of service, or has filed and served an acknowledgment of service but has failed to file and serve a defence.
- (3) Judgment in default of an acknowledgment of service may be obtained if at the date on which judgment is entered the defendant has not filed and served an acknowledgment of service and the relevant time for doing so has expired.
- (4) Judgment in default of a defence may be obtained where the defendant has filed and served –
  - (a) an acknowledgement of service but at the date on which judgment is entered a defence has not been filed and served; or
  - (b) a counterclaim where at the date on which judgment is entered a defence has not been filed and served,
  - (c) and, in either case, the relevant time limit for doing so has expired.
- (5) A default judgment may include interest as provided for by a practice direction.

#### **40. Conditions to be satisfied**

- (1) The claimant may not obtain a default judgment under Rule 39, Rule 312 or Rule 318 –
  - (a) if the defendant has applied to have the claimant’s statement of case struck out or for summary judgment and, in either case, that application has not been disposed of;
  - (b) if the defendant has satisfied the whole claim (including any claim for interest and costs) on which the claimant is seeking judgment;
  - (c) if the claimant is seeking judgment on a money claim and the defendant has filed and served on the claimant an admission of liability to pay all of the money claimed (excluding interest and costs), together with a request for time to pay;
  - (d) where he uses the Rule 30 procedure; or
  - (e) where a rule, practice direction or ADGM enactment provides that the claimant may not obtain a default judgment.

#### **40A. Supplementary provisions where applications for default judgment are made**

- (1) Where the claimant makes an application for default judgment, the judgment shall be such judgment as it appears to the Court that the claimant is entitled to on his statement of case.
- (2) Unless it appears to the Court that judgment should be given for a lesser amount, a default judgment on a claim for a specified amount of money obtained on the filing of an application will be judgment for the amount of the claim (less any payments made), costs and post

judgment interest (pre-judgment interest may be included if the conditions in paragraph (3) are satisfied).

- (3) A default judgment on a claim for a specified amount of money may include interest claimed to the date of judgment if:
  - (a) the particulars of claim include the details required by any relevant practice direction; and
  - (b) the claimant's request for judgment includes a calculation of the interest claimed from the date up to which interest was stated to be calculated in the claim form to the date of the application for judgment.
- (4) Where the claim is for an unspecified amount of money, a default judgment will be for:
  - (a) such amount;
  - (b) costs; and
  - (c) any interest,to be decided by the Court.
- (5) Nothing in this Rule shall affect the Court's ability to give such directions, or make such orders, as it considers appropriate.

#### **41. Setting aside or varying default judgment**

- (1) The Court must set aside a judgment entered under Rule 39, Rule 312 or Rule 318 if that judgment was wrongly entered because –
  - (a) in the case of a judgment in default of an acknowledgment of service or in default of a defence, any of the conditions in Rule 40 was not satisfied; or
  - (b) the whole of the claim was satisfied before judgment was entered.
- (2) In any other case, the Court may set aside or vary a judgment entered under Rule 39, Rule 312 or Rule 318 :
  - (a) if the defendant has a real prospect of successfully defending the claim; or
  - (b) if it appears to the Court that there is some other good reason why the judgment should be set aside or varied or the defendant should be allowed to defend the claim; and
  - (c) the application to set aside or vary the judgment was made promptly.
- (3) An application under this Rule must be supported by evidence.

## **42. Admissions**

- (1) Rule 109 deals with the procedure in relation to a notice to admit facts.
- (2) Where the only remedy which the claimant is seeking is the payment of money, the defendant may admit, by giving notice in writing in accordance with the relevant practice direction, liability to pay the whole or part of a claim for a specified amount of money or, where the amount is not specified, the whole amount or part only of that claim.
- (3) Where the defendant makes an admission as mentioned in paragraph (2), the claimant has the right to enter judgment for the amount of money for which liability has been admitted.
- (4) The court may allow a party to amend or withdraw any admission made by him on such terms as it thinks just.
- (5) Where the Court has entered judgment in relation to a part of a claim that has been admitted and the defendant has filed a defence in relation to part of the claim that has not been admitted, the Court shall proceed to determine that part of the claim.
- (6) Where the Court has entered judgment in relation to a part of a claim that has been admitted and the defendant has not filed a defence in relation to part of the claim that has not been admitted, the claimant may apply for default judgment on that part of the claim.

## **43. Request for time to pay**

- (1) A defendant who makes an admission under Rule 42(2) may make a request for time to pay, which is a proposal about the date of payment or a proposal to pay by instalments at the times and rate specified in the request. Unless otherwise directed by the Court a request for time to pay shall be limited to 3 years from the date the first payment is due and payable.
- (2) The defendant's request for time to pay must be filed and served with his admission and, if the claimant accepts the defendant's request, he may obtain judgment by filing a request for judgment in terms of that request, in accordance with the relevant practice direction.
- (3) If the claimant does not accept the defendant's proposals for payment, he must file a notice to that effect and a request for judgment in accordance with the relevant practice direction.
- (4) When the Court receives the claimant's notice, it will enter judgment for the amount admitted (less any payments made) along with any interest and costs to be paid at the time, over such period and at such a rate of payment as may be determined by the Court.

## **PART 6 – DEFENCE AND REPLY**

### **44. Filing and serving a defence**

- (1) This Rule does not apply to a defence filed in the Small Claims Division to which Part 37 applies or to a defence filed in the Employment Division to which Part 38 applies.
- (2) A defendant who wishes to defend all or part of a claim must file a defence and serve a copy of it on the claimant and every other party within 28 days after service of the claim.
- (3) If a defendant fails to file and serve a defence, and the period for doing so has expired, the claimant may obtain default judgment if Rule 39 allows him to do so.
- (4) This Rule does not apply where the claimant uses the Rule 30 procedure.
- (5) Where the defendant makes an application under Rule 38, he need not file and serve a defence before the hearing of that application.

### **45. Filing and serving a reply**

Subject to any relevant practice direction, if a claimant wishes to file a reply to the defence, he must file the reply and serve the reply on all the other parties at the same time as it is filed within 21 days after service of the defence.

### **46. Extending the period for filing and serving a defence**

- (1) The parties may agree that the period for filing and serving a defence specified in Rule 44 shall be extended by up to 28 days.
- (2) Any extension beyond the period referred to in paragraph (1) may only be obtained by application to the Court.

### **47. Claim stayed if not defended or admitted**

- (1) This Rule does not apply to a claim filed in the Small Claims Division to which Part 37 applies or to a claim filed in the Employment Division to which Part 38 applies.
- (2) Where at least 6 months have expired since the end of the period for filing and serving a defence, no defendant has filed or served an admission or a defence or a counterclaim and the claimant has not entered or applied for default judgment under Rule 39 or for summary judgment under Rule 68, the claim shall be stayed.
- (3) Where a claim is stayed under this Rule, any party may apply for the stay to be lifted.

### **48. The defence**

The defence must contain the matters set out in Rule 49 and as may be set out in a practice direction.

#### **49. Contents of defence**

- (1) A defendant must state in his defence which of the allegations in the particulars of claim he admits, which of them he denies and which of them he is unable to admit or deny but which he requires the claimant to prove.
- (2) A defendant who fails to deal with an allegation but has set out in his defence the nature of his case in relation to the issue to which that allegation is relevant shall be taken to require that allegation to be proved.
- (3) Where the claim form includes a money claim, a defendant shall be taken to require that any allegation relating to the amount of money claimed be proved unless he expressly admits the allegation.
- (4) A defendant who fails to deal with an allegation in the manner referred to in the preceding paragraphs shall be taken to admit that allegation.
- (5) Where a defendant contends that he is entitled to money from the claimant and relies on this as a defence to the whole or part of the claim, the contention may be included in the defence and set-off against the claim.
- (6) Rule 50 applies to a defendant who wishes to make a counterclaim.

#### **50. Counterclaim**

- (1) A defendant may make a counterclaim against a claimant by filing a counterclaim without the Court's permission if he files it at the same time as his defence, or at any other time with the Court's permission.
- (2) Particulars of the defendant's claim must be contained in the counterclaim.
- (3) A defendant who wishes to counterclaim against a person other than the claimant must apply to the Court for an order that that person be added as an additional party.

#### **51. Defendant's additional claim**

- (1) A defendant may make an additional claim without the Court's permission if the additional claim is issued before or at the same time as he files his defence, or at any other time with the Court's permission.
- (2) A person on whom an additional claim is served becomes a party to the proceedings if he is not a party already.
- (3) When an additional claim is served on an existing party for the purpose of requiring the Court to decide a question against that party in a further capacity, that party also becomes a party in the further capacity specified in the additional claim.
- (4) For the purpose of this Rule, an "additional claim" includes:

- (a) a claim made by a defendant against any person (whether or not already a party) for contribution or indemnity or some other remedy but excludes a counterclaim made under Rule 50; and
- (b) where an additional claim has been made against a person who is not already a party, any additional claim made by that person against any other person (whether or not already a party).

## **52. Amendments of statements of case**

- (1) A party may amend his statement of case at any time before it has been served on any other party.
- (2) If his statement of case has been served, a party may amend it only with the written consent of all the other parties or with the Court's permission.
- (3) If a statement of case has been served, an application to amend it by removing, adding or substituting a party must be made in accordance with Rule 56.

## **53. Permission to amend statements of case**

- (1) The Court may allow an amendment whose effect will be to add or substitute a new claim after a period of limitation has expired, but only if the new claim arises out of the same, or substantially the same, facts as a claim in respect of which the party applying for permission has already claimed a remedy in the proceedings.
- (2) The Court may allow an amendment to correct a mistake as to the name of a party, but only where the mistake was genuine and not one which would cause reasonable doubt as to the identity of the party in question.
- (3) The Court may allow an amendment to alter the capacity in which a party claims if the new capacity is one which that party had when the proceedings started or has since acquired.

## **54. Further information**

- (1) The Court may at any time order a party to clarify any matter which is in dispute in the proceedings or give additional information in relation to any such matter whether or not the matter is contained in or referred to in a statement of case.
- (2) Paragraph (1) is subject to any rule of law to the contrary.
- (3) The Court may direct that information provided by a party to another party (whether given voluntarily or following an order made under paragraph (1)) must not be used for any purpose except for that of the proceedings in which it is given or may, on the application of the party receiving the information, be used in proceedings other than the proceedings in which it is given.

- (4) Where the Court makes an order under paragraph (1), the party against whom it is made must file his response and serve it on the other parties within the time specified by the Court.
- (5) Practice directions may set out the circumstances in which a party may apply for, and in which the Court may make, an order under this Rule.

## **PART 7 – PARTIES AND GROUP LITIGATION**

### **55. Parties – general**

- (1) Where a claimant claims a remedy to which some other person is jointly entitled with him, all persons jointly entitled to the remedy must be parties unless the Court orders otherwise.
- (2) If any person does not agree to be a claimant, he must be made a defendant unless the Court orders otherwise.

### **56. Addition and substitution of parties**

- (1) Where the claim form has been served, the Court’s permission is required to remove, add or substitute a party.
- (2) An application for permission under paragraph (1) may be made by an existing party or by a person who wishes to become a party.
- (3) Nobody may be added or substituted as a claimant unless he has given his consent in writing and that consent has been filed with the Court.
- (4) The Court may order any person to cease to be a party if it is not desirable for that person to continue to be a party to the proceedings.
- (5) An order for the removal, addition or substitution of a party must be served on all parties to the proceedings and any other person affected by the order.
- (6) The Court may add or substitute a party after the end of a period of limitation only if the relevant limitation period was current when the proceedings were started and the addition or substitution is necessary.

### **57. Representative parties**

- (1) This Rule applies to claims about the estate of a deceased person or property subject to a trust.
- (2) The Court may make an order appointing a person to represent any other person or persons in the claim where the person or persons to be represented are minors or unborn, cannot be found, cannot easily be ascertained or is a class of person who has the same interest in a claim and to appoint a representative would further the overriding objective.

- (3) An application for an order under paragraph (2) may be made by any person who seeks to be appointed under the order or by any party to the claim at any time before or after the claim has started.
- (4) The Court's approval is required to settle a claim in which a party is acting as a representative under this Rule, and the Court may approve a settlement where it is satisfied that the settlement is for the benefit of all the represented persons.
- (5) Unless the Court otherwise directs, any judgment or order given in a claim in which a party is acting as a representative under this Rule is binding on all persons represented in the claim but may only be enforced by or against a person who is not a party to the claim with the Court's permission.

#### **58. Power to make judgments binding on non-parties**

- (1) The Court may at any time direct that notice of the claim or any judgment or order given in the claim be served on any person who is not a party but who is or may be affected by it.
- (2) Any person served with a notice of a judgment or order under this Rule shall be bound by the judgment or order as if he had been a party to the claim but may, provided he files an acknowledgment of service of the notice within 14 days of being served, apply to the Court to set aside or vary the judgment or order or take part in any proceedings relating to the judgment or order.

#### **59. Derivative claims**

- (1) This Rule applies to a derivative claim, whether under Chapter 1 of Part 11 of the Companies Regulations or otherwise, but does not apply to a claim made pursuant to an order made under section 860 of those Regulations.
- (2) "Derivative claim" means a claim made by an eligible member of a company or other body corporate for a remedy where the company or other body corporate is alleged to be entitled to that remedy, "eligible member" having the meaning given in section 282(3) of the Companies Regulations.
- (3) A derivative claim is started by issuing a claim form, and the company or other body corporate for the benefit of which a remedy is sought must be made a defendant to the claim.

#### **60. Derivative claims under the Companies Regulations**

- (1) When the claim form for a derivative claim under Chapter 1 of Part 11 of the Companies Regulations is issued, the claimant must file an application for permission to continue the claim.
- (2) The claimant must not make the company a respondent to the permission application.



- (3) Subject to paragraph (5), the claimant must notify the company of the claim and the permission application by sending to the company the documents set out in the relevant practice direction as soon as reasonably practicable after the claim form is issued.
- (4) The claimant may send the documents required by the relevant practice direction to the company by any method permitted by the practice direction as if the documents were being served on the company.
- (5) Where notifying the company of the permission application would be likely to frustrate some part of the remedy sought, the Court may, on application by the claimant, order that the company need not be notified for such period after the issue of the claim form as the Court directs; and an application under this paragraph may be made without notice.
- (6) Where the Court does not dismiss the permission application under section 283(2) of the Companies Regulations, the Court will order that the company and any other appropriate party must be made respondents to the permission application, and give directions for the service on the company and any other appropriate party of the permission application notice and the claim form.

#### **61. Derivative claims – other bodies corporate**

- (1) This Rule sets out the procedure where a body corporate to which Chapter 1 of Part 11 of the Companies Regulations does not apply is alleged to be entitled to a remedy and either a claim is made by an eligible member, or an eligible member of the body corporate, seeks to take over a claim already started by the body corporate or one or more of its eligible members for it to be given that remedy.
- (2) The eligible member who starts or seeks to take over the claim must apply to the Court for permission to continue the claim; and the application for permission must be made by an application notice.
- (3) The procedure for applications in relation to companies under section 283, 284 or 286 (as the case requires) of the Companies Regulations applies to the permission application as if the body corporate were a company.
- (4) Paragraphs (2) and (3) apply to the permission application as if the body corporate were a company.

#### **62. Derivative claims arising in other proceedings**

- (1) If a derivative claim (except such a claim in pursuance of an order under section 860 of the Companies Regulations) arises in the course of other proceedings in the case of a derivative claim under Chapter 1 of Part 11, Rules 58 and 59 apply as the case requires.
- (2) The Court may order the company or body corporate for the benefit of which a derivative claim is brought to indemnify the claimant against liability for costs incurred in the permission application or in the derivative claim or both.

- (3) The Court, where it has given permission to continue a derivative claim, may order that the claim may not be discontinued, settled or compromised without the Court's permission.

### **63. Group Litigation Orders**

- (1) The Court may make a Group Litigation Order ("GLO") to provide for the case management of claims which give rise to common or related issues of fact or law (the "GLO issues").
- (2) The procedure for applying for a GLO and the type of orders and directions it may contain may be set out in a relevant practice direction.
- (3) A GLO must contain directions about the establishment of a register (the "group register") on which the claims managed under the GLO will be entered and specify the GLO issues which will identify the claims to be managed as a group under the GLO.
- (4) A party to a claim on the group register may apply to the Court for the claim to be removed from the group register.
- (5) Unless the Court orders otherwise, disclosure of any document relating to the GLO issued by a party to a claim on the group register is disclosure of that document to all parties to claims which are on, or are subsequently entered on, the group register.
- (6) Where a judgment or order is given or made in a claim in the group register in relation to one or more GLO issues that judgment or order is binding on the parties to all other claims that are on the group register at the time that judgment is given or order is made unless the Court orders otherwise; and the Court may give directions as to the extent to which that judgment or order is binding on the parties to any claim which is subsequently entered on the group register.
- (7) Any party who is adversely affected by a judgment or order which is binding on him may apply for the judgment or order to be set aside, varied or stayed or for permission to appeal the judgment or order.
- (8) A party to a claim which was entered on the group register after a judgment or order which is binding on him was given or made may not apply for the judgment or order to be set aside, varied or stayed or appeal the judgment or order, but he may apply to the Court for an order that the judgment or order is not binding on him.

## **PART 8 – GENERAL RULES ABOUT APPLICATIONS FOR COURT ORDERS**

### **64. Application notices**

- (1) Unless a rule, practice direction or ADGM enactment permits otherwise, or the Court otherwise directs, a party who wishes to apply to the Court for orders must file an application notice together with any witness statement evidence in support. The application notice must include any matters that may be set out in a practice direction.

- (2) 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.
- (3) An application for an interim remedy may be made by a person who intends to file a claim only if the matter is urgent. A person who wishes to apply to the Court for an interim remedy prior to a claim being filed must file an application notice together with any witness statement evidence in support. The application notice must also include any matters that may be set out in a practice direction.
- (4) A person making an application under paragraph (3) must give an undertaking to the Court at the time of filing the application notice to the effect that the applicant will file a claim within 2 days after the application notice is filed, unless the Court orders otherwise or a rule, practice direction or ADGM enactment permits otherwise.
- (5) Application notices and the witness statement evidence in support must be served by the applicant on each respondent:
  - (a) as soon as practicable after it is filed; and
  - (b) except where another time limit is specified in these Rules, a practice direction or ADGM enactment, and where the Court previously has set a hearing date for the application, at least 3 days before the hearing.
- (6) An application may be made without notice if this is permitted by a rule, practice direction or ADGM enactment or is with the Court's permission. The Court's permission will be granted only where:
  - (a) there is exceptional urgency;
  - (b) it is otherwise desirable to do so in the interests of justice; or
  - (c) there are good reasons for making the application without notice, for example, because the notice would or might defeat the object of the application.
- (7) This Rule does not require witness statement evidence to be filed if such evidence has already been filed, nor to be re-served on a party upon whom such evidence has already been served.
- (8) The Court may make directions as it considers appropriate in relation to any application that is filed, including in relation to its hearing.
- (9) Practice directions may set out the steps to be taken or evidence to be filed by persons or parties in relation to applications.

## **65. Service of application where application made without notice**

- (1) Where the Court makes an order, whether granting or dismissing an application, a copy of the application notice and any witness statement evidence in support must, unless the

Court orders otherwise, be served with the order on any party or other person against whom the order was made and against whom the order was sought.

- (2) On all applications made without notice, the applicant and those representing him must make full disclosure of any matter which, if the respondent was represented, the respondent would wish the Court to be aware of, including any possible defences that may be available to the respondent.
- (3) The order must contain a statement of the right to make an application to set aside or vary the order under paragraph (4).
- (4) A person who was not served with a copy of the application notice before an order was made may apply to have the order set aside or varied.
- (5) This Rule does not apply to an application for default judgment or an order made in relation to an application for default judgment.

#### **66. Applications to be disposed of without a hearing**

- (1) The Court may deal with an application without a hearing if the parties agree as to the terms of the order or agree that the Court should dispose of the application without a hearing; or if the Court does not consider that a hearing would be appropriate.
- (2) Where the applicant or any respondent fails to attend the hearing of an application, the Court may proceed in his absence.

#### **67. Dismissal of without merit application**

If the Court dismisses an application (including an application for permission to appeal or for permission to apply for judicial review) and it considers that the application is without merit, the Court's order must record that fact.

### **PART 9 – SUMMARY JUDGMENT**

#### **68. Grounds for summary judgment**

- (1) The Court may give summary judgment against a claimant or defendant on the whole of a claim or on a particular issue if it considers that –
  - (a) the claimant has no real prospect of succeeding on the claim or issue; or
  - (b) the defendant has no real prospect of successfully defending the claim or issue; and
  - (c) there is no other compelling reason why the case or issue should be disposed of at trial.

- (2) An application for summary judgment may be made in accordance with the provisions in Part 8.
- (3) A claimant may not apply for summary judgment until the defendant against whom summary judgment is sought has filed an acknowledgment of service unless the Court gives permission, or a rule or relevant practice direction provides otherwise.
- (4) Paragraph (3) does not apply to a claim filed in the Small Claims Division to which Part 37 applies or to a claim filed in the Employment Division to which Part 38 applies.
- (5) If a claimant applies for summary judgment before a defendant against whom the application is made has filed a defence, that defendant need not file a defence before the summary judgment hearing.

#### **69. Evidence for the purpose of a summary judgment hearing**

- (1) If the respondent to an application for summary judgment wishes to rely on written evidence at the hearing, he must file the written evidence and serve a copy on every other party to the proceedings at least 7 days before the summary judgment hearing.
- (2) If the applicant wishes to rely on written evidence in reply, he must file the written evidence and serve a copy on every other party to the proceedings at least 3 days before the summary judgment hearing.
- (3) This Rule does not require written evidence to be filed if it has already been filed; or to be served on a party on whom it has already been served.

#### **70. Court's power when it determines a summary judgment application**

When the Court determines a summary judgment application, it may give directions as to the filing and service of a defence and give further directions about the management of the case.

### **PART 10 – INTERIM REMEDIES**

#### **71. Orders for interim remedies**

- (1) The Court may grant such interim remedies as are necessary in the interests of justice (whether in the particular case or more generally) including –
  - (a) an interim injunction;
  - (b) an interim declaration;
  - (c) an order for;
    - (i) the detention, inspection, custody or preservation of relevant property;

- (ii) the taking of a sample of or the carrying out of an experiment on or with relevant property;
  - (iii) the sale of relevant property which is of a perishable nature or which for any other good reason it is desirable to sell quickly; and
  - (iv) the payment of income from relevant property until a claim is decided;
- (d) an order authorising a person to enter any real property, land or building in the possession of a party to the proceedings for the purposes of carrying out an order under sub-paragraph (c);
  - (e) an order under section 4 of the Torts (Interference with Goods) Act 1977 to deliver up goods;
  - (f) an order (referred to as a “freezing injunction”) restraining a party from removing from a particular jurisdiction assets located within that jurisdiction or from dealing with or removing from ADGM or any other jurisdiction any assets which are located there;
  - (g) an order directing a party to provide information about the location of relevant property or assets or to provide information about relevant property or assets which are or may be the subject of an application for a freezing injunction;
  - (h) an order (referred to as a “search order”) made under section 79 of the Regulations or under any other ADGM enactment;
  - (i) an order (referred to as an order for interim payment) under section 34 of the Regulations for payment by a defendant on account of any damages, debt or other sum (except costs) which the Court may hold the defendant liable to pay;
  - (j) an order under section 35 of the Regulations;
  - (k) an order under section 36 of the Regulations;
  - (l) an order under section 37 of the Regulations;
  - (m) an order for a specified fund to be paid into Court or otherwise secured, where there is a dispute over a party’s right to the fund;
  - (n) an order permitting a party seeking to recover personal property to pay money into Court pending the outcome of the proceedings and directing that, if he does so, the property shall be given to him;
  - (o) an order directing a party to prepare and file accounts relating to the dispute; and
  - (p) an order directing any account to be taken or inquiry to be made by the Court.
- (2) In paragraph (1), “relevant property” means property, including real property, which is the subject of a claim or as to which any question may arise on a claim.

- (3) The fact that a particular kind of interim remedy is not listed in paragraph (1) does not affect any power that the Court may have to grant that remedy.
- (4) The Court may grant an interim remedy whether or not there has been a claim for a final remedy of that kind.

## **72. Timing and other considerations for an order for an interim remedy**

- (1) An order for an interim remedy may be made at any time.
- (2) Paragraph (1) is subject to any rule, practice direction, ADGM enactment or any other applicable enactment which provides otherwise.
- (3) Subject to paragraphs (6) and (7), where a person wishes to apply for an interim remedy before a claim has been made, the application must be made in accordance with Part 8 of these Rules.
- (4) The Court may grant an interim remedy before a claim has been made only if the matter is urgent or it is otherwise desirable to do so in the interests of justice.
- (5) Unless the Court otherwise orders, a defendant may not apply for any of the orders listed in Rule 71 before he has filed an acknowledgment of service or, in relation to a claim filed in the Small Claims Division or the Employment Division, a defence.
- (6) Where it grants an interim remedy before a claim has been commenced, the Court may give directions regarding the claim to be commenced; but the Court need not direct that a subsequent claim be commenced where the application is made:
  - (a) under section 36 of the Regulations; or
  - (b) in connection with, or to support, a power granted to a Global Market Authority under an ADGM enactment.
- (7) Where a party wishes to apply for an interim remedy but:
  - (a) the remedy is sought in relation to proceedings which are taking place, will take place, or have taken place outside the jurisdiction;
  - (b) the application is made under section 36 of the Regulations before a claim has been commenced; or
  - (c) the application is made in connection with, or to support, a power granted to a Global Market Authority under an ADGM enactment,the application must be made in accordance with the relevant practice direction.
- (8) Where a person makes an application under sections 36 and 37 of the Regulations, the evidence in support of such an application must show, if practicable by reference to any

statement of case prepared in relation to the proceedings or anticipated proceedings, that the property –

- (a) is or may become the subject matter of such proceedings; or
- (b) is relevant to the issues that will arise in relation to such proceedings.

### **73. Interim payments**

- (1) The claimant may not apply for an interim payment before the end of the period for filing and serving:
  - (a) the acknowledgment of service applicable to the defendant against whom the application is made; or
  - (b) in relation to a claim filed in the Small Claims Division or the Employment Division, the defence applicable to the defendant against whom the application is made.
- (2) The claimant may make more than one application for an order for an interim payment.
- (3) The Court may order an interim payment in one sum or in instalments.
- (4) The Court may only make an order for an interim payment where any of the following conditions are satisfied –
  - (a) the defendant against whom the order is sought has admitted liability to pay damages or some other sum of money to the claimant;
  - (b) the claimant has obtained judgment against the defendant for damages to be assessed or for a sum of money (other than costs) to be assessed;
  - (c) if the claim went to trial, the claimant would obtain judgment for a substantial amount of money (other than costs) against the defendant from whom he is seeking an order for an interim payment;
  - (d) the claimant is seeking an order for possession of real property (whether or not any other order is also sought) and the defendant would be held liable if the case went to trial (even if the claim for possession fails) to pay the claimant a sum of money for the defendant's occupation and use of the real property while the claim for possession was pending; or
  - (e) in a claim in which there are two or more defendants and the order is sought against any one or more of those defendants –
    - (i) the claimant would, if the claim went to trial, obtain judgment for a substantial amount of money (other than costs) against at least one of the defendants (but the Court cannot determine which); and



- (ii) all the defendants are either a defendant that is insured in respect of the claim or a defendant that is a public authority.
- (5) In paragraph (4)(e)(ii), a “public authority” means ADGM or Emirate public or statutory undertaking, any ADGM Authority, any government department and any government department and any person holding office under His Highness, including the Board.
- (6) The Court must not order an interim payment of more than a reasonable proportion of the likely amount of the final judgment and must take into account contributory negligence and any relevant set-off or counterclaim.

#### **74. Powers of Court where it has made an order for interim payment**

- (1) Where a defendant has been ordered to make an interim payment, or has in fact made an interim payment, the Court may make an order to adjust the interim payment.
- (2) The Court may make an order under this Rule without an application by any party if it makes the order when it disposes of the claim or any part of it.
- (3) Where a defendant has made an interim payment and the amount of the payment is more than his total liability under the final judgment or order, the Court may award him interest on the overpaid amount from the date he made the interim payment.

### **PART 11 – SECURITY FOR COSTS**

#### **75. Security for costs**

- (1) A defendant to any claim may apply for security for costs of the proceedings under the conditions set out in any relevant practice direction or any ADGM enactment that permits the Court to require security for costs.
- (2) Where the Court makes an order for security for costs, it will determine the amount of security and direct the manner in which and the time within which the security must be given.
- (3) The Court may make an order for security for costs under this Rule if it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order.
- (4) The defendant may seek an order against someone other than the claimant, and the Court may make an order for security for costs against that person if it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order.

#### **76. Security for costs of an appeal**

- (1) The Court may order security for costs of an appeal against an appellant and a respondent who also appeals on the same grounds as it may order security for costs against a claimant under Rule 75.

- (2) The Court may also make an order under paragraph (1) where the appellant, or the respondent who also appeals, is a limited company and there is reason to believe that it will be unable to pay the costs of the other parties to the appeal should its appeal be unsuccessful.
- (3) Any security for costs lodged by a claimant, an appellant or a respondent who also appeals will be dealt with in accordance with any relevant practice direction or with the directions of the Court.

## **PART 12 – CASE MANAGEMENT**

### **77. Directions**

- (1) If the defendant has filed a defence, or if there are two or more defendants, at least one of them has done so and the time for filing and serving the other defence or defences has expired, the Court may give directions for the management of the case, and may if the Court sees fit direct the parties or one or more of them to complete, file and serve on the other party or parties a directions questionnaire or proposed case management directions or both.
- (2) Where the Court has given directions under paragraph (1), the parties may not by agreement vary them (as to the date by which any direction is to be complied with or otherwise).
- (3) If a party does not comply with a direction under paragraph (1), the Court may make such order as it considers appropriate.
- (4) Where the Court makes an order under paragraph (3), a party who was in default will not normally be entitled to an order for the costs of any application to set aside or vary that order or of attending any case management conference and will, unless the Court thinks it unjust to do so, be ordered to pay the costs that the default caused to any other party.

### **78. Stay to allow for settlement of the case**

- (1) A party may, when filing the completed directions questionnaire, make a written request for the proceedings to be stayed while the parties try to settle the case by alternative dispute resolution or other means.
- (2) If all parties request a stay, the proceedings will be stayed for one month and the Court will notify the parties accordingly.
- (3) If the Court otherwise considers that such a stay would be appropriate, the Court will direct that the proceedings, either in whole or in part, be stayed for such period as it considers appropriate.
- (4) The Court may extend the stay until such date or for such specified period as it considers appropriate.

## **79. Case management conference**

- (1) The Court will hold an initial case management conference in accordance with the relevant practice direction and fix the trial date or a timetable for the conduct of the case including if possible the appointment of trial dates or provisional trial dates, or, if that is not practicable, fix as much of the pre-trial timetable as possible.
- (2) The Court may, upon the request of a party or on its own initiative, convene a case management conference at any time during the proceedings to facilitate the effective management of the case.
- (3) When the Court fixes the trial dates or provisional trial dates, it will give notice to the parties of those dates.

## **80. Steps taken by the parties**

- (1) The parties must endeavour to agree appropriate directions for the management of the proceedings, and submit agreed directions or their respective proposals to the Court before any case management conference in accordance with any relevant practice direction.
- (2) The Court will notify the parties where the Court approves agreed directions, or issues its own directions, and the case management conference will be vacated.

## **81. Variation of case management timetable**

In accordance with the relevant practice direction:

- (a) where they are agreed that the timetable should be adjusted, the parties may jointly seek a variation of any of the dates fixed by the Court under Rules 79 and 80;
- (b) failing agreement, and subject to sub-paragraph (c) below, a party may seek a variation of any of the dates fixed by the Court under Rules 79 and 80;
- (c) if, failing agreement, a party wishes to seek a variation to any of the dates fixed by the Court under Rule 79 and 80 that will affect or have a consequential impact on the dates fixed for a hearing or a trial, that party must make an application to the Court.

## **82. Pre-trial checklist**

- (1) The Court will send the parties a pre-trial checklist for completion and return unless it considers that the claim can proceed to trial without the need for the pre-trial checklist.
- (2) Each party must file the completed pre-trial checklist by the date specified in the relevant practice direction or by the Court.
- (3) If, on receipt of the parties' pre-trial checklist, the Court decides to hold a pre-trial review or to cancel a pre-trial review which has already been fixed, it will issue a notice of its decision on the parties.

**83. Setting a trial timetable**

- (1) As soon as practicable after each party has filed a completed pre-trial checklist or the Court has held a pre-trial review, the Court may –
  - (a) set a timetable for the trial, unless a timetable has already been fixed or the Court considers that it would be inappropriate to do so; and/or
  - (b) confirm the date for trial.

**84. Transfer of proceedings**

- (1) The Court of First Instance may, upon the application of any party to the proceedings or of its own initiative, order proceedings in any Division of that Court to be transferred to another Division.
- (2) Where the Court orders proceedings to be transferred, it will give notice of that transfer to all the parties.
- (3) An order made before the transfer of the proceedings shall not be affected by the order to transfer.

**PART 13 – DISCLOSURE AND INSPECTION OF DOCUMENTS****85. Scope of disclosure**

- (1) The following rules about disclosure and inspection of documents apply to all proceedings before the Court.
- (2) A party discloses a document by stating by way of a disclosure statement that the document exists or has existed.

**86. Order for disclosure**

- (1) Pursuant to and except as provided by practice directions, the Court can make an order for disclosure in relation to any documents it considers relevant to the subject of the proceedings at any time prior to or after the commencement of proceedings.
- (2) An order to give disclosure is an order to give standard disclosure unless the Court directs otherwise.
- (3) Standard disclosure requires a party to disclose all the documents on which he will rely at trial, except for documents that have already been submitted by a party.
- (4) The Court may dispense with or limit standard disclosure; and the parties may agree in writing to dispense with or limit standard disclosure.

- (5) The Court may make an order for further or specific disclosure or for inspection of documents in the control of any party, if it is satisfied that it is appropriate that it should do so.

#### **87. Duties where further or specific disclosure required**

- (1) When giving disclosure, a party is required to make a reasonable search for documents falling within the terms of the order.
- (2) A party's duty to disclose documents is limited to documents which are or have been in his control.
- (3) Any duty of disclosure continues until proceedings are concluded, and if documents to which that duty extends come to a party's notice at any time during the proceedings he must immediately notify every other party.

#### **88. Order against a non-party**

- (1) Where an application is made to the Court under any ADGM enactment for disclosure by a person who is not a party to the proceedings, the application must be supported by evidence and served in accordance with the relevant practice directions.
- (2) The Court may make an order under this Rule only where the documents of which disclosure is sought are likely to support the applicant's case, or adversely affect the case of one of the other parties to the proceedings and disclosure is necessary in order to dispose fairly of the claim or to save costs.

#### **89. Use of disclosed documents**

- (1) Except as provided by practice directions, a party to whom a document has been disclosed may use the document only for the purpose of the proceedings in which it is disclosed.
- (2) The Court may make an order restricting or prohibiting the use of any document which has been disclosed.

#### **90. Right of inspection**

- (1) A party may inspect any document which is referred to in an opposite party's statement of case and is under the control of that party.
- (2) A party to whom a document has been disclosed has a right to inspect that document except where the document or a copy of it is no longer in the control of the party who disclosed it, or the party disclosing the document has a right or a duty to withhold inspection of it, including (without limitation) privileged documents.
- (3) Where a party considers that he has a right or a duty, including (without limitation) as to privilege, to withhold inspection of a document or part of a document, he is not required to permit inspection of that document or part of that document; but he must state in his

disclosure statement that inspection of the whole or part of that document will not be permitted, that he has a right or a duty to withhold inspection; and the grounds on which he relies.

- (4) Where a party inadvertently allows a privileged document to be inspected, the party who has inspected the document may only use it or its contents with the Court's permission.

#### **91. Failure to disclose or to permit inspection**

- (1) A party may not rely on any document which he fails to disclose or in respect of which he fails to permit inspection unless the Court gives permission.
- (2) Proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false disclosure statement, without honest belief in its truth.

### **PART 14 – EVIDENCE**

#### **92. Power of the Court to control evidence**

- (1) The Court may control evidence by giving directions as to the issues on which it requires evidence, the nature of the evidence which it requires to decide those issues and the way in which the evidence is to be placed before the Court.
- (2) The Court may use its power under this Rule to exclude evidence that would otherwise be admissible.
- (3) The Court may limit cross-examination.

#### **93. Evidence of witnesses**

- (1) The general rule is that any fact which needs to be proved by the evidence of witnesses is to be proved at trial by their oral evidence given in public; and at any other hearing, by their evidence in writing in the form of a witness statement under Rule 94 or an affidavit under Rule 104, as applicable.
- (2) This Rule is subject to any provision to the contrary contained in these Rules or elsewhere and to any order of the Court.
- (3) The Court may give directions identifying or limiting the issues to which factual evidence may be directed, identifying the witnesses who may be called or whose evidence may be read and limiting the length or format of witness statements.
- (4) The Court may allow a witness to give evidence through a video link or by other means.

**94. Witness statements**

- (1) The Court will order a party to serve on the other parties any witness statement of the oral evidence which the party serving the statement intends to rely on in relation to any issues of fact to be decided at the trial.
- (2) If a party has served a witness statement and he wishes to rely at trial on the evidence of the witness who made the statement, he must call the witness to give oral evidence unless the Court orders otherwise or he puts the statement in as hearsay evidence.
- (3) Where a witness is called to give oral evidence under paragraph (2), his witness statement shall stand as his evidence in chief unless the Court orders otherwise.

**95. Evidence in proceedings other than at trial**

- (1) Subject to paragraph (2), the general rule is that evidence at hearings other than the trial is by witness statement unless the Court, a practice direction or any ADGM enactment requires otherwise.
- (2) At hearings other than the trial, a party may rely on the matters set out in his statement of case or his application notice if the statement of case or application notice is verified by a statement of truth.

**96. Order for cross-examination**

- (1) Where, at a hearing other than the trial, evidence is given in writing, any party may apply to the Court for permission to cross-examine the person giving the evidence.
- (2) If the Court gives permission under paragraph (1) but the person in question does not attend as required by the order, his evidence may not be used without the Court's permission.

**97. Witness statements and exhibits**

- (1) A witness statement must comply with the requirements as to the form set out in any relevant practice direction.
- (2) Any alteration to a witness statement must be initialled by the person making the statement or by the authorised person where appropriate.
- (3) A witness statement which contains an alteration that has not been initialled may be used in evidence only with the Court's permission.
- (4) An exhibit used in conjunction with a witness statement should be verified and identified by the witness and remain separate from the witness statement.
- (5) Where a witness statement or an exhibit to a witness statement does not comply with this Part or the provisions of the relevant practice direction in relation to its form, the Court may refuse to admit it as evidence and may refuse to allow the costs arising from its preparation.

**98. Filing of witness statements and exhibits**

- (1) Unless the Court directs otherwise, a party must file a witness statement.
- (2) Where a party wishes to file a witness statement in a language other than English, or the Court has directed that a witness statement in a language other than English is to be filed, the party wishing to rely on it must have it translated into English and file the witness statement in its original language and a certified English translation with the Court.

**99. Witness summaries**

- (1) A party who is required to serve a witness statement for use at trial but is unable to obtain one may apply, without notice, for permission to serve a witness summary instead.
- (2) A witness summary is a summary of the evidence, if known, which would otherwise be included in a witness statement; or, if the evidence is not known, the matters about which the party serving the witness summary proposes to question the witness.
- (3) Unless the Court orders otherwise, a witness summary must be served within the period in which a witness statement would have had to be served.

**100. Consequences of failure to file or serve a witness statement or witness summary**

- (1) If a witness statement or a witness summary for use at trial is not served in respect of an intended witness within the time specified by the Court, then the witness may not be called to give oral evidence unless the Court gives permission.
- (2) If a witness statement for use in proceedings other than at trial is not filed in respect of an intended witness within the time specified by the Court, these Rules, a relevant practice direction or any relevant ADGM enactment, the witness statement may not be admitted as evidence (including hearsay evidence) or referred to any hearing without the Court's permission, and the Court may refuse to admit it as evidence until such time as it is served on the other parties to the proceedings.

**101. Cross-examination on a witness statement**

Where a witness is called to give evidence at trial, he may be cross-examined on his witness statement whether or not the statement or any part of it was referred to during the witness's evidence in chief.

**102. Use of witness statements for other purposes**

- (1) Except as provided by this Rule, a witness statement may be used only for the purpose of the proceedings in which it is served.
- (2) Paragraph (1) does not apply, if and to the extent that the witness gives his written consent to some other use of his witness statement, the Court gives permission for some other use or the statement has been put into evidence at a public hearing.



### **103. Availability of witness statements for inspection**

- (1) A witness statement which stands as evidence in chief is open to inspection during the course of proceedings unless the Court orders otherwise.
- (2) Any person may ask for a direction that a witness statement is not open to inspection, but the Court will not make such a direction unless it is satisfied that a witness statement should not be open to inspection because of the interests of justice, the public interest, the nature of any expert evidence in the statement or the nature of any confidential information in it (including information relating to personal financial matters).
- (3) The Court may exclude from inspection words or passages in the statement.

### **104. Affidavit evidence**

- (1) Evidence must be given by affidavit instead of, or in addition to, a witness statement if this is required by the Court, a provision contained in any other rule, practice direction or ADGM enactment.
- (2) An affidavit must comply with the requirements as to the form set out in the relevant practice direction.
- (3) An affidavit may, with the leave of the Court, be used subject to any direction the Court may make in accordance with the rules of evidence despite any irregularity in form.
- (4) An affidavit must include a statement which verifies the identity of the deponent and be signed by the person before whom it was sworn or affirmed.
- (5) Any alteration to an affidavit must be initialled by both the deponent and the person before whom the affidavit was sworn or affirmed.
- (6) Rules 97, 98 and 100 to 103 apply to affidavits and exhibits to affidavits as they do to witness statements and exhibits to witness statements.

### **105. Who may take affidavits**

Only the following may take affidavits –

- (a) a public notary in accordance with section 221 of the Regulations;
- (b) a Judge of the Court;
- (c) the Registrar;
- (d) a lawyer;
- (e) a Court officer appointed by the Registrar for that purpose; and
- (f) any person who may take an affidavit in accordance with Rule 107.

#### **106. Filing of affidavits**

If an affidavit is in a language other than English, the party wishing to rely on it must have it translated into English and must file the affidavit in its original language and a certified translation with the Court.

#### **107. Affidavit made outside the jurisdiction**

A person may make an affidavit outside the jurisdiction in accordance with this Part before a person who may take an affidavit under the law of the place where he makes the affidavit.

#### **108. Circumstances where affidavit required**

- (1) Affidavits must be used as evidence where sworn or affirmed evidence is required by an order, a rule, practice direction or ADGM enactment.
- (2) Affidavits must also be used in any application for a search order, a freezing injunction; an order requiring an occupier to permit another to enter his real property; or a declaration and/or order for a fine for contempt of Court.
- (3) If a party believes that sworn or affirmed evidence is required by a Court in another jurisdiction for any purpose connected with the proceedings, he may apply to the Court for a direction that evidence shall be given only by affidavit on any pre-trial applications.
- (4) The Court may give a direction under paragraph (1) that evidence shall be given by affidavit instead of or in addition to a witness statement or statement of case on its own initiative; or after any party has applied to the Court for such a direction.

#### **109. Notice to admit facts or part of the case**

- (1) A party may, by notice on another party, require him to admit the facts, or the part of the case of the notifying party, specified in the notice.
- (2) A notice to admit facts or part of the case must be sent no later than 21 days before the trial.
- (3) A notice to admit facts or part of the case, and any corresponding admission of facts or part of the case, must be made in accordance with the relevant practice direction.
- (4) Where the other party makes any admission in response to the notice, the admission may be used against him only:
  - (a) in the proceedings in which the notice to admit is sent; and
  - (b) by the party who sent the notice.
- (5) The Court may allow a party to amend or withdraw any admission made by him on such terms as it thinks just.

**110. Notice to admit or produce documents**

- (1) A party shall be deemed to admit the authenticity of a document disclosed to him under Part 13 (disclosure and inspection of documents) unless he serves notice that he wishes the document to be proved at trial.
- (2) A notice to prove a document must be served by the latest date for serving witness statements or within 7 days of disclosure of the document, whichever is the later.

**111. Notarial acts and instruments**

A notarial act or instrument may be received in evidence without further proof as duly authenticated in accordance with the requirements of law unless the contrary is proved.

**112. Notice of intention to rely on hearsay evidence**

- (1) Where a party intends to rely on hearsay evidence at trial and either that evidence is to be given by a witness giving oral evidence or that evidence is contained in a witness statement of a person who is not being called to give oral evidence, that party complies with section 56 of the Regulations by serving a witness statement on the other parties in accordance with the Court's order.
- (2) Where the witness is not being called to give oral evidence, the party intending to rely on the hearsay evidence must, when he serves the witness statement inform the other parties that the witness is not being called and give the reason why that is so.
- (3) In all other cases, where a party intends to rely on hearsay evidence at trial, that party complies with section 56 of the Regulations by serving a notice on the other parties in accordance with the relevant practice direction; and which identifies the hearsay evidence, states that the party serving the notice proposes to rely on the hearsay evidence at trial; and gives the reason why the witness will not be called.

**113. When notice of intention to rely on hearsay evidence is not required**

Section 56 of the Regulations does not apply to evidence at hearings other than trials, to an affidavit or witness statement which is to be used at trial but which does not contain hearsay evidence or where the requirement is excluded by a practice direction.

**114. Power to call witness for cross-examination on hearsay evidence**

Where a party proposes to rely on hearsay evidence and does not propose to call the person who made the original statement to give oral evidence, the Court may, on the application of any other party in accordance with the relevant practice direction, permit that party to call the maker of the statement to be cross-examined on the contents of the statement.

**115. Credibility**

Where a party proposes to rely on hearsay evidence but does not propose to call the person who made the original statement to give oral evidence and another party wishes to call evidence to attack the credibility of the person who made the statement, the party who so wishes must give notice of his intention in accordance with the relevant practice direction to the party who proposes to give the hearsay statement in evidence.

**116. Use of plans, photographs and models as evidence**

- (1) This Rule applies to evidence which is not contained in a witness statement, affidavit or expert's report, is to be given orally at trial and is evidence of which prior notice must be given under Rule 112(3).
- (2) This Rule applies also to documents which may be received in evidence without further proof under section 65 of the Regulations.
- (3) Unless the Court orders otherwise, the evidence shall not be receivable at trial unless the party intending to put it in evidence has given notice to the other parties in accordance with the relevant practice direction.
- (4) Where a party has given notice that he intends to put in evidence under this Rule, he must give every other party an opportunity to inspect it and to agree to its admission without further proof.

**117. Evidence on a question of foreign law**

- (1) A person who is suitably qualified on account of his knowledge or experience is competent to give expert evidence as to the law of any jurisdiction outside Abu Dhabi Global Market irrespective of whether he has acted or is entitled to act as a legal practitioner there.
- (2) The Court may give directions that questions of foreign law are to be dealt with by legal submissions.
- (3) Where a party intends to put in evidence of a finding on a question of foreign law, that party must give all other parties notice of his intention in accordance with the relevant practice direction, and the notice must specify the question on which the finding was made and enclose a copy of a document where it is reported or recorded.

**118. Evidence of consent of trustee to act**

A document purporting to contain the written consent of a person to act as trustee and to bear his signature verified by some other person is evidence of such consent.

## **PART 15 – WITNESSES AND DEPOSITIONS**

### **119. Scope and interpretation**

- (1) The following Rules provide for the circumstances:
  - (a) in which a party may be required to attend Court to give evidence or produce a document, and
  - (b) for a party to obtain evidence before a hearing to be used at the hearing.
- (2) The reference to a hearing in paragraph (1) includes reference to the trial.

### **120. Witness summons**

- (1) An application for a witness summons must be made in accordance with the relevant practice direction.
- (2) A witness summons is a document issued by the Court requiring a witness to attend Court to give evidence or to produce documents to the Court either on the date fixed for a hearing or on such date as the Court may direct.
- (3) There must be a separate witness summons for each witness.
- (4) The only documents that a summons under this Rule can require a person to produce before a hearing are documents which that person could be required to produce at the hearing.

### **121. Issue of a witness summons**

- (1) A witness summons may only be issued by the Court, and is issued on the date entered on the summons by the Court.
- (2) A party must obtain the Court's permission where he wishes to –
  - (a) in the case of a witness domiciled or resident in the United Arab Emirates (including ADGM), have a summons issued less than 7 days before the date of the trial;
  - (b) in the case of a witness domiciled or resident in any other jurisdiction, have a summons issued less than 21 days before the date of the trial; or
  - (c) have a summons issued for a witness to attend Court to give evidence or to produce documents on any date except the date fixed for the trial, or at any hearing except the trial.
- (3) The Court may set aside or vary a witness summons issued under this Rule.

**122. Witness summons in aid of another court, a tribunal or a panel**

- (1) The Court may issue a witness summons in aid of another court, a tribunal or a panel and may set aside or vary a witness summons issued under Rule 121(1).
- (2) In this Part, “another court, tribunal or panel” means any court, tribunal or panel in the United Arab Emirates that does not have power to issue a witness summons in relation to proceedings before it.

**123. Serving a witness summons**

- (1) A witness summons must be served personally on the addressee by the party on whose behalf it is issued and the issuing party must serve a copy of a witness summons on each other party to the proceedings as soon as practicable after the summons has been served on the addressee.
- (2) Unless a rule or a relevant practice direction provides otherwise, a witness summons is binding if it is served in accordance with the relevant practice direction.
- (3) A witness summons which is served in accordance with these Rules and requires the witness to attend Court or another court or a tribunal or a panel to give evidence is binding until the conclusion of the hearing at which the witness’s attendance is required.

**124. Right of witness to travelling expenses and compensation**

At the time of service of a witness summons, the witness must be offered or paid a sum reasonably sufficient to cover his expenses in travelling to and from the Court and such sum by way of compensation for loss of time as may be specified in a relevant practice direction and for costs otherwise incurred in compliance with a witness summons.

**125. Evidence by deposition**

- (1) A party may apply for an order for a person to be examined before the hearing takes place (an “examination order”).
- (2) Evidence obtained following an examination order is referred to as a “deposition”.
- (3) An examination order shall be for a deponent to be examined on affirmation before –
  - (a) a Judge;
  - (b) the Registrar;
  - (c) an examiner of the Court appointed by the Registrar;
  - (d) a lawyer; or
  - (e) such other person as the Court appoints.

- (4) The examination order may require the production of any document which the Court considers is necessary for the purpose of the examination and must state the date, time and place of the examination.
- (5) At the time of service of the examination order, the deponent must be offered or paid a sum reasonably sufficient to cover his expenses in travelling to and from the place of examination and such sum by way of compensation for loss of time as may be specified in a relevant practice direction.
- (6) Where the Court orders a deposition to be taken, it may also order the party who obtained the examination order to serve a witness statement or witness summary in relation to the evidence to be given by the deponent.

#### **126. Conduct of examination**

- (1) Subject to any directions contained in the examination order, the examination must be conducted in the same way as if the witness were giving evidence at trial.
- (2) If all the parties are present, the examiner may conduct the examination of a person not named in the examination order if all the parties and the person to be examined consent.
- (3) The examiner may conduct the examination in private if he considers it appropriate to do so.
- (4) The examiner must ensure that the evidence given by the witness is recorded and transcribed in full, and must send a copy of the deposition to the person who obtained the examination order, to the deponent, to each of the other parties to the proceedings and to the Court.

#### **127. Enforcing attendance of deponent**

- (1) If a deponent served with an examination order fails to attend the deposition or refuses to take an affirmation for the purposes of the examination or to answer any lawful question or produce any document at the examination, a certificate of his failure or refusal, signed by the examiner, must be filed by the party requiring the deposition.
- (2) On the certificate being filed, the party requiring the deposition may apply to the Court, without notice, for an order requiring that deponent to attend or to affirm or to answer any lawful question or produce any document, as the case may be.
- (3) The Court may order the deponent against whom an order is made under paragraph (2) of this Rule to pay any costs resulting from his failure or refusal.

#### **128. Use of deposition at a hearing**

- (1) A deposition ordered under Rule 125 may be given in evidence at a hearing unless the Court orders otherwise.

- (2) A party intending to put in evidence a deposition at a hearing must serve notice of his intention to do so on every other party.
- (3) The Court may require a deponent to attend the hearing and give evidence orally.
- (4) Where a deposition is given in evidence at trial, it shall be treated as if it were a witness statement for the purposes of Rule 94.

**129. Restrictions on subsequent use of deposition, regarding the deponent's or any other assets, taken for the purpose of any hearing except the trial**

- (1) Subject to paragraph (2), where the Court orders a party to be examined about his or any other assets for the purpose of any hearing except the trial, the deposition may be used only for the purpose of the proceedings in which the examination order was made.
- (2) A deposition under this Rule may be used for some other purpose by the party who was examined or by another party if the party who was examined agrees or if the Court gives permission.

**PART 16 – EVIDENCE FOR AND FROM OTHER JUDICIAL AUTHORITIES**

**130. Letter of request**

- (1) Paragraphs (2) to (4) apply where a party wishes to take a deposition from a person who is out of the jurisdiction and not in a Convention State within the meaning of Rule 136(2).
- (2) The Court of First Instance may order the issue of a letter of request to the judicial authorities of the country in which the proposed deponent is and make such an order in relation to other court proceedings.
- (3) A letter of request is a request to a judicial authority to take the evidence of that person, or arrange for it to be taken.
- (4) If the government of a country allows a person appointed by the Court of First Instance to examine a person in that country, the Court of First Instance may make an order appointing a special examiner for that purpose.
- (5) A person may be examined under this Rule on affirmation or in accordance with any procedure permitted in the country in which the examination is to take place.
- (6) If the Court makes an order for the issue of a letter of request, the party who sought the order must provide –
  - (a) an undertaking to be responsible for any costs or expenses sought by the requested court; and



- (b) an undertaking to be responsible for any costs or expenses of the Court.

### **131. Evidence for Foreign Courts**

- (1) The following rules apply to an application for an order under Chapter 4 of Part 5 of the Regulations, other than an application made as a result of a request by a court in a Convention State, and “foreign assistance order” shall be construed accordingly.
- (2) In paragraph (1) of this Rule, “Convention State” has the same meaning as in Rule 136(2).

### **132. Application for foreign assistance order**

An application for a foreign assistance order must be made in accordance with the relevant practice direction and may be made without notice.

### **133. Examination**

- (1) The Court may order an examination under this Part to be taken before any fit and proper person nominated by the person applying for the foreign assistance order, an examiner of the Court or any other person whom the Court considers suitable.
- (2) Unless the Court orders otherwise the examination will be taken as provided by Rule 126, and Rule 127 applies.

### **134. Dealing with deposition**

- (1) The examiner must send the deposition to the Registrar unless the Court orders otherwise.
- (2) The Registrar will issue a letter to the foreign court attaching the following documents –
  - (a) the request;
  - (b) the foreign assistance order of the Court for examination; and
  - (c) the deposition.
- (3) The Registrar will provide a copy of the letter referred to in paragraph (2) to the person who applied for the foreign assistance order.

### **135. Claim to privilege**

- (1) This Rule applies where a witness claims to be exempt from giving evidence on the ground specified in section 76(1)(b) of the Regulations, and that claim is not supported or conceded as referred to in section 76(2) of the Regulations.
- (2) The examiner may require the witness to give the evidence which he claims to be exempt from giving and, where the examiner does not require the witness to give that evidence, the Court may order the witness to do so.

- (3) An application for an order under paragraph (2) may be made by the person who obtained the foreign assistance order under section 75 of the Regulations.
- (4) Where such evidence is taken it must be contained in a document separate from the remainder of the deposition, and the examiner will send to the Registrar the deposition and a signed statement setting out the claim to be exempt and the ground on which it was made.
- (5) On receipt of the statement referred to in paragraph (4), the Registrar will retain the document containing the part of the deposition to which the claim to be exempt relates and send the statement and a request to determine that claim to the foreign court or tribunal, together with the documents referred to in Rule 134(2).
- (6) The Registrar will, if the claim to be exempt is rejected by the foreign court or tribunal, send the document referred to in paragraph (5) to that foreign court or tribunal; or if the claim is upheld, send the document to the deponent.
- (7) In either case, the Registrar will notify the deponent and the person who obtained the foreign assistance order under section 75 of the Regulations of the foreign court or tribunal's decision.

#### **136. Taking of Evidence – Scope and interpretation**

- (1) Nothing in this Section of this Part shall affect, limit, alter, or be construed as in conflict with any provision of either the GCC Convention or the Riyadh Convention.
- (2) In this Section of this Part, “Convention State” means a country which is a signatory to the GCC Convention and/or the Riyadh Convention.

#### **137. Where a person to be examined is outside the jurisdiction but in a Convention State**

- (1) This Rule applies where a party wishes to take a deposition from a person who is outside the jurisdiction but in a Convention State.
- (2) The Court may order the issue of a letter of request –
  - (a) in the case of the GCC Convention, to the competent authority;
  - (b) in the case of the Riyadh Convention, to the competent body (“the requested court”) in the Convention State in which the proposed deponent is; or
  - (c) to a competent authority outside the jurisdiction but within the United Arab Emirates.
- (3) If the Court makes an order for the issue of a letter of request, the party who sought the order must provide –
  - (a) an undertaking to be responsible for any costs or expenses sought by the requested court; and
  - (b) an undertaking to be responsible for any costs or expenses of the Court.

**138. Evidence for courts outside the jurisdiction but in a Convention State**

- (1) This Rule applies where –
  - (a) in the case of the GCC Convention, a competent authority;
  - (b) in the case of the Riyadh Convention, a competent body in another Convention State (“the requesting court”); or
  - (c) a competent authority outside the jurisdiction but within the United Arab Emirates, issues a request for evidence to be taken from a person who is in the jurisdiction.
- (2) An application for an order for evidence to be taken under this Rule must be made to the Court of First Instance and must be accompanied by the documents set out in any relevant practice direction.
- (3) An application for an order for evidence to be taken under this Rule may be made without notice.
- (4) Rule 133 applies to an examination under this Rule.
- (5) Rule 134 applies to dealing with the deposition.

**PART 17 – EXPERTS AND ASSESSORS****139. Interpretation**

- (1) In the following Rules –
  - (a) a reference to an “expert” is a reference to a person who has been instructed to give or prepare expert evidence for the purpose of proceedings; and
  - (b) “single joint expert” means an expert instructed to prepare a report for the Court on behalf of two or more of the parties (including the claimant) to the proceedings.

**140. Expert’s overriding duty to the Court**

- (1) It is the duty of experts to help the Court on matters within their expertise.
- (2) This duty overrides any obligation to the person from whom experts have received instructions or by whom they are paid.

**141. Expert’s report**

- (1) Expert evidence is to be given in a written report unless the Court directs otherwise.

- (2) An expert's report must comply with the requirements set out in any relevant practice direction, must state at the end that the expert understands and has complied with his duty to the Court and must state the substance of all material instructions, whether written or oral, on the basis of which the report was written; and such instructions shall not be privileged against disclosure.
- (3) Where a party has disclosed an expert's report, any party may use that expert's report as evidence at the trial.
- (4) A party who fails to disclose an expert's report may not use the report at the trial or call the expert to give evidence orally unless the Court gives permission.

#### **142. Expert evidence**

- (1) Expert evidence shall be restricted to that which is reasonably required to resolve the proceedings.
- (2) No party may call an expert or put in evidence an expert's report without the Court's permission.
- (3) The order granting permission should specify the particular issues which the expert evidence should address.
- (4) The Court may, on application of a party or on its own motion, appoint an expert.

#### **143. Written questions to experts**

- (1) A party may put written questions about an expert's report (which must be proportionate) to an expert instructed by another party or a single joint expert.
- (2) An expert's answers to questions put in accordance with paragraph (1) shall be treated as part of the expert's report.
- (3) Where a party has put a written question to an expert instructed by another party and the expert does not answer that question, the Court may make one or both of the following orders in relation to the party who instructed the expert –
  - (a) that the party may not rely on the evidence of that expert; or
  - (b) that the party may not recover the fees and expenses of that expert from any other party.

#### **144. Court's power to direct that evidence is to be given by a single joint expert**

- (1) Where two or more parties wish to submit expert evidence on a particular issue, the Court may direct that the evidence on that issue is to be given by a single joint expert.

- (2) Where the parties who wish to submit the evidence (“the relevant parties”) cannot agree who should be the single joint expert, the Court may select the expert or direct that the expert be selected in such other manner as the Court may direct.

#### **145. Instructions to a single joint expert**

- (1) Where the Court gives a direction under Rule 144 for a single joint expert to be used, any relevant party may give instructions to the expert.
- (2) When a party gives instructions to the expert that party must, at the same time, send a copy to the other relevant parties.
- (3) Unless the Court otherwise orders, the relevant parties are jointly and severally liable for the payment of the expert’s fees and expenses.

#### **146. Power of Court to direct a party to provide information**

- (1) Where a party has access to information which is not reasonably available to another party, the Court may direct the party who has access to the information to prepare and file a document recording the information and to serve a copy of the document on the other party.
- (2) The Court may direct the parties’ experts to meet, and where possible, achieve agreement on any issue arising.

#### **147. Expert’s right to ask Court for directions**

- (1) Experts may file written requests for directions for the purpose of assisting them in carrying out their functions.
- (2) They must, unless the Court orders otherwise, provide copies of the proposed requests for directions under paragraph (1) to the party instructing them at least 7 days before they file the requests; and to all other parties, at least 4 days before they file them.
- (3) The Court, when it gives directions under this Rule, may also direct that a party be served with a copy of the directions.

#### **148. Assessors**

- (1) This Rule applies where the Court appoints one or more persons under section 108 of the Regulations as an assessor.
- (2) An assessor will assist the Court in dealing with a matter in which the assessor has skill and expertise.
- (3) An assessor will take such part in the proceedings as the Court may direct, and in particular the Court may direct an assessor to prepare a report for the Court on any matter at issue in the proceedings and attend the whole or any part of the trial to advise the Court on any such matter.

- (4) If an assessor prepares a report for the Court before the trial has begun the Court will send a copy to each party, and the parties may use it at the trial.

## **PART 18 – OFFERS TO SETTLE**

### **149. Scope**

- (1) A party may make an offer to settle in whatever way that party chooses, but if the offer is not made in accordance with Rule 154, it will not have the consequences specified in this Part.
- (2) In this Part –
- (a) “Part 18 offer” means an offer made pursuant to the procedure set out in this Part;
  - (b) a “trial” means any trial in a case whether it is a trial of all issues or a trial of liability, quantum, or some other issue in the case;
  - (c) a trial is “in progress” from the time when it starts until the time when judgment is given or handed down;
  - (d) a case is “decided” when all issues in the case have been determined, whether at one or more trials;
  - (e) “trial Judge” includes any Judge allocated in advance to conduct a trial; and
  - (f) “the relevant period” means –
    - (i) in the case of an offer made not less than 21 days before a trial, the period specified under Rule 154(2) or such longer period as the parties agree; or
    - (ii) otherwise, the period up to the end of such trial.

### **150. Application of Part 18 to appeals**

- (1) Except where a Part 18 offer is made in appeal proceedings, it shall have the consequences set out in this Part only in relation to the costs of the proceedings in respect of which it is made, and not in relation to the costs of any appeal from a decision in those proceedings.
- (2) Where a Part 18 offer is made in appeal proceedings, references in this Part to a term in the first column below shall be treated, unless the context requires otherwise, as references to the corresponding term in the second column –

Term	Corresponding term
Claim	Appeal
Counterclaim	Cross-appeal
Case	Appeal proceedings
Claimant	Appellant
Defendant	Respondent
Trial	Appeal hearing
Trial Judge	Appeal Judge

### 151. Restriction on disclosure of a Part 18 offer

- (1) A Part 18 offer will be treated as “without prejudice save as to costs”.
- (2) The fact that a Part 18 offer has been made and the terms of such offer must not be communicated to the trial Judge until the case has been decided.
- (3) Paragraph (2) of this Rule does not apply –
  - (a) where the defence of tender before claim has been raised;
  - (b) where the proceedings have been stayed following the acceptance of a Part 18 offer;
  - (c) where the offeror and offeree agree in writing that it should not apply; or
  - (d) where, although the case has not been decided in full, any part of, or issue in, the case has been decided and the offer related only to the parts or issues that have been decided.
- (4) In a case to which paragraph (3)(d) applies, the trial Judge may be told whether or not there are Part 18 offers other than those referring to the parts or issues that have been decided, but must not be told the terms of any such offers unless any of paragraphs (3)(a) to (c) applies.
- (5) Paragraph (2) is without prejudice to Rule 78, and where a party requests a stay under that rule that party may inform the Court or the trial Judge, as the case may be, whether or not there is a Part 18 offer; but the parties must not inform the Court or the trial Judge, as the case may be, of the terms of any such offer or which party or parties made the offer and to whom the offer was made.

### 152. Who may make a Part 18 offer and in respect of what may it be made

- (1) A Part 18 offer may be made by a claimant or a defendant in respect of the whole, or part of, or any issue that arises in a claim, counterclaim or other additional claim or an appeal or cross-appeal from a decision made at a trial.

- (2) The offer may be made at any time, including before the commencement of proceedings.
- (3) It is made when it is served on the offeree.

### **153. Defendant's offer**

- (1) Subject to Rules 164 and 165, a Part 18 offer by a defendant to pay a sum of money in settlement of a claim must be an offer to pay a single sum of money.
- (2) A defendant's offer that includes an offer to pay all or part of the sum at a date later than 14 days following the date of acceptance will not be treated as a Part 18 offer unless the offeree accepts the offer.

### **154. Form and content of a Part 18 offer**

- (1) A Part 18 offer must be in accordance with the prescribed form.
- (2) The offer must:
  - (a) make clear that it is made pursuant to Part 18;
  - (b) specify:
    - (i) a period of not less than 21 days within which the offer can be accepted; and
    - (ii) the consequences of the offer being accepted as set out in Rule 161;
  - (c) state whether it relates to the whole of the claim or to part of it or to an issue that arises in it and if so to which part or issue; and
  - (d) state whether it takes into account any counterclaim.
- (3) Paragraph (2) of this Rule does not apply if the offer is made less than 21 days before the start of a trial.
- (4) A Part 18 offer which offers to pay or to accept a sum of money will be treated as inclusive of all interest until the date on which the period specified under paragraph (2) expires or, if paragraph (3) applies, a date 21 days after the date the offer was made.

### **155. Clarification of a Part 18 offer**

- (1) The offeree may, within 7 days of a Part 18 offer being made, request the offeror to clarify the offer.
- (2) If the offeror does not give the clarification requested under paragraph (1) within 7 days of receiving the request, the offeree may, unless the trial has started, apply for an order that the offeror do so.



- (3) If the Court makes an order under paragraph (2), it must specify the date when the Part 18 offer is to be treated as having been made.

#### **156. Withdrawing or changing the terms of a Part 18 offer**

- (1) A Part 18 offer can only be withdrawn, or its terms changed, if the offeree has not previously served notice of acceptance.
- (2) The offeror withdraws the offer or changes its terms by serving written notice of the withdrawal or change of terms on the offeree, and, subject to Rule 157, such notice takes effect when it is served on the offeree.
- (3) Subject to paragraph (1), after the expiry of the relevant period the offeror may withdraw the offer or change its terms without the Court's permission or the offer may automatically be withdrawn in accordance with its terms.

#### **157. Withdrawal or change of terms of a Part 18 offer before the expiry of the relevant period**

- (1) Subject to paragraph (1) of Rule 156, this Rule applies where the offeror serves notice before the expiry of the relevant period of withdrawal of the offer or change of its terms to be less advantageous to the offeree.
- (2) Where this Rule applies –
  - (a) if the offeree has not served notice of acceptance of the original offer by the expiry of the relevant period, the offeror's notice has effect on the expiry of that period; and
  - (b) if the offeree serves notice of acceptance of the original offer before the expiry of the relevant period, that acceptance has effect unless the offeror applies to the Court for permission to withdraw the offer or to change its terms within 7 days of the offeree's notice of acceptance, or if earlier, before the first day of trial.
- (3) On an application under paragraph (2)(b), the Court may give permission for the original offer to be withdrawn or its terms changed if satisfied that there has been a change of circumstances since the making of the original offer and that it is in the interests of justice to give permission.

#### **158. Acceptance of a Part 18 offer**

- (1) A Part 18 offer is accepted by serving written notice of acceptance on the offeror.
- (2) Subject to paragraphs (3) and (4), a Part 18 offer may be accepted at any time (whether or not the offeree has subsequently made a different offer), unless it has already been withdrawn.
- (3) The Court's permission is required to accept a Part 18 offer where an apportionment is required under Rule 154(2) or a trial is in progress.

- (4) Where the Court gives permission under paragraph (3), unless all the parties have agreed costs, the Court must make an order dealing with costs, and may order that the costs consequences set out in Rule 161 apply.

#### **159. Acceptance of Part 18 offer in a split trial case**

- (1) In any case where there has been a trial but the case has not been decided, any Part 18 offer which relates only to parts of the claim or issues that have already been decided can no longer be accepted.
- (2) Subject to paragraph (1) and unless the parties agree, any other Part 18 offer cannot be accepted earlier than 7 clear days after judgment is given or handed down in such trial.

#### **160. Acceptance of Part 18 offer made by one or more, but not all, defendants**

- (1) Paragraphs (2) and (3) apply where the claimant wishes to accept a Part 18 offer made by one or more, but not all, of a number of defendants.
- (2) Without the permission of the Court, a claimant may accept a Part 18 offer made by one or more, but not all, defendants only if the offer relates to claims made against only those defendants and no other.
- (3) In all other cases, the claimant may only accept the offer with the Court's permission.

#### **161. Consequences of accepting a Part 18 offer**

- (1) The general rule is that, subject to paragraph (3), where a Part 18 offer is accepted within the relevant period, the claimant will be entitled to the costs of the proceedings up to the date on which notice of acceptance was served on the offeror.
- (2) The claimant's costs of the proceedings include the claimant's recoverable pre-action costs and any costs incurred in dealing with the defendant's counterclaim if the Part 18 offer states that it takes it into account.
- (3) Where a defendant's Part 18 offer relates to part only of the claim and at the time of serving notice of acceptance within the relevant period the claimant abandons the balance of the claim, the claimant will only be entitled to the costs of such parts of the claim unless the Court orders otherwise.
- (4) Except where the recoverable costs are fixed by these Rules, costs under paragraphs (1) and (3) of this Rule are to be assessed on the standard basis if the amount of costs is not agreed.

#### **162. Other effects of accepting a Part 18 offer**

- (1) If a Part 18 offer is accepted, the claim will be stayed and, in the case of acceptance of an offer which relates to the whole claim, the stay will be upon the terms of the offer.
- (2) In the case of acceptance of a Part 18 offer which relates to part only of the claim, the claim will be stayed as to that part upon the terms of the offer.

- (3) If the Court's approval is required before a settlement can be binding, any stay which would otherwise arise on the acceptance of a Part 18 offer will take effect only when that approval has been given.
- (4) Unless the parties otherwise agree in writing, where a Part 18 offer that is or includes an offer to pay or to accept a single sum of money is accepted, that sum must be paid to the claimant within 14 days of the date of acceptance, unless the Court orders otherwise.
- (5) If such sum is not paid within 14 days of acceptance of the offer, or such other period has been agreed, the claimant may enter judgment for the unpaid sum.

### **163. Unaccepted Part 18 Offers**

- (1) This Rule applies where, upon judgment being entered –
  - (a) a claimant fails to obtain a judgment more advantageous than a defendant's Part 18 offer; or
  - (b) judgment against the defendant is at least as advantageous to the claimant as the proposals contained in the claimant's Part 18 offer.
- (2) For the purposes of paragraph (1), in relation to any money claim or money element of a claim –
  - (a) "more advantageous" means better in money terms by any amount, however small; and
  - (b) "at least as advantageous" shall be construed accordingly.
- (3) Subject to paragraph (4), where paragraph (1)(a) applies, the Court must, unless it considers it unjust to do so, order that the defendant is entitled to costs (including any recoverable pre-action costs) from the date on which the relevant period expired and interest on those costs.
- (4) Subject to paragraph (5), where paragraph (1)(b) applies, the Court must, unless it considers it unjust to do so, order that the claimant is entitled to –
  - (a) interest on the whole or part of any sum of money (excluding interest) awarded, at such rate as the Court thinks fit for some or all of the period starting with the date on which the relevant period expired;
  - (b) together with costs (including any recoverable pre-action costs) on the indemnity basis from the date on which the relevant period expired; and
  - (c) interest on those costs at such rate as the Court thinks fit.
- (5) Paragraphs (3) and (4) do not apply to a Part 18 offer which:
  - (a) has been withdrawn;

- (b) has been changed so that its terms are less advantageous to the offeree where the offeree has beaten the less advantageous offer; or
- (c) was made less than 21 days before trial unless the Court has abridged the relevant period.

#### **164. Personal injury claims for future pecuniary loss**

- (1) This Rule applies to a claim for damages for personal injury which is or includes a claim for future pecuniary loss.
- (2) An offer to settle such a claim will not have the consequences set out in this Part unless it is made by way of a Part 18 offer under this Rule.
- (3) A Part 18 offer to which this Rule applies may contain an offer to pay, or an offer to accept the whole or part of the damages for future pecuniary loss in form of a lump sum, a periodical payment or both a lump sum and periodical payments or the whole or part of any other damages in the form of a lump sum.
- (4) In addition to the information required by Rule 154, a Part 18 offer made under this Rule must contain such further information as required by, and set out in, any relevant practice direction.
- (5) Rule 152 applies to the extent that a Part 18 offer made by a defendant under this Rule includes an offer to pay all or part of any damages in the form of a lump sum.
- (6) Where the offeror makes a Part 18 offer to which this Rule applies and which offers to pay or to accept damages in the form of a lump sum and periodical payments, the offeree may only give notice of acceptance of the offer as a whole.

#### **165. Offer to settle a claim for provisional damages**

- (1) An offeror may make a Part 18 offer in respect of a claim which includes a claim for provisional damages.
- (2) Where the offeror does so, in addition to the information required by Rule 154, the offer must specify whether or not the offeror is proposing that the settlement shall include an award of provisional damages and must contain such further information as required by, and set out in, any relevant practice direction.
- (3) Rules 152(2) and (3) apply to the extent that a Part 18 offer made by a defendant includes an offer to agree to the making of an award of provisional damages.

#### **166. Payments into Court**

- (1) A party who makes a payment into Court under a Court order must serve notice of the payment on every other party and, in relation to each such notice, file a certificate of service.

- (2) A practice direction may set out special provisions with regard to payments into Court under any ADGM enactment.

**167. Where defendant wishes to rely on a defence of tender before claim**

- (1) A defendant who wishes to rely on a defence of tender before claim must make a payment into Court of the amount he says was tendered and may not rely on that defence until he makes the payment.
- (2) The defence of tender before claim is not available where the claim is for unliquidated damages.

**168. Payment out of Court**

Money paid into Court under a Court order or in support of a defence of tender before claim may not be paid out without the Court's permission except in accordance with a relevant practice direction.

**PART 19 – DISCONTINUANCE**

**169. Right to discontinue claim**

- (1) Except as provided by the relevant practice direction, a claimant may discontinue all or part of a claim at any time.
- (2) Where there is more than one defendant, the claimant may discontinue all or part of a claim against all or any of the defendants.
- (3) A claimant who claims more than one remedy and subsequently abandons his claim to one or more of the remedies but continues with his claim for the other remedies is not treated as discontinuing all or part of a claim for the purposes of this Part.

**170. Procedure for discontinuing**

- (1) To discontinue all or part of a claim, a claimant must file a notice of discontinuance and serve a copy of that notice on every other party to the proceedings in accordance with Part 4 of these Rules.
- (2) Discontinuance against any defendant takes effect on the date when the notice of discontinuance is served on him and, subject to paragraph (3), the proceedings are brought to an end as against him on that date.
- (3) However, this does not affect proceedings to deal with any question of costs.

**171. Right to apply to have notice of discontinuance set aside**

Where the claimant discontinues under Rule 170(2), the defendant may apply to have the notice of discontinuance set aside in accordance with the relevant practice direction.

**172. Liability for costs**

- (1) Unless the Court orders otherwise, a claimant who discontinues is liable for the costs which a defendant, against whom the claimant discontinues, incurred on or before the date on which notice of discontinuance was served on that defendant.
- (2) If proceedings are only partly discontinued, the claimant is liable for costs relating only to the part of the proceedings which he is discontinuing and, unless the Court orders otherwise, the costs which the claimant is liable to pay must not be assessed until the conclusion of the rest of the proceedings.

**172A. Stay in lieu of notice of discontinuance**

- (1) Where 1 month has passed from the date that the Court has been informed in writing by a party or the parties that the proceedings have settled or otherwise resolved, no further steps have been taken in the proceedings and no notice of discontinuance or consent order has been filed to dispose of the proceedings, the claim shall be stayed.
- (2) Where a claim is stayed under this Rule, any party may apply for the stay to be lifted.

**PART 20 – MISCELLANEOUS PROVISIONS RELATING TO HEARINGS****173. Hearing to be in public**

- (1) Save as provided by under section 98 of the Regulations and the relevant practice directions, the general rule is that a hearing is to be held in public.
- (2) The decision as to whether to hold a hearing in private must be made by the Judge conducting the hearing having regard to any representations which may have been made to him.
- (3) The Court may order that the identity of any party or witness must not be disclosed if it considers non-disclosure necessary in order to protect the interests of that party or witness.

**174. Failure to attend the trial**

- (1) The Court may proceed with a trial in the absence of a party, but
  - (a) if no party attends the trial, it may strike out the whole of the proceedings;
  - (b) if the claimant does not attend, it may strike out his claim and any defence to counterclaim; and

- (c) if the defendant does not attend, it may strike out his defence or counterclaim (or both).
- (2) Where the Court strikes out proceedings, or any part of them, under this Rule, it may subsequently restore the proceedings, or that part.
- (3) Where a party does not attend and the Court gives judgment or makes an order against him, the party who failed to attend may apply for the judgment or order to be set aside.

#### **175. Rights of audience before the Court**

- (1) A litigant in person who is a natural person shall have a right of audience before the Court.
- (2) Without limiting section 219 of the Regulations, a company, partnership or other entity may be represented at any hearing by an employee, officer, director or partner if that person has been authorised by the company, partnership or other entity to appear at the hearing on its behalf and the Court gives permission.

### **PART 21 – JUDGMENTS AND ORDERS**

#### **176. Standard requirements**

- (1) Except as otherwise provided by these Rules or a relevant practice direction, every judgment or order must state the name and judicial title of the person who made it.
- (2) Every judgment or order must bear the date on which it is given or made and be sealed by the Court.

#### **177. Effective date of judgments and orders**

A judgment or order takes effect from the day when it is given or made, or such later date as the Court may specify.

#### **178. Service of judgments and orders**

- (1) Once a judgment or order has been sealed, it shall be made available to the parties via the eCourts Platform, except where any rule, practice direction ADGM enactment or a Court order requires the judgment or order to be served by a different method.
- (2) Unless the Court directs otherwise or as provided for by a relevant practice direction, a default judgment obtained under Rule 39 shall be served by the claimant on all other parties to the proceedings within 14 days of the date that the default judgment was made.

#### **179. Interest on debt, damages and judgment debts**

- (1) When interest is payable on a judgment pursuant to section 8 of the Regulations –

- (a) the interest shall be at the rate prescribed by the Court in the relevant practice direction; and
  - (b) the interest shall begin to run from the date that judgment is given, unless a rule or a relevant practice direction makes a different provision or the Court orders otherwise.
- (2) When interest is payable on all or any part of a debt or damages pursuant to section 39 of the Regulations, the interest shall be at the rate of interest determined by reference to section 8 of the Regulations as that section has effect from time to time or by reference to a rate for which any other ADGM enactment provides.

#### **180. Time for complying with a judgment or order**

A party must comply with a judgment or order for the payment of an amount of money (including costs) within 14 days of the date of the judgment or order, unless –

- (a) the judgment or order specifies a different date for compliance (including specifying payment by instalments);
- (b) any rule or a relevant practice direction specifies a different date for compliance; or
- (c) the Court has stayed the proceedings or judgment.

#### **181. Who may apply to set aside or vary a judgment or order**

Unless otherwise provided by a rule or a relevant practice direction, any party or any person who is not a party but who is directly affected by a judgment or order may apply to have the judgment or order set aside or varied.

#### **182. Consent orders**

- (1) The parties may agree the terms in which an order may be made by the Court.
- (2) The Court may make, refuse or vary the order sought by the parties.

#### **183. Correction of errors in judgments and orders**

- (1) The Court may at any time correct an accidental slip, error or omission in a judgment or order, and it may make any such correction or corrections on its own initiative, on the application of any party to the proceedings or on the application of any person who is not a party to the proceedings but who is directly affected by the slip, error or omission in the judgment or order.
- (2) An application under paragraph (1) may be made without notice.

#### **184. Sale of Real Property**

- (1) In any proceedings relating to real property, the Court may order the real property, or part of it, to be sold, mortgaged, charged, exchanged or partitioned.



- (2) Where the Court has made an order under paragraph (1), it may order any party to deliver up to the purchaser or any other person possession of the real property, receipt of rents or profits relating to it or both.

#### **185. Declaratory judgments**

The Court may make binding declarations whether or not any other remedy is claimed.

### **PART 22 – DAMAGES**

#### **186. Award for provisional damages**

- (1) In this Rule “award for provisional damages” means an award of damages for personal injuries under which damages are assessed on the assumption referred to in section 35 of the Regulations that the injured person will not develop the disease or suffer the deterioration, and the injured person is entitled to apply for further damages at a future date if he develops the disease or suffers the deterioration.
- (2) The Court may make an order for an award of provisional damages if the particulars of claim include a claim for provisional damages; and the Court is satisfied that section 35 of the Regulations applies.
- (3) An order for an award of provisional damages must specify the disease or type of deterioration in respect of which an application may be made at a future date and must specify the period within which or the date from which such an application can be made.
- (4) An order under paragraph (2) may be made in respect of more than one disease or type of deterioration and may, in respect of each disease or type of deterioration, specify a different period within which, or a different date from which, a subsequent application may be made.

#### **187. Application for further damages**

- (1) The claimant may not make an application for further damages after the end of the period specified under paragraph (3) of Rule 186, or such period as extended by the Court under paragraph (4) of that Rule.
- (2) Only one application for further damages may be made in respect of each disease or type of deterioration specified in the award of provisional damages.

#### **188. Periodical Payments**

- (1) This section of this Part contains rules about the exercise of the Court’s powers under section 51 of the Regulations to order that all or part of an award for damages in respect of personal injury is to take the form of periodical payments.

- (2) “Damages” in paragraph (1) means damages for future pecuniary loss and “periodical payments” means periodical payments under section 51 of the Regulations.
- (3) A relevant practice direction may set out additional matters to be contained in a party’s statement of case in a claim for damages for personal injury.

#### **189. Factors to be taken into account**

- (1) When considering whether to make an order under section 51 of the Regulations, the Court shall have regard to all the circumstances of the case and, in particular, the form of award which best meets the claimant’s needs, having regard to the factors set out in the relevant practice direction.
- (2) Where the Court awards damages in the form of periodical payments, the order must specify the matters set out in the relevant practice direction.
- (3) Where, under section 51 of the Regulations, the Court is satisfied that special circumstances makes an assignment or change of periodical payments necessary, it shall, in deciding whether or not to approve the assignment or charge, also have regard to the factors set out in the relevant practice direction.

### **PART 23 – CHANGE OF LAWYER**

#### **190. Lawyer acting for a party**

Where the address for service of a party is the address of that party’s lawyer, the lawyer will be considered to be acting for that party until the provisions of this Part have been complied with.

#### **191. Change of lawyer – duty to give notice**

- (1) Where a party for whom a lawyer is acting wants to change his lawyer, the party or his new lawyer must file notice of the change; and serve notice of the change on every other party and on the former lawyer.
- (2) The notice must state the party’s new address for service.
- (3) Where a party has changed his lawyer, the former lawyer will be considered to be the party’s lawyer unless and until notice is filed and served in accordance with paragraph (1) or the Court makes an order under Rule 192 and the order is served as required by paragraph (1) of that Rule.

#### **192. Withdrawal of lawyer**

- (1) A lawyer who ceases to act for a party in any proceedings may file notice of the change and serve the notice on the other parties.

- (2) Except by leave of the Court, a lawyer may not file or serve notice of the change unless he has filed and served on the client a notice of intention to file and serve the notice of change:
  - (a) in the case of proceedings for which a date for trial has been fixed, at least 28 days before doing so; or
  - (b) in any other case, at least 7 days before doing so.
- (3) Unless notice of the change is filed with the leave of the Court, a lawyer filing such a notice must include in the notice a statement as to the date on which service of the notice of intention required by section 192(2) was effected.
- (4) Any application for leave of the Court made under this Rule is to be made in accordance with the relevant practice direction.

### **193. Removal of lawyer who has ceased to act on application of another party**

- (1) Where a lawyer who has acted for a party has died, has become bankrupt, has ceased to practice or cannot be found and the party has not given notice of a change of lawyer as required by Rule 191(1) any other party may apply, in accordance with the relevant practice direction, for an order declaring that the lawyer has ceased to be the lawyer acting for the other party in the case.
- (2) Rule 192(2) applies where the Court makes an order under this Rule and references in that rule to “lawyer” shall be read as references to “party”.

## **PART 24 – FEES AND COSTS**

### **194. Fees**

Where a fee is prescribed by any rule made by the Chief Justice under section 184(1) of the Regulations, or is determined by the Board pursuant to Article 6 of the ADGM Founding Law, the Registrar may refuse to accept a document or refuse to allow a party to take any step unless and until the relevant fee is paid.

### **195. Orders for costs**

- (1) The Court may make such orders as it considers just in respect of any application, hearing, trial, appeal or other proceeding before the Court.
- (2) The Court’s powers to make an order for costs may be exercised either in the course of the proceeding or at or after its final determination.
- (3) This Part is subject to any rule or practice direction which sets out special provisions with regard to any particular category of proceeding before the Court.

**196. Submissions as to costs**

- (1) Submissions as to costs should normally be made before the conclusion of the proceedings to which an order of costs will relate.
- (2) If a party wishes to defer making submissions as to costs until after judgment has been given, the Court may give such directions as appear to it to be appropriate for the way and the period within which such submissions are to be placed before the Court.

**197. Basis of assessment**

- (1) Where the Court is to assess the amount of costs it will assess those costs on the standard basis or on the indemnity basis.
- (2) Where the Court makes an order about costs without indicating the basis on which the costs are to be assessed or it makes an order for costs to be assessed on a basis other than the standard or indemnity basis, the costs will be assessed on the standard basis.

**198. Standard basis**

- (1) Where the amount of costs is to be assessed on the standard basis, the Court will only allow costs which are proportionate to the matters in issue and are reasonably incurred and reasonable in amount.
- (2) The Court will resolve any doubt which it may have as to whether costs assessed on the standard basis are reasonably incurred and reasonable and proportionate in amount in favour of the paying party.

**199. Indemnity basis**

- (1) Costs assessed on the indemnity basis are allowed only if they are reasonably incurred and reasonable in amount.
- (2) Where the amount of costs is to be assessed on the indemnity basis, the Court will resolve any doubt which it may have as to whether costs are reasonable in amount or were reasonably incurred in favour of the receiving party.

**200. Procedure for assessing costs**

- (1) Where the Court orders a party to pay costs to another party (other than fixed costs) it either will make a summary assessment of the costs or order detailed assessment of the costs by a costs officer.
- (2) The amount of any assessed costs will be inserted in the order made by the Court, or if the order is drawn up before the assessment has been completed, the amount assessed will be certified by the Registrar.

### **201. Time for complying with an order for costs**

A party must comply with an order for the payment of costs within 14 days of

- (a) the date of the judgment or order if it states the amount of those costs or, if the amount of those costs (or part of them) is decided later following detailed assessment, the date of the certificate which states the amount; or
- (b) such other date as the Court may specify.

### **202. Where the Court makes no order for costs**

- (1) Where the Court makes an order which does not mention costs, the general rule is that no party is entitled to costs in relation to that order.
- (2) The general rule in paragraph (1) does not affect any entitlement of a party to recover costs out of a fund held by that party as trustee or under any lease, mortgage or other security.
- (3) Where the Court makes an order or direction sought by a party on an application without notice and its order does not mention costs, it will be deemed to include an order for the applicant's costs in the case.
- (4) Any party affected by a deemed order for costs under paragraph (3) of this Rule may apply at any time to vary the order.

### **203. The Court's powers in relation to misconduct**

- (1) The Court may make an order under this Rule where a party or that party's legal representative, in connection with a summary or detailed assessment, fails to comply with a rule, practice direction or Court order, or it appears to the Court that the conduct of a party or that party's legal representative, before or during the proceedings or in the assessment proceedings, was unreasonable or improper.
- (2) Where paragraph (1) applies, the Court must disallow all or part of the costs which are being assessed or order the party at fault, or that party's legal representative, to pay costs on the indemnity basis which that party, or legal representative, has caused any other party to incur.

### **204. Set-off**

Where a party entitled to costs is also liable to pay costs, the Court may assess the costs which that party is liable to pay and either set-off the amount assessed against the amount which the party is entitled to be paid and direct that party to pay any balance, or delay the issue of a certificate for the costs to which the party is entitled until the party has paid the amount to which that party is liable to pay.

## **PART 25 – APPEALS**

### **205. Appeals from the Small Claims Division to the Commercial and Civil Division**

- (1) An appellant may appeal from a final judgment or order of the Small Claims Division of the Court of First Instance only by notice of appeal to the Commercial and Civil Division of the Court of First Instance.
- (2) The appeal shall be determined by a single Judge unless the Judge who is assigned the appeal considers, having regard to the circumstances of the case and the matters to be decided in the appeal, that the appeal should be determined by three Judges.
- (3) No appeal lies to the Court of Appeal from any judgment or order of the Commercial and Civil Division on an appeal from the Small Claims Division.
- (4) No appeal may be brought against any judgment or order given or made in the Small Claims Division except on a question of law.
- (5) No appeal may be brought against any case management or interim order made in the Small Claims Division.
- (6) A party who seeks to appeal to the Commercial and Civil Division against a final judgment or order of the Small Claims Division must file and serve on all other parties a notice of appeal within 14 days of the date of the judgment or order, and, if they are made on different dates, whichever is made later, unless the Court orders otherwise.
- (7) A notice of appeal to the Commercial and Civil Division must be filed in the appropriate form in accordance with the relevant practice direction.
- (8) A party who wishes to respond to a notice of appeal must, within 14 days of service of the notice, file and serve on the other parties to the proceedings a written response made in the appropriate form in accordance with the relevant practice direction.
- (9) Rules 209C to 211 and 213 apply to appeals to the Commercial and Civil Division from the Small Claims Division in the same way as they apply to appeals from the Commercial and Civil Division or Employment Division to the Court of Appeal.

### **206. Appeals from the Court of First Instance (except for the Small Claims Division) to the Court of Appeal – permission to appeal**

- (1) An appellant requires permission to appeal from an order or judgment of a Judge in the Court of First Instance to the Court of Appeal.
- (2) An application for permission to appeal must, in accordance with the relevant practice direction, be made to the Court of First Instance in the form of an application notice and written argument in support, and:

- (a) if the application for permission to appeal relates to a case management or interim order, be made within 7 days of the date when the order or judgment to be appealed was made;
  - (b) if the application for permission to appeal relates to an order or judgment from the Court of First Instance refusing permission to apply for judicial review, be made within 10 days of the date when the order to be appealed was made; or
  - (c) in any other case, be made within 21 days after the date when the order or judgment to be appealed was made.
- (3) For the purpose of paragraph (2), and unless the Court orders otherwise, where both an order and a judgment are made in relation to the matter to be appealed but the order and judgment are made on different dates, time begins to run from the date of whichever is made later.
- (4) Where the Court of First Instance refuses an application for permission to appeal under Rule 206(2) a further application for permission to appeal may be made to the Court of Appeal within 7 days of the date of the refusal.
- (5) There must be filed with the application notice a copy of the order or judgment appealed from and a copy of any order refusing permission to appeal to the Court of Appeal.

#### **207. Objection by respondent to application for permission to appeal**

- (1) A respondent who wishes to object to an application for permission to appeal to the Court of Appeal must, in accordance with the relevant practice direction, file and serve on the applicant and all other parties to the application a written argument in response to the application:
- (a) if the application for permission to appeal relates to a case management or interim order, within 7 days of the respondent being served with the application notice and written argument in support;
  - (b) if the application for permission to appeal relates to an order from the Court of First Instance refusing permission to apply for judicial review, within 10 days of the respondent being served with the application notice and written argument in support; or
  - (c) in any other case, within 21 days of the respondent being served with the application notice and written argument in support.
- (2) A respondent who does not file and serve a written argument in response will not be permitted to participate in the application and will not be given notice of its progress.

#### **208. Determination of application for permission to appeal**

- (1) Applications for permission to appeal will ordinarily be decided by the Court on the papers without an oral hearing.

- (2) The Court may grant or refuse permission to advance all or any of the grounds of appeal or invite the parties to file written submissions within 14 days as to the grant of permission on terms.
- (3) Where the Court has invited the parties' submissions as to terms, it shall reconsider the application without a hearing and may refuse permission or grant permission, either unconditionally or on terms, to advance all or any of the grounds of appeal.
- (4) Permission to appeal may be given only where the Court considers that the appeal would have a real prospect of success or there is some other compelling reason why the appeal should be heard.
- (5) An order giving permission to appeal may limit the issues to be heard and be made subject to conditions.

## **209. Appeals before Court of Appeal**

- (1) If permission to appeal is given, the appellant must, in accordance with the relevant practice direction, file and serve a notice of appeal within 7 days of the order granting permission to appeal.
- (2) The appellant must, in accordance with the relevant practice direction, file and serve its written argument in support of the appeal:
  - (a) if the appeal relates to a case management or interim order, at the same time as the appellant files and serves its notice of appeal;
  - (b) if the appeal relates to an order from the Court of First Instance refusing permission to apply for judicial review, within 14 days of filing its notice of appeal; or
  - (c) in any other case, within 21 days of filing its notice of appeal.

### **209A. Objection by respondent to appeal**

- (1) Other than in respect of an appeal that relates to a case management or interim order, a respondent who wishes to object to an appeal must, in accordance with the relevant practice direction, file and serve an acknowledgment of service on the applicant and all other parties to the appeal within 7 days of being served with the appellant's written argument in support of the appeal.
- (2) A respondent who wishes to object to an appeal must, in accordance with the relevant practice direction, file and serve on the applicant and all other parties to the appeal a written argument in response to the appeal:
  - (a) if the appeal relates to a case management or interim order, within 7 days of the respondent being served with the appellant's written argument in support of the appeal;



- (b) if the appeal relates to an order from the Court of First Instance refusing permission to apply for judicial review, within 14 days of the respondent being served with the appellant's written argument in support of the appeal; or
- (c) in any other case, within 21 days of the respondent being served with the appellant's written argument in support of the appeal.

#### **209B. Reply to objection by respondent**

If the respondent has filed and served a written argument in response to the appeal, or if there are two or more respondents and at least one of them has done so, and the time for filing and serving any other written argument or arguments has expired, an appellant may, in accordance with the relevant practice direction, file and serve a written argument in reply:

- (a) if the appeal relates to a case management or interim order, within 5 days;
- (b) if the appeal relates to an order from the Court of First Instance refusing permission to apply for judicial review, within 7 days; or
- (c) in any other case, within 14 days.

#### **209C. Hearing of the appeal**

- (1) Every contested appeal before the Court of Appeal shall be heard in open court which may be conducted by way of public video link except:
  - (a) where it is necessary in the interests of justice or in the public interest for the Court to sit in private or to conduct the hearing by private video link; or
  - (b) where the Court considers that the appeal can be fairly determined on the papers without an oral hearing and, in all the circumstances of the case, it would be appropriate to do so.
- (2) Hearings shall be conducted in accordance with the relevant practice direction.
- (3) The Court may give directions to limit any oral submissions to a specified duration.

#### **210. Judgment**

A judgment of the Court of Appeal may be delivered in open court or, if the Court so directs, promulgated by the Registrar.

#### **211. Powers of the Court of Appeal**

- (1) In relation to an appeal, the Court of Appeal has all the powers of the Court of First Instance and may –
  - (a) affirm, set aside or vary any order, judgment or decision made or given by that court;

- (b) refer any claim or issue for determination by that court;
  - (c) order a new trial or hearing;
  - (d) make orders for the payment of interest; or
  - (e) make a costs order.
- (2) The Court of Appeal may exercise its powers in relation to the whole or part of a judgment, order or decision that is the subject of the appeal.
- (3) An order of the Court of Appeal may be enforced in the same manner as an order of the Court of First Instance.
- (4) Subject to section 12(3) of the Regulations, or unless it orders otherwise, the Court of Appeal will not receive oral evidence or evidence which was not before the lower court.
- (5) At the hearing of an appeal, a party may not rely on a matter not contained in his application unless the Court of Appeal gives permission.

## **212. Stay**

- (1) Unless the Court orders otherwise, an appeal to the Court of Appeal shall not operate as a stay of any judgment, order or decision of the Court of First Instance.
- (2) Any appellant who wishes to obtain a stay of execution of the judgment or order appealed from must:
- (a) seek it from the Court of First Instance where an application for permission to appeal has been filed with that Court and the application has not yet been determined;
  - (b) in all other cases, seek it from the Court of Appeal,
- and only in wholly exceptional circumstances will the Court grant a stay.

## **213. Non-disclosure of Part 18 offers and payments**

- (1) The fact that a Part 18 offer or payment in Court has been made must not be disclosed to any Judge who is to hear or determine an application for permission to appeal or an appeal until all questions (other than costs) have been determined.
- (2) Paragraph (1) does not apply if the Part 18 offer or payment into Court is relevant to the substance of the appeal, and it does not prevent disclosure in any application in the appeal proceedings if disclosure of the fact that a Part 18 offer or payment into Court has been made is properly relevant to the matter to be decided.

#### **214. Judicial review appeals from the Court of First Instance**

- (1) Where permission to apply for judicial review has been refused at a hearing in the Court of First Instance, the person seeking that permission may apply to the Court of Appeal for permission to appeal.
- (2) On an application under paragraph (1), the Court of Appeal may, instead of giving permission to appeal, give permission to apply for judicial review.
- (3) Where the Court of Appeal gives permission to apply for judicial review in accordance with paragraph (2), the case will proceed in the Court of First Instance.

#### **215. Reopening of final appeals**

- (1) The Court will not reopen a final determination of any appeal unless –
  - (a) it is necessary to do so in order to avoid a real injustice; or
  - (b) the circumstances are exceptional and make it appropriate to reopen the appeal; and
  - (c) there is no alternative effective remedy.
- (2) Permission is needed under this Rule to reopen the final determination of an appeal.
- (3) An application for permission under paragraph (2) will be considered by a single Judge, who must not have been a member of the Court which made the determination.
- (4) There is no right to an oral hearing on an application for permission under paragraph (2) unless, exceptionally, the Judge so directs.
- (5) The decision of the Judge on the application for permission is final and not open to appeal.

### **PART 26 – JUDICIAL REVIEW**

#### **216. Interpretation**

In this Part –

- (a) an “appeal” means an appeal against an order, judgment, decision or procedure of a Global Market Authority under section 25 of the Regulations;
- (b) a “claim for judicial review” means a claim to review the lawfulness of an ADGM enactment; or a decision, action or failure to act in relation to the exercise of a public function;
- (c) “the judicial review procedure” means the Rule 30 procedure as modified by this Part;

- (d) “interested party” means any person (other than the claimant or defendant) who is directly affected by the claim; and
- (e) “Court” means the Court of First Instance, unless otherwise stated.

#### **217. When the judicial review procedure must be used**

- (1) The judicial review procedure must be used in a claim for judicial review where the claimant is seeking –
  - (a) a mandatory, prohibiting or quashing order;
  - (b) an injunction under section 18 of the Regulations; or
  - (c) a declaration or an injunction under section 20(2) of the Regulations.
- (2) A claim for judicial review may include a claim for damages, restitution or the recovery of a sum due but may not seek such a remedy alone.
- (3) A claim for judicial review in relation to a decision by the Board, including an ADGM enactment, may only be made on the ground that the Board has acted outside the powers granted to it under the ADGM Founding Law.

#### **218. Permission required to proceed with a claim for judicial review**

- (1) No person may bring a claim for judicial review without the Court’s prior permission.
- (2) An application for permission under paragraph (1) must be made pursuant to section 20 of the Regulations and in accordance with the relevant practice direction.

#### **219. Claim form**

- (1) In addition to the particulars referred to in Rule 27(3), the claimant must also state the name and address of any person he considers to be an interested party and any relief (including any interim relief) he is claiming.
- (2) The claim form must be accompanied by documents providing the information required by section 20(6)(b) of the Regulations and the relevant practice direction.

#### **220. Filing and service of the claim form**

- (1) The claim form must be filed promptly, and in any event within 3 months after the grounds to make the claim first arose.
- (2) The claim form must be served on the defendant and, unless the Court otherwise directs, any person the claimant considers to be an interested party, within 7 days after the date of issue.

- (3) Paragraph (1) does not apply when any other ADGM enactment specifies a shorter time limit for making a claim for judicial review.

## **221. Acknowledgment of service**

Any person served with the claim form who wishes to take part in the claim for judicial review must file and serve an acknowledgment of service.

## **222. Contents of the acknowledgment of service**

- (1) Where the person filing the acknowledgment of service intends to contest the claim, the acknowledgment must set out a summary of his grounds for doing so.
- (2) Where the person filing the acknowledgment intends to contest the application for permission on the basis that it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred, set out a summary of the grounds for doing so.
- (3) The acknowledgment must state the name and address of any person the person filing it considers to be an interested party, and it may include or be accompanied by an application for directions.

## **223. Filing and service of the acknowledgment of service**

Any acknowledgment of service must be filed not more than 21 days after service of the claim form, served on the claimant and, subject to any direction under Rule 220(2), on any other person named in the claim form as soon as practicable and, in any event, not later than 7 days after it is filed.

## **224. Failure to file acknowledgment of service**

- (1) Where a person served with a claim form has failed to file an acknowledgment of service in accordance with Rule 221, he may not take part in a hearing to decide whether permission to proceed with the claim for judicial review should be given, unless the Court allows him to do so; but, provided he complies with Rule 222 (2) or any other direction of the Court regarding the filing and service of detailed grounds for contesting the claim or supporting it on additional grounds and any written evidence, he may take part in the hearing of the judicial review.
- (2) Where that person takes part in the hearing of the judicial review, the Court will take his failure to file an acknowledgment of service into account when deciding what order to make about costs.
- (3) Rule 36(4) does not apply to a claim under this Part.

## **225. Permission given to proceed**

- (1) Where permission to proceed with a claim for judicial review is given, the Court may also give directions.

- (2) Directions given under paragraph (1) may include a stay of the proceedings to which the claim relates.

## **226. Service of order giving or refusing permission**

- (1) The order giving or refusing permission to proceed with the claim for judicial review, any certificate (if not included in the order) that permission has been granted for reasons of exceptional public interest in accordance with section 20(4) of the Regulations and any directions shall be served on the claimant, the defendant and any other person who filed an acknowledgment of service in accordance with Rule 178(1), unless that Court makes an order requiring a different method of service.
- (2) Neither the defendant nor any other person served with the claim form under this Part may apply to set aside an order giving permission to proceed with a claim for judicial review.

## **227. Response**

- (1) A defendant and any other person served with the claim form who wishes to contest the claim for judicial review or support it on additional grounds must file and serve detailed grounds for contesting the claim for judicial review or supporting it on additional grounds, and any written evidence, within 35 days after service of the order giving permission to proceed.
- (2) Rule 37 does not apply to a claim under this Part.

## **228. Claimant seeking to rely on additional grounds**

The Court's permission is required if a claimant seeks to rely on grounds other than those for which he has been given permission to proceed with a claim for judicial review.

## **229. Evidence**

No written evidence may be relied on unless it has been served in accordance with any rule or practice direction under this Part or the Court gives permission.

## **230. Court's powers**

The scope and application of the Court's powers under this Part to hear representations at the hearing of the judicial review, to decide the claim for judicial review without a hearing and where the Court makes a quashing order in respect of the decision to which the claim for judicial review relates are as set out in the relevant practice direction.

## **230A. Appeal against decisions or procedures of Global Market Authorities**

- (1) Any order, judgment, decision or procedure made by any Global Market Authority may be appealed against or questioned by any interested party, or by any party to the proceedings, on the grounds that it is wrong in law or is in excess of jurisdiction by applying to the Commercial and Civil Division of the Court.

- (2) Any such application is to be brought using the Rule 30 procedure unless otherwise modified by a rule, practice direction or as ordered by the Court.
- (3) Rules 220, 221, 219(1), 222(1) and (3), 223, 224(3), 227(2), 229 and 230 shall apply to an appeal under this section of this Part and for that purpose any reference to “judicial review” in those rules should be read as “appeal”.

## **PART 27 – ARBITRATION**

### **231. Arbitration Claims**

- (1) In this Rule “arbitration claim” means –
  - (a) any application to the Court under the Arbitration Regulations;
  - (b) a claim to determine whether there is a valid arbitration agreement, whether an arbitration tribunal is properly constituted or what matters have been submitted to arbitration in accordance with an arbitration agreement;
  - (c) a claim to declare that an award by an arbitral tribunal is not binding on a party; and
  - (d) any other application affecting arbitration proceedings (whether started or not) or an arbitration agreement.
- (2) Except for a claim for recognition or enforcement made under Rule 232, an arbitration claim must be started by the issue of an arbitration claim form in accordance with the Rule 30 procedure, which must include such matters and statements as are set out in the relevant practice direction.
- (3) Unless the Court orders otherwise, an arbitration claim form issued in accordance with the Rule 30 procedure must be served on the defendant within 1 month from the date of issue.
- (4) The directions as to case management set out in the relevant practice direction apply, unless the Court orders otherwise.
- (5) All arbitration claims are to be heard in closed court unless the Court orders otherwise under section 32(4) of the Arbitration Regulations.

### **232. Recognition or Enforcement**

- (1) An application under section 61 of the Arbitration Regulations to recognise or enforce an award in the same manner as a judgment or order, other than by a claim on the award, may be made without notice in an arbitration claim form.

- (2) The Court may specify parties to the arbitration on whom the arbitration claim form must be served, in which case the Court shall make such case management directions as it considers appropriate.
- (3) The parties on whom the arbitration claim form is served must acknowledge service and the enforcement proceedings will continue as if they were an arbitration claim.
- (4) The arbitration claim form may be served out of the jurisdiction without the Court's permission irrespective of where the award is, or is treated as, made.
- (5) Where the applicant applies to recognise or enforce an award on agreed terms within the meaning of section 53 of the Arbitration Regulations, the arbitration claim form must state that the award is an agreed award and any order made by the Court must also contain such a statement.

### **233. Evidence**

- (1) An application for recognition or enforcement under Rule 232 must be supported by written evidence exhibiting the documents required by the relevant practice direction.
- (2) The application must also state the name and usual or last known place of residence or business of the claimant and of the person against whom it is sought to recognise or enforce the award, and either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.
- (3) Where a body corporate is a party, any reference in this Rule to a place of residence or business shall have effect as if the reference were to the registered or principal address of the body corporate.

### **234. Orders for permission to enforce**

- (1) An order recognising, or giving permission to enforce, an award must be served on the defendant by the claimant in accordance with Part 4 of these Rules.
- (2) The order may be served out of the jurisdiction without permission as if the order were an arbitration claim form.
- (3) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may set the defendant may apply to set aside the order and the award must not be enforced until after the end of that period or any application made by the defendant within that period has been finally disposed of.
- (4) The order must contain a statement of the right to make an application to set the order aside and the restriction on enforcement under paragraph (3).



**235. Enforcement of an award of interest**

- (1) Where an applicant seeks an order for the recognition or enforcement of an award of interest the whole or any part of which relates to a period after the date of the award, he must file a statement giving the particulars set out in the relevant practice direction.
- (2) A statement under paragraph (1) must be filed whenever the amount of interest has been quantified for the purpose of obtaining a judgment or order under section 56 of the Arbitration Regulations or enforcing such a judgment or order.

**236. Registration in Court of First Instance of foreign awards**

- (1) Where an award is made in proceedings on an arbitration in any territory to which sections 169 to 174 of the Regulations extend and has, under the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, the Rules in Part 29 apply in relation to the award as they apply in relation to a judgment given by the Court, subject to paragraph (2).
- (2) The written evidence required by Rule 233(1) must state, in addition to the matters required by that rule, that to the best of the information or belief of the maker of the statement the award has, under the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.

**PART 28 – COURT’S POWER TO APPOINT A RECEIVER****237. Court’s power to appoint receiver**

- (1) Pursuant to the power of appointment under section 41 of the Regulations the Court may appoint a receiver before proceedings have started, in existing proceedings or on or after judgment.
- (2) The Court may at any time terminate the appointment of a receiver and appoint another receiver in his place.

**238. Application for the appointment**

- (1) An application for the appointment of a receiver may be made without notice.
- (2) The application must be made in accordance with the relevant practice direction.

**239. Service of order appointing receiver**

An order appointing a receiver must be served by the party who applied for it on the person appointed as receiver unless the Court orders otherwise, on every other party to the proceedings and on such other persons as the Court may direct.

#### **240. Security**

- (1) The Court may direct that before a receiver begins to act or within a specified time he either give such security as the Court may determine, or file and serve on all parties to the proceedings evidence that he already has in force sufficient security to cover his liability for his acts and omissions as a receiver.
- (2) The Court may terminate the receiver's appointment if he fails to give the security or satisfy the Court as to the security he has in force by the date specified.

#### **241. Discharge of receiver**

- (1) A receiver or any party may apply for the receiver to be discharged on completion of his duties.
- (2) The application must be served on the persons who were required under Rule 239 to be served with the order appointing the receiver.
- (3) An order discharging or terminating the appointment of a receiver may require him to pay into Court any money held by him or specify the person to whom he must pay any money or transfer any assets still in his possession, and make provision for the discharge or cancellation of any guarantee given by the receiver as security.
- (4) The order must be served on the persons who were required under Rule 239 to be served with the order appointing the receiver.

#### **242. Receiver's application for directions**

The receiver may apply to the Court at any time for directions to assist him in carrying out his functions as a receiver.

#### **243. Receiver's remuneration**

- (1) A receiver may only charge for his services if the Court so directs and specifies the basis on which the receiver is to be remunerated.
- (2) The Court may specify who is to be responsible for paying the receiver and the fund or property (including income from real property) from which the receiver is to recover his remuneration.
- (3) If the Court directs that the amount of a receiver's remuneration is to be determined by the Court the receiver may not recover any remuneration for his services without a determination by the Court, and the receiver or any party may apply at any time for such a determination to take place.
- (4) Unless the Court orders otherwise, in determining the remuneration of a receiver, the Court shall award such sum as is reasonable and proportionate in all the circumstances and which takes into account the factors set out in the relevant practice direction.

**244. Non-compliance by receiver**

- (1) If a receiver fails to comply with any rule, practice direction or direction of the Court, the Court may order him to attend a hearing to explain his non-compliance.
- (2) At the hearing, the Court may make any order it considers appropriate.

**PART 29 – GENERAL RULES ABOUT ENFORCEMENT OF JUDGMENTS AND ORDERS****245. Scope and interpretation**

- (1) This Part contains general rules about enforcement of judgments and orders.
- (2) In this Part –
  - (a) “judgment creditor” means a person who has obtained or is entitled to enforce a judgment or order;
  - (b) “judgment debtor” means a person against whom a judgment or order was given or made;
  - (c) “judgment or order” includes an award which the Court has registered for enforcement, ordered to be enforced or given permission to enforce as if it were a judgment or order of the Court; and
  - (d) “judgment or order for the payment of money” includes a judgment or order for the payment of costs, but does not include a judgment or order for the payment of money into Court.

**246. Methods of enforcing judgments or orders**

- (1) The relevant practice direction sets out methods of enforcing judgments or orders for the payment of money.
- (2) A judgment creditor may, except where a rule, practice direction or ADGM enactment provides otherwise use any method of enforcement which is available and use more than one method of enforcement, either at the same time or consecutively.

**247. Court may order act to be done at expense of disobedient party**

- (1) In this Rule “disobedient party” means a party who has not complied with a mandatory order, an injunction or a judgment or order for the specific performance of a contract.
- (2) Subject to paragraph (4), if a mandatory order, an injunction or a judgment or order for the specific performance of a contract is not complied with, the Court may direct that the act

required to be done, so far as practicable, be done by another person, being the party who obtained the judgment or order or by some other person appointed by the Court.

- (3) Where paragraph (2) applies, the costs to another person of doing the act will be borne by the disobedient party.
- (4) Upon the act being done, the expenses incurred may be ascertained in such manner as the Court directs and execution may issue against the disobedient party for the amount so ascertained and for costs.
- (5) Paragraph (3) does not affect the Court's powers under section 96 of the Regulations to punish the disobedient party for contempt of court.

#### **248. Enforcement of judgment or order by or against non-party**

If a judgment or order is given or made in favour of or against a person who is not a party to proceedings, it may be enforced by or against that person by the same methods as if he were a party.

#### **249. Enforcement of decisions of bodies other than the Court and compromises enforceable by ADGM enactment**

- (1) Rules 250 to 252 apply where an ADGM enactment provides that a decision of a tribunal, panel, body or person other than the Court or a compromise, may be enforced as if it were a Court order or that any sum of money payable under that decision or compromise may be recoverable as if payable under a Court order.
- (2) This Rule does not apply to arbitration awards.

#### **250. The application for enforcement**

- (1) Unless paragraph (2) applies, a party may enforce the decision or compromise by applying for a specific method of enforcement under any ADGM enactment, and must file with the Court a copy of the decision or compromise being enforced and provide the Court with the information required by the relevant practice direction.
- (2) If an ADGM enactment provides that a decision or compromise is enforceable or that a sum of money is recoverable if a Court so orders, an application for such an order must be made in accordance with paragraphs (3) to (5).
- (3) The application may, unless paragraph (4) applies, be made without notice.
- (4) Where a compromise requires a person to whom a sum of money is payable under the compromise to do anything in addition to discontinuing or not starting proceedings ("a conditional compromise"), an application under paragraph (2) must be made on notice.

- (5) The application notice must contain the information required by the relevant practice direction, and a copy of the decision or compromise must be filed with the application notice.

#### **251. The procedure**

- (1) An application other than in relation to a conditional compromise may be dealt with by the Court without a hearing.
- (2) Where an application relates to a conditional compromise, the respondent may oppose it by filing a response within 14 days of service of the application notice, and –
  - (a) if the respondent does not file a response before the expiry of that period, the Court will make the order; or
  - (b) if the respondent files a response before the expiry of that period, the Court will make such order as appears appropriate.
- (3) If an ADGM enactment provides that a decision or compromise may be enforced in the same manner as an order of the Court of First Instance if it is registered, any application to the Court of First Instance for registration must be made in accordance with the relevant practice direction.

#### **252. Effect of setting aside judgment or order**

If a judgment or order is set aside, any enforcement of the judgment or order shall cease to have effect unless the Court otherwise orders.

### **PART 30 – ORDERS TO OBTAIN INFORMATION FROM JUDGMENT DEBTOR**

#### **253. Application for order**

- (1) A judgment creditor may apply for an order requiring a judgment debtor or, if a judgment debtor is a company or other body corporate or a partnership, an officer or director of that company or body or partner of that partnership, to attend Court to provide information about the judgment debtor's means or any other matter about which information is needed to enforce a judgment or order.
- (2) An application under paragraph (1) may be made without notice, may be dealt with by the Court without a hearing.
- (3) The application must contain the information required by the relevant practice direction.
- (4) The Court may direct that a person who is required to provide information under Rule 253(1) to file and serve an affidavit containing such information no less than 7 days before his attendance is required at Court.

**254. Terms of order**

- (1) If the application complies with Rule 253(3), an order to attend Court will be issued in the terms of paragraph (2).
- (2) A person served with an order issued under this Rule must attend Court at the time and place specified in the order and, when he does so, produce at Court documents in his control which are described in the order and answer on affirmation such questions as the Court may require.
- (3) For the purpose of paragraph (2), the person served with the order may produce the documents in his control by attaching those documents to the affidavit described in Rule 253(4).
- (4) An order under this Rule must contain a notice to the effect that if the person against whom the order is made does not comply with the order, he may be held in contempt of Court and fined, or his assets may be seized.

**255. Failure to comply with order**

- (1) If a person against whom an order has been made under Rule 254 fails to attend Court, refuses at the hearing to make the affirmation or to answer any questions or otherwise fails to comply with the order, the Court will refer the matter to a Judge who may, subject to paragraph (2), impose a fine not exceeding US\$10,000 against that person.
- (2) A fine for failing to attend Court may not be imposed unless the judgment creditor has complied with Rules 257(2) and 258.

**256. Service of order**

An order to attend Court must, unless the Court otherwise orders, be served in accordance with a relevant practice direction.

**257. Travelling expenses**

- (1) Subject to any relevant practice direction, a person ordered to attend Court may, within 7 days of being served with the order, ask the judgment creditor to pay him a sum reasonably sufficient to cover his travelling expenses to and from Court.
- (2) The judgment creditor must pay such a sum if requested in accordance with any relevant practice direction.

**258. Judgment creditor's affidavit**

- (1) The judgment creditor must file an affidavit or affidavits by the person who served the order giving such information as required by the relevant practice direction.
- (2) He must file the affidavit or affidavits not less than 2 days before the hearing.

**259. Conduct of the hearing**

- (1) The person ordered to attend Court will be questioned at a hearing before a Judge.
- (2) The judgment creditor or his representative must attend and conduct the questioning at the hearing.

**PART 31 – THIRD PARTY DEBT ORDERS****260. Scope and interpretation**

- (1) This Part contains rules which provide for a judgment creditor to obtain an order for the payment to him of money which a third party who is within the jurisdiction owes to the judgment debtor, referred to in this Part as a “third party debt order”.
- (2) In this Part “bank or deposit-taker” includes any person carrying on a business in the course of which he lawfully accepts deposits in the Abu Dhabi Global Market or the Emirate.

**261. Application for third party debt order**

- (1) An application for a third party debt order may be made without notice.
- (2) The application must contain the information required by the relevant practice direction.

**262. Interim third party debt order**

- (1) An application for a third party debt order will initially be dealt with by the Court without a hearing.
- (2) The Court may make an interim third party debt order –
  - (a) fixing a hearing to consider whether to make a final third party debt order; and
  - (b) specifying the amount of money which the third party must retain to be calculated in accordance with the relevant practice direction and directing that until that hearing the third party must not make any payment which reduces the amount he owes to the judgment debtor to less than the amount specified in the order.
- (3) An interim third party debt order becomes binding on a third party when it is served on him.

**263. Service of interim third party debt order**

Copies of an interim third party debt order, the application notice and any documents filed in support of it must be served on the third party and on the judgment debtor in accordance with any relevant practice direction.

**264. Obligations of third parties served with interim order**

- (1) A bank or deposit-taker served with an interim third party debt order must carry out a search to identify all accounts held with it by the judgment debtor, and must disclose to the Court and the judgment creditor within 7 days of being served with the interim order such details and information in respect of each account held by the judgment debtor as may be required by the order and any relevant practice direction.
- (2) If the judgment debtor does not hold an account with the bank or deposit-taker or the bank or deposit-taker is unable to comply with the interim order for any other reason, the bank or deposit-taker must inform the Court and the judgment creditor of that fact within 7 days of being served with the interim order.
- (3) Any third party other than a bank or deposit-taker served with an interim third party debt order must notify the Court and the judgment creditor in writing within 7 days of being served with the order, if he claims not to owe any money to the judgment debtor or to owe less than the amount specified in the interim order.

**265. Final third party debt order**

- (1) Subject to paragraph (2), the Court may make a final third party debt order requiring a third party to pay to the judgment creditor –
  - (a) the amount of any debt due or accruing due to the judgment debtor from the third party; or
  - (b) so much of that debt as is sufficient to satisfy the judgment debt and the judgment creditor's costs of the application.
- (2) The Court will not make a final third party debt order under paragraph (1) without first making an interim third party debt order as provided under Rule 262.
- (3) In deciding whether money standing to the credit of the judgment debtor in an account to which section 44 of the Regulations relates may be made the subject of a third party debt order, any condition in section 44 of the Regulations applying to accounts and any other condition applying to the account that a receipt for money deposited in the account must be produced before any money is withdrawn will be disregarded.

**266. Further consideration of the application**

- (1) If the judgment debtor or the third party –
  - (a) objects to the Court making a final third party debt order, he must file and serve written evidence stating the grounds for his objections;
  - (b) knows or believes that a person other than the judgment debtor has any claim to the money specified in the interim third party debt order, he must file and serve written evidence stating his knowledge of that matter.



- (2) If –
  - (a) the third party has given notice under Rule 264(3) that he does not owe any money to the judgment debtor, or that the amount which he owes is less than the amount specified in the interim third party debt order; and
  - (b) the judgment creditor wishes to dispute this,
  - (c) the judgment creditor must file and serve written evidence setting out the grounds on which he disputes the third party's case.
- (3) Written evidence under paragraphs (1) and (2) must be filed and served in accordance with the relevant practice direction.
- (4) If it has not already done so, the Court may fix a hearing, at which the Court may –
  - (a) make a final third party debt order;
  - (b) discharge the interim third party debt order and dismiss the application;
  - (c) decide any issues in dispute between the parties, or between any of the parties and any other person who has a claim to the money specified in the interim third party debt order; or
  - (d) direct a trial of any such issues, and if necessary give directions.

#### **267. Effect of a final third party debt order**

A final third party debt order shall be enforceable as an order to pay money.

#### **268. Money in Court**

- (1) If money is standing to the credit of the judgment debtor in Court the judgment creditor may not apply for a third party debt order in respect of that money, but he may apply, in accordance with the relevant practice direction, for an order that the money in Court, or so much of it as is sufficient to satisfy the judgment or order and the costs of the application, be paid to him.
- (2) If an application notice has been issued under this Rule, the money in Court must not be paid out to the judgment creditor until the application has been disposed of.

## **PART 32 – CHARGING ORDERS, STOP ORDERS AND STOP NOTICES**

### **269. Scope of this Part and interpretation**

- (1) This Part contains rules which provide for a judgment creditor to enforce a judgment by obtaining a charging order, a stop order or a stop notice over or against the judgment debtor's interest in an asset.
- (2) "Funds in Court" includes securities held in Court and "securities" means securities of any of the kinds specified in section 116(2)(b) of the Regulations.

### **270. Charging orders**

- (1) Rules 270 to 277 apply to an application by a judgment creditor for a charging order under section 115 of the Regulations.
- (2) A judgment creditor may apply for a single charging order in respect of more than one judgment or order against the same debtor.
- (3) An application for a charging order may be made without notice.
- (4) The application must contain the information required by the relevant practice direction and be verified by a statement of truth.

### **271. Interim charging order**

- (1) An application for a charging order will initially be dealt with by the Court without a hearing.
- (2) The Court may make an interim charging order imposing a charge over the judgment debtor's interest in the assets to which the application relates and fixing a hearing to consider whether to make a final charging order as provided under Rule 275(2).

### **272. Service of interim charging order**

- (1) Copies of the interim charging order, the application notice and any documents filed in support of it must be served in accordance with the relevant practice direction on the judgment debtor and such other creditors as the Court directs.
- (2) If the interim charging order relates to an interest under a trust, the documents referred to in paragraph (1) must be served on such of the trustees as the Court directs.
- (3) If the interest charged is in securities other than securities held in Court, then service must be –
  - (a) in the case of stock of any body incorporated within the Abu Dhabi Global Market, on that body;

- (b) in the case of stock of any body incorporated outside the Abu Dhabi Global Market or of any state or territory outside the United Arab Emirates, which is registered in a register kept in the Abu Dhabi Global Market, on the keeper of that register; and
- (c) in the case of units of any unit trust in respect of which a register of the unit holders is kept in the Abu Dhabi Global Market, on the keeper of that register.

### **273. Effect of interim charging order in relation to securities**

- (1) If a judgment debtor disposes of his interest in any securities, while they are subject to an interim charging order which has been served on him, that disposition shall not, so long as that interim order remains in force, be valid as against the judgment creditor.
- (2) A person served under Rule 272(3) with an interim charging order relating to securities must not, unless the Court gives permission, permit any transfer of any of the securities or pay any dividend, interest or redemption payment relating to them.
- (3) If a person acts in breach of paragraph (2), he will be liable to pay to the judgment creditor an amount calculated in accordance with the relevant practice direction.

### **274. Effect of interim charging order in relation to funds in Court**

If a judgment debtor disposes of his interest in funds in Court while they are subject to an interim charging order which has been served on him and on the keeper of the relevant register in accordance with Rule 272, that disposition shall not, so long as that interim charging order remains in force, be valid as against the judgment creditor.

### **275. Further consideration of the application**

- (1) If any person objects to the Court making a final charging order, he must apply to the Court in accordance with the relevant practice direction.
- (2) At the hearing, the Court may –
  - (a) make a final charging order confirming that the charge imposed by the interim charging order shall continue, with or without modification;
  - (b) discharge the interim charging order and dismiss the application;
  - (c) decide any issues in dispute between the parties, or between any of the parties and any other person who objects to the Court making a final charging order; or
  - (d) direct a trial of any such issues, and if necessary give directions.
- (3) If the Court makes a final charging order which charges securities other than securities held in Court, the order will include a stop notice unless the Court otherwise orders.

**276. Enforcement of charging order by sale**

- (1) Subject to the provisions of any ADGM enactment, the Court may, upon a claim by a person who has obtained a charging order over an interest in property (including real property), order the sale of the property to enforce the charging order.
- (2) The claimant must use the Rule 30 procedure, file a copy of the charging order with the claim form and ensure that his written evidence includes the information required by the relevant practice direction.

**277. Stop Orders**

“Stop order” means an order of the Court of First Instance not to take, in relation to funds in Court or securities specified in the order, any of the steps listed in section 119(5) of the Regulations.

**278. Application for stop order**

- (1) The Court of First Instance may make a stop order –
  - (a) relating to funds in Court, on the application of any person who has a mortgage or charge on the interest of any person in the funds or to whom that interest has been assigned or who is a judgment creditor of the person entitled to that interest; or
  - (b) relating to securities other than securities held in Court, on the application of any person claiming to be beneficially entitled to an interest in the securities.
- (2) An application for a stop order must be made in accordance with the relevant practice direction, and must be served on every person specified in the application in accordance with Part 4 of these Rules.

**279. Stop order relating to funds in Court**

A stop order relating to funds in Court shall prohibit the transfer, sale, delivery out, payment or any other dealing with the funds or any part of them or any income on the funds.

**280. Stop order relating to securities**

- (1) A stop order relating to securities other than securities held in Court may prohibit all or any of the steps set out in the relevant practice direction.
- (2) The order must specify the securities to which it relates, the name in which the securities stand, the steps which may not be taken; and whether the prohibition applies to the securities only or to the dividends or interest as well.

**281. Stop Notices**

- (1) “Stop notice” means a notice issued by the Court of First Instance which requires a person or body not to take, in relation to securities specified in the notice, any of the steps listed in

section 119(5) of the Regulations, without first giving notice to the person who obtained the notice.

- (2) “Securities” referred to in paragraph (1) do not include securities held in Court.

#### **282. Request for stop notice**

- (1) The Court may, on the request of any person claiming to be beneficially entitled to an interest in securities, issue a stop notice.
- (2) A request for a stop notice must be made by filing a draft stop notice and written evidence which sets out the matters required by the relevant practice direction.
- (3) If the Court considers that the request complies with paragraph (2), it will issue a stop notice which the applicant must serve, together with his written evidence, on the person to whom the stop notice is addressed.

#### **283. Effect of stop notice**

- (1) A stop notice takes effect when it is served in accordance with Rule 282(3) and remains in force unless it is withdrawn or discharged in accordance with the relevant practice direction.
- (2) While a stop notice is in force, the person on whom it is served must not register a transfer of the securities described in the notice or take any other step restrained by the notice without first giving 14 days’ notice to the person who obtained the stop notice.
- (3) The person on whom the stop notice is served may not, by reason only of the notice, refuse to register a transfer or to take any other step, after he has given 14 days’ notice under paragraph (2) and that period has expired.

#### **284. Amendment of stop notice**

- (1) If any securities are incorrectly described in a stop notice which has been obtained and served in accordance with Rule 282, the applicant may request an amended stop notice in accordance with those paragraphs.
- (2) The amended stop notice will take effect when it is served.

### **PART 33 – APPLICATIONS IN RELATION TO CONTEMPT OF COURT**

#### **285. Scope and interpretation**

- (1) This Part sets out the procedure in respect of contempt of Court.
- (2) So far as applicable, and with the necessary modifications, this Part applies in relation to an order requiring a person found to be in contempt of Court or punishable by virtue of any

ADGM enactment as if that person had been found to be in contempt of the Court of First Instance to pay a fine or to give security for good behaviour.

- (3) Unless otherwise stated, this Part applies to proceedings in the Court of Appeal and all Divisions of the Court of First Instance.

#### **286. Saving for other powers**

- (1) This Part is concerned only with procedure, and does not itself confer upon the Court the power to make an order for the imposition of a fine in respect of contempt of Court.
- (2) Nothing in this Part affects the power of the Court to make an order requiring a person found to be in contempt of Court or who is punishable by virtue of any ADGM enactment as if that person had been found to be in contempt of the Court of First Instance, to pay a fine or give security for good behaviour.

#### **287. Penalty for breach of a Judgment, Order or Undertaking to do or abstain from doing an act**

- (1) If a person required by a judgment or order to do an act other than for the payment of a sum of money does not do it within the time fixed by the judgment or order, or disobeys a judgment or order not to do an act, the judgment or order may be enforced by an order for a penalty.
- (2) If the time fixed by the judgment or order for doing an act has been varied by a subsequent order or agreement of the parties, then references in paragraph (1) to the time fixed are references to the time fixed by that subsequent order or agreement.
- (3) If the person referred to in paragraph (1) is a company or other corporation or a partnership, the penalty order may be made –
  - (a) in the case of a company or other corporation, against any director or other officer of that company or corporation; and
  - (b) in the case of a partnership, against any partner with a managerial position.
- (4) So far as applicable, and with the necessary modifications, this Rule applies to undertakings given by a party as it applies to judgments and orders.
- (5) Unless the Court dispenses with service or a rule, relevant practice direction or ADGM enactment provides otherwise, a judgment or order may not be enforced unless a copy of it has been served on the person required to do the act or not do the act in question and, in the case of a judgment or order requiring a person to do an act, in accordance with and within the time provided by, the judgment or order.
- (6) A judgment or order to do or not do an act may not be enforced under paragraph (1) unless there is prominently displayed, on the front on the copy of the judgment or order served in accordance with paragraph (5), a warning to the person required to do or not do the act in question that disobedience to the order would be contempt of court punishable by a penalty.

- (7) An undertaking to do or not do an act which is contained in a judgment or order may be enforced under paragraph (1) notwithstanding it does not contain the warning described in paragraph (6).

#### **288. Penalty application under Rule 287**

- (1) A penalty application under Rule 287 is made by an application notice under Part 8 in the proceedings in which the judgment or order was made or the undertaking was given.
- (2) Where the penalty application is made against a person who is not an existing party to the proceedings, it is made against that person by an application under Part 8.
- (3) The application notice must set out the matters required by the relevant practice direction, be supported by one or more affidavits containing all the evidence relied upon and, subject to paragraph (4), be served, together with the evidence in support, on the respondent.
- (4) The Court may dispense with service under paragraph (3) if it considers it just to do so.

#### **289. Penalty for interference with the due administration of justice**

- (1) This Rule regulates penalty applications in relation to interference with the due administration of justice in connection with proceedings in the Court of Appeal, the Court of First Instance or in an inferior court, panel or tribunal, except where the contempt is committed in the face of the Court or consists of disobedience to an order of the Court or a breach of an undertaking to the Court.
- (2) This Rule also regulates penalty applications otherwise than in connection with any proceedings.
- (3) A penalty application under this Rule may be made without the permission of the Court.

#### **290. Penalty application under Rule 289**

- (1) Where contempt of Court is committed in connection with any proceedings in the Court of Appeal or the Court of First Instance, the penalty application may be made only to the Chief Justice.
- (2) Where contempt of Court is committed in connection with any proceedings in another court, panel or tribunal, the penalty application may be made only to a Judge of the Courts, other than the Chief Justice, who is sitting in the Court of First Instance.
- (3) The penalty application must be made by a Rule 30 claim form, which must include or be accompanied by the statements and documents required by the relevant practice direction and be served in accordance with the relevant practice direction.

#### **291. Contempt in the face of the Court**

Where contempt has occurred in the face of the Court, the Court may deal with the matter of its own initiative and give such directions as it thinks fit for the disposal of the matter.

**292. False statement or disclosure**

- (1) This Rule contains rules about penalty applications in relation to making or causing to be made a false statement in a document or a false disclosure statement without an honest belief in its truth.
- (2) Where the penalty application relates only to a false statement or disclosure statement, Rule 287 applies.
- (3) Where the penalty application relates to both a false statement or disclosure statement and a breach of a judgment, order or undertaking to do or abstain from doing an act, Rule 287 applies.
- (4) Where the penalty application relates to both a false statement or disclosure statement and other interferences with the due administration of justice, Rule 289 applies.

**293. Penalty application in relation to a false statement or disclosure statement**

A penalty application in relation to a false statement or disclosure statement may be made only by any party to the proceedings in which the false statement or disclosure statement was made.

**294. Contravention of section 96 of the Regulations**

- (1) This Rule applies where it is alleged that any person has committed a contravention under section 96 of the Regulations by wilfully insulting a judge, witness or any officer of the Court or by wilfully interrupting the proceedings of the Court or otherwise misbehaving in Court.
- (2) The Court will issue a summons, which must be served on the alleged contravener in accordance with any directions of the Court.

**295. Non-payment of fine**

- (1) If a fine is not paid in accordance with the order imposing it, the Registrar will, as soon as reasonably possible, report the matter to a Judge.
- (2) Where by an order imposing a fine the amount of the fine is directed to be paid in instalments and default is made in the payment of any instalment, the same proceedings may be taken as if default had been made in payment of the whole of the fine.
- (3) If the Court makes an order for payment of a fine to be enforced by writ of control, the order will be treated as an application to the Court for the issue of the writ at the time when the order was made.

**296. Repayment of fine**

If a person pays a fine, and later gives evidence to satisfy the Court that if the evidence had been given earlier no fine or a smaller fine would have been imposed, the Court may order the whole or part of the fine to be repaid.



## **PART 34 – RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS OF RECOGNISED COURTS**

### **297. Interpretation and scope**

- (1) In this Part -
  - (a) “applicable treaty” means a treaty between the United Arab Emirates and a foreign country relating to the mutual recognition and enforcement of judgments;
  - (b) “judgment” means a judgment, decision or order given or made by a recognised court in any civil proceedings;
  - (c) “recognised court” means the judicial authorities of the Emirate and Emirate Members of the United Arab Emirates, courts of countries which have entered into applicable treaties, and a recognised foreign court;
  - (d) “recognised foreign court” means a court recognised by the Courts in accordance with the procedure set out in section 171 of the Regulations;
- (2) This Part also applies to any arbitral award which has, in pursuance of the law in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.

### **298. Applications for registration**

- (1) An application for registration of a recognised court's judgment is to be made in accordance with the relevant practice direction.
- (2) To apply to register a judgment of a recognised court, other than the judicial authorities of the Emirate or the Emirate Members of the United Arab Emirates, the claim must be supported by written evidence and the documents required by the relevant practice direction.

### **299. Security for costs**

A judgment creditor may apply for security for costs of the claim for registration of a recognised court's judgment; any proceedings commenced to set aside the registration; and any appeal against the granting of the registration, as if the judgment creditor was a claimant.

### **300. Service of notice of registration of judgment**

Following the granting of a registration order by the Court, the judgment creditor must serve the registration order on the judgment debtor in accordance with Part 4 and within 21 days after the date of issuing of the order or within such other period as the Court may order otherwise.

### **301. Applications to set aside registration**

- (1) Section 175 of the Regulations prescribes the cases in which registered judgments must or may be set aside.
- (2) An application to set aside registration of a judgment must be made by application notice filed in the claim in which the judgment was registered within the time specified in the registration order.
- (3) Section 173(5) of the Regulations provides that where any party has made an application to have the registration of a judgment set aside, the judgment shall not be enforced until after the application has been finally determined.

## **PART 35 – ENFORCEMENT OF THE COURTS’ JUDGMENTS**

### **302. Procedure for enforcement of Courts’ judgments**

- (1) In this Part, “judgment” includes decisions, orders or arbitral awards that have been recognised by the Court.
- (2) An application for a certified copy of a judgment of the Court made by any judgment creditor seeking to enforce it outside of ADGM must be supported by the documents set out in the relevant practice direction.
- (3) A judgment creditor seeking to enforce a judgment of the Court by the judicial authorities of the Emirate or the Emirate Members of the United Arab Emirates must comply with the applicable provisions of any relevant law, memorandum of understanding and practice direction.

## **PART 36 – COURT-ANNEXED MEDIATION**

### **303. Interpretation**

In this part, “court-annexed mediation” means the mediation services provided by ADGM Courts and conducted in accordance with the relevant practice direction.

### **304. Referral to mediation**

- (1) In accordance with the relevant practice direction, a dispute may be referred to court-annexed mediation:
  - (a) voluntarily by all parties to the dispute prior to or after commencement of proceedings;or

(b) by an order of the Court.

- (2) The Court will expect the parties to have considered whether mediation might enable the settlement of the dispute prior to the commencement of proceedings. Parties should continue to consider the possibility of reaching a settlement at all times, including after commencement of proceedings.

### **305. Voluntary referral to mediation**

Parties may refer their dispute to court-annexed mediation prior to the commencement of proceedings, provided that the Court ordinarily would have jurisdiction to hear the dispute if proceedings were to be commenced.

### **306. Court-ordered mediation**

- (1) If proceedings have been commenced, the parties may be required by the Court to provide evidence that a mediation has been considered or taken place. For the avoidance of doubt, in complying with this Rule the parties will not be required to divulge any information or documentation that was exchanged or discussed on a without prejudice basis within such mediation.
- (2) In accordance with the Court's general powers of management under Rule 8(1), the Court may, on its own initiative or upon the application of any party, make an order referring the dispute or any part of the dispute to court-annexed mediation, where in the opinion of the Court such order appears appropriate.
- (3) Whilst the making of an order referring a dispute to court-annexed mediation is at all times a matter for the discretion of the Court, should the Court make such an order, in the normal course it will do so at the first case management conference unless there is a compelling reason why such an order should not be made at that stage.

### **307. Costs**

In exercising its discretion as to costs in the proceedings, the Court may take into account the parties' conduct in relation to any attempt to resolve the dispute by mediation.

## **PART 37 – SMALL CLAIMS DIVISION**

### **308. Application of this Part**

- (1) This Part contains special provisions dealing with claims in the Small Claims Division ("small claim").
- (2) Other Rules shall apply to small claims except to the extent that a rule or a practice direction limits such application or the Court orders otherwise.

### **309. The claim form**

- (1) Proceedings are started on the date entered on the claim form when the Court issues the claim form at the claimant's request.
- (2) The claim form must –
  - (a) state what final orders the claimant seeks;
  - (b) include the particulars of the claimant's case;
  - (c) include the name and address for service of the defendant, together with any other available information. Where the defendant is a company, partnership or other entity the claimant shall state the defendant's registered office or any place of business of the defendant which has a real connection with the claim;
  - (d) where the claim form is to be served outside the jurisdiction, include the grounds on which the claimant is entitled to bring the claim against the defendant; and
  - (e) contain any other matter that may be set out in the relevant practice direction.

### **310. Service of the claim form**

- (1) The registry will serve the claim form on the defendant by any method permitted under Part 4 of these Rules, unless:
  - (a) a defendant is to be served outside the United Arab Emirates, in which case the claim form must be served on the defendant by the claimant; or
  - (b) otherwise directed by the Court.
- (2) Unless otherwise stated in Part 4 of these Rules or directed by the Court, the provisions of Part 4 apply to service of a claim form filed in the Small Claims Division.

### **311. Responding to a small claim**

- (1) Within 7 days after a defendant is served with the claim, a defendant must file in accordance with the relevant practice direction:
  - (a) an admission and any request for time to pay in accordance with Rules 42 and 43;
  - (b) an admission and any request for time to pay in accordance with Rules 42 and 43, and a defence, together with any counterclaim, if the defendant admits only part of the claim;
  - (c) a defence, together with any counterclaim, if the defendant disputes the whole of the claim; or
  - (d) an application to dispute the Court's jurisdiction to try the claim.

- (2) Where any counterclaim is filed and served, Rule 311(1) shall apply as appropriate.
- (3) In relation to the time period for responding to a claim specified in paragraph (1):
  - (a) the parties may agree that the time period shall be extended by up to 7 days; or
  - (b) the defendant may request, in accordance with the relevant practice direction, that the Court extend the time period by up to 7 days.
- (4) For the purpose of paragraph (3)(b), the request shall be dealt with by the Registry of the Court unless the Registry considers that, in the circumstances, the request should be dealt with by a Judge.
- (5) Any extension beyond the period referred to in paragraph (3) may only be obtained by application to the Court.

### **312. Default judgment**

- (1) In this Rule, “default judgment” means judgment without trial or a hearing where a defendant has failed to file a defence.
- (2) Judgment in default of a defence may be obtained where the defendant:
  - (a) at the date on which judgment is entered has not filed a defence and the relevant time for doing so has expired; or
  - (b) has filed a counterclaim and at the date on which judgment is entered a defence has not been filed and the relevant time for doing so has expired.
- (3) A default judgment may include interest as provided for by a practice direction.
- (4) The provisions of Rules 40, 40A and 41 apply to default judgments entered in the Small Claims Division.
- (5) A default judgment will be made available to the applicant through the eCourts Platform and will be served by the registry on all other parties to the proceeding by any method permitted under Part 4 of these Rules.

### **313. Admissions and request for time to pay**

The provisions of Rules 42 and 43 apply to admissions and a request for time to pay.

#### **313A. Claim stayed if not defended or admitted**

- (1) Where at least 3 months have expired since the end of the period for filing and serving a defence, no defendant has filed or served an admission or a defence or a counterclaim and the claimant has not entered or applied for default judgment under Rule 312 or for summary judgment under Rule 68, the claim shall be stayed.

- (2) Where a claim is stayed under this Rule, any party may apply for the stay to be lifted.

## **PART 38 – EMPLOYMENT DIVISION**

### **314. Application of this Part**

- (1) This Part contains special provisions dealing with claims in the Employment Division (“employment claim”).
- (2) Other Rules shall apply to employment claims except to the extent that a rule or a practice direction limits such application or the Court orders otherwise.

### **315. The claim form**

- (1) Proceedings are started on the date entered on the claim form when the Court issues the claim form at the claimant’s request.
- (2) The claim form must –
- (a) state what final orders the claimant seeks;
  - (b) include the particulars of the claimant’s case;
  - (c) include the details of, and attach, all documents which record the terms of employment between the claimant and the defendant as set out in the relevant practice direction;
  - (d) include the name and address for service of the defendant, together with any other available information. Where the defendant is a company, partnership or other entity the claimant shall state the defendant’s registered office or any place of business of the defendant which has a real connection with the claim;
  - (e) where the claim form is to be served outside the jurisdiction, include the grounds on which the claimant is entitled to bring the claim against the defendant; and
  - (f) contain any other matter that may be set out in the relevant practice direction.

### **316. Service of the claim form**

- (1) The registry will serve the claim form on the defendant by any method permitted under Part 4 of these Rules, unless:
- (a) a defendant is to be served outside the United Arab Emirates, in which case the claim form must be served on the defendant by the claimant; or
  - (b) otherwise directed by the Court.

- (2) Unless otherwise stated in Part 4 of these Rules or directed by the Court, the provisions in Part 4 apply to service of a claim form filed in the Employment Division.

### **317. Responding to an employment claim**

- (1) Within 14 days after the defendant is served with the claim, the defendant must file in accordance with the relevant practice direction:
- (a) an admission and any request for time to pay in accordance with Rules 42 and 43;
  - (b) an admission and any request for time to pay in accordance with Rules 42 and 43, and a defence, together with any counterclaim, if the defendant admits only part of the claim;
  - (c) a defence, together with any counterclaim, if the defendant disputes the whole of the claim; or
  - (d) an application to dispute the Court’s jurisdiction to try the claim.
- (2) Where any counterclaim is filed and served, Rule 317(1) shall apply as appropriate.
- (3) The parties may agree that the time period for responding to a claim specified in paragraph (1) shall be extended by up to 14 days.
- (4) Any extension beyond the period referred to in paragraph (3) may only be obtained by application to the Court.

### **318. Default judgment**

- (1) In this Rule, “default judgment” means judgment without trial or a hearing where a defendant has failed to file a defence.
- (2) Judgment in default of a defence may be obtained where the defendant:
- (a) at the date on which judgment is entered has not filed a defence and the relevant time for doing so has expired; or
  - (b) has filed a counterclaim and at the date on which judgment is entered a defence has not been filed and the relevant time for doing so has expired.
- (3) A default judgment may include interest as provided for by a practice direction.
- (4) The provisions of Rules 40, 40A and 41 apply to default judgments entered in the Employment Division.
- (5) A default judgment will be made available to the applicant through the eCourts Platform and will be served by the registry on all other parties to the proceeding by any method permitted under Part 4 of these Rules.

### **319. Admissions and request for time to pay**

The provisions of Rules 42 and 43 apply to admissions and a request for time to pay.

#### **319A. Claim stayed if not defended or admitted**

- (1) Where at least 3 months have expired since the end of the period for filing and serving a defence, no defendant has filed or served an admission or a defence or a counterclaim and the claimant has not entered or applied for default judgment under Rule 318 or for summary judgment under Rule 68, the claim shall be stayed.
- (2) Where a claim is stayed under this Rule, any party may apply for the stay to be lifted.

## **PART 39 – WRIT OF CONTROL**

### **320. Interpretation and application**

- (1) In this Part –
  - (a) “debtor” has the meaning set out in section 1(3)(b) of Schedule 1 of the Regulations;
  - (b) “creditor” has the meaning set out in section 1(3)(c) of Schedule 1 of the Regulations;
  - (c) “writ of control” means an order that commands an enforcement agent to take control and sell enough of a debtor’s goods in order to obtain the funds to satisfy a money judgment;
  - (d) “enforcement agent” means an individual authorised by section 123(2) of the Regulations to act as an enforcement agent;
  - (e) “insolvency practitioner” has the meaning set out in section 298 of the Insolvency Regulations 2015;
  - (f) “Schedule 1” means Schedule 1 of the Regulations; and
  - (g) “TCG Rules” means the Taking Control of Goods and Commercial Rent Arrears Recovery Rules 2015.
- (2) This Part relates to the procedure for obtaining a writ of control for the purpose of taking control of goods and selling them in accordance with Schedule 1 and the TGC Rules.

### **321. Request for writ of control**

- (1) Subject to Rule 322, a creditor may apply for a writ of control by submitting a request in accordance with the relevant practice direction.



- (2) A request for a writ of control may be made without notice being served on any other party unless the Court directs otherwise.
- (3) The request must be signed by or on behalf of the person entitled to execution, or by that person's legal representative.
- (4) Issue of a writ of control takes place on it being sealed by the Court.
- (5) The writ will not be sealed unless at the time it is presented for sealing:
  - (a) the person making the request produces:
    - (i) the judgment or order on which the writ is to issue;
    - (ii) where permission was required for the writ to be issued, the order granting such permission or evidence of the granting of it; and
  - (b) the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act thereunder has expired.
- (6) Every writ of control shall bear the date of the day on which it is issued.

### **322. Permission of the Court**

- (1) A writ of control must not be issued without the permission of the Court where:
  - (a) six years or more have elapsed since the date of the judgment or order;
  - (b) any change has taken place, whether by death or otherwise, in the parties:
    - (i) entitled to enforce the judgment or order; or
    - (ii) liable to have it enforced against them;
  - (c) the judgment or order is against the assets of a deceased person coming into the hands of that person's executors or administrators after the date of the judgment or order, and it is sought to issue execution against such assets;
  - (d) any goods to be seized under a relevant writ are in the hands of a receiver or insolvency practitioner appointed by the Court;
  - (e) under the judgment or order, any person is entitled to a remedy subject to the fulfilment of any condition, and it is alleged that the condition has been fulfilled (other than where non-compliance with the terms of suspension of enforcement of the judgment or order is the failure to pay money); or
  - (f) the writ of control sought is to be in aid of another writ.

- (2) An application for permission must be made in accordance with Part 8 of these Rules and in accordance with the relevant practice direction.
- (3) An application for permission may be made without notice being served on any other party unless the court directs otherwise.
- (4) Where the Court grants permission, whether under Rule 322(1) or otherwise, for the issue of a writ of control and the writ is not issued within one year after the date of the order granting such permission, the order shall cease to have effect, without prejudice, however, to the making of a fresh order.
- (5) Rule 322(1) is without prejudice to any enactment or Rule by virtue of which a person is required to obtain the permission of the Court for the issue of a writ of control or to proceed to execution on or otherwise to the enforcement of a judgment or order.

### **323. Duration of writ of control and priority**

- (1) A writ of control will be valid for the period in which an enforcement agent may take control of goods in question in accordance with section 8 of Schedule 1 and Rule 6 of the TCG Rules.
- (2) For the avoidance of doubt, if a period in which to take control of goods is extended by the Court under section 8(3) of Schedule 1 and Rule 6(3) of the TCG Rules, the validity of the writ will be extended for the same period.
- (3) Irrespective of whether it has been extended, the priority of a writ will be determined by reference to the time it is originally received by the person who is under a duty to endorse it.