

**THE JUDICIAL CONDUCT (JUDICIAL OFFICE HOLDERS) RULES 2015**

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## **THE JUDICIAL CONDUCT (JUDICIAL OFFICE HOLDERS) RULES 2015**

The Chief Justice of the Abu Dhabi Global Market Courts, in exercise of powers conferred by sections 219 and 220 of the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 and under rule 5 of the Judicial Discipline Prescribed Procedures Rules 2015, makes the following Rules:-

Date coming into force: [●] 2015

### **PART 1 – GENERAL**

#### **1. Application of Rules**

These Rules apply to a judicial office.

#### **2. Making a complaint about judicial misconduct**

- (1) A complaint must be made to the Abu Dhabi Global Market Judicial Conduct Investigations Bureau (the “Bureau”).
- (2) A complaint must contain an allegation of misconduct.
- (3) A complaint must be made in a complaint document unless the Bureau agrees to accept a complaint in another form.
- (4) A “complaint document” is a document in writing which –
  - (a) is in English;
  - (b) is legible;
  - (c) contains an allegation of misconduct on the part of a named or identifiable judicial office holder;
  - (d) states the date, or dates, the alleged misconduct took place; and
  - (e) states the name and address of the person who is making the complaint.
- (5) A complaint document is to be accompanied by the originals or copies of all the documents within the control of the complainant to which he intends to refer.
- (6) The Bureau must not accept a complaint in any case where the complainant states that they do not want the judicial office holder concerned to see a copy of the complaint document or of any document accompanying it.

#### **3. Time limits within which a complaint must be made**

- (1) A complaint must be made within three months of the latest event or matter complained of.

- (2) Subject to rule 4(1), the Bureau must not accept a complaint if the complaint is made outside the time limit in paragraph (1).
- (3) The complainant must be informed –
  - (a) if their complaint has not been accepted because it is out of time; and
  - (b) that they may make representations within 10 business days of the notification that their complaint is out of time to the Bureau for an extension of the time limit.

**4. Extension of time limits**

- (1) The Bureau may extend or shorten any other time limit under these Rules, whether or not the time limit has expired, where there is good reason to do so.
- (2) The Bureau may extend the time limit for making a complaint only in exceptional circumstances.
- (3) The fact that a complaint may contain an allegation of misconduct will not, by itself, be sufficient reason for the Bureau to accept a complaint outside the three month time limit.
- (4) Where the Bureau has extended a time limit, it must –
  - (a) inform the complainant and, if they are aware of the complaint, the judicial office holder concerned; and
  - (b) keep a record of the reasons for the extension.

**5. Measurement of time for doing an act**

In these Rules the time for doing any act in response to a notification, invitation or request (“the document”) starts on the day that corresponds to the method of delivery used in relation to the notification, invitation or request shown in the table below.

<i>Method of delivery</i>	<i>Starting day</i>
Any postal method which provides for delivery on the next business day.	The second business day after the day on which the document was posted.
Any postal method which provides for delivery any time after the next business day.	The third business day after the day on which the document was posted.
Delivering the document to or leaving it at a permitted address.	If it is delivered to or left at the permitted address on a business day before 5pm, that day; or if delivered at, or after, 5pm, the next business day.
E-mail or other electronic method.	If an e-mail or other electronic transmission is sent on a business day before 5pm, that day; or, if an e-mail or other electronic transmission is sent at, or after, 5pm, the next business day.

## **PART 2 – INVESTIGATION BY THE BUREAU**

### **6. Scope**

This Part applies where –

- (a) a complaint is made to the Bureau;
- (b) the Chief Justice refers a complaint to the Bureau in accordance with rule 10 of the Judicial Discipline Rules; or
- (c) a nominated judge refers a case to the Bureau under rule 33(1).

### **7. The investigation process by the Bureau**

- (1) A complaint must initially be considered by the Bureau.
- (2) The Bureau must dismiss a complaint, or part of a complaint, if it falls into any of the following categories –
  - (a) it does not adequately particularise the matter complained of;
  - (b) it is about a judicial decision or judicial case management, and raises no question of misconduct;
  - (c) the action complained of was not done or caused to be done by a person holding judicial office;
  - (d) it is vexatious;
  - (e) it is without substance;
  - (f) even if true, it would not require any disciplinary action to be taken;
  - (g) it is untrue, mistaken or misconceived;
  - (h) it raises a matter which has already been dealt with, whether under these Rules or otherwise, and does not present any material new evidence;
  - (i) it is about a person who no longer holds a judicial office;
  - (j) it is about the private life of a person holding a judicial office and could not reasonably be considered to affect their suitability to hold judicial office;
  - (k) it is about the professional conduct in a non-judicial capacity of a person holding judicial office and could not reasonably be considered to affect their suitability to hold judicial office;
  - (l) for any other reason it does not relate to misconduct by a person holding judicial office.

## **8. Procedure**

- (1) The Bureau may not dismiss a complaint under rule 7(2)(a) unless it has given the complainant an opportunity to provide adequate details of the complaint. A complainant must provide any further details within 14 business days of the request for details made by the Bureau to the complainant.
- (2) Where an account of the facts given by a complainant differs from an account given by the judicial office holder concerned, the Bureau must consider any source of independent evidence which exists and which may help to verify the facts in dispute before it dismisses a complaint, unless to do so would be disproportionate in all the circumstances.
- (3) Where the Bureau dismisses a complaint, it must inform –
  - (a) the complainant of the dismissal and the reasons for it; and
  - (b) if they are aware of the complaint, the judicial office holder concerned.
- (4) Where the Bureau does not dismiss a complaint under rule 7(2), it must –
  - (a) deal with the complaint under the summary process (Part 3); or
  - (b) refer the complaint to a nominated judge to consider (Part 4).

## **9. Procedure to be followed before a referral is made to a nominated judge**

- (1) Before a referral can be made to a nominated judge, the Bureau must –
  - (a) provide the judicial office holder with –
    - (i) details of the complaint;
    - (ii) any supporting documents (see rule 2(5)); and
    - (iii) any other information that the Bureau has obtained when considering the complaint;
  - (b) invite the judicial office holder concerned to comment upon the complaint within 14 business days of the invitation to do so; and
  - (c) consider any comments received from the judicial office holder concerned.
- (2) The Bureau can continue to refer the complaint to a nominated judge only if –
  - (a) the judicial office holder concerned has provided comments within the time provided; or
  - (b) the time has elapsed for providing comments and the judicial office holder concerned has not responded.

**10. Interim suspension**

Rule 14 of the Judicial Discipline Rules governs the procedure relating to the possible interim suspension of a judicial office holder.

## **PART 3 – SUMMARY PROCESS**

### **11. Scope**

- (1) This Part applies where the Bureau has –
  - (a) considered a complaint in accordance with rule 7(1); and
  - (b) concludes that one of the grounds in rule 12 applies.

### **12. Summary process**

- (1) The Bureau may advise the Chief Justice that the judicial office holder concerned should be removed from judicial office without further investigation where the judicial office holder concerned –
  - (a) has been convicted in the Emirate of a criminal offence and has been sentenced to imprisonment, including a suspended sentence;
  - (b) has been convicted elsewhere of any criminal offence which, if committed in the Emirate, would constitute a criminal offence, and has been sentenced to imprisonment, including a suspended sentence;
  - (c) has been committed to prison for contempt of court (including a suspended committal order);
  - (d) has been convicted in any jurisdiction of an offence involving dishonesty, deception, theft or perverting the course of justice;
  - (e) has been convicted in any jurisdiction of a sexual offence or of a violent offence;
  - (f) has been cautioned in relation to an offence falling within sub-paragraphs (d) and (e) of this rule;
  - (g) is an undischarged bankrupt or a person whose estate has had a sequestration awarded in respect of it and who has not been discharged;
  - (h) is subject to a disqualification order or disqualification undertaking under Chapters 9 and 10 of Part 10 of the Companies Regulations 2015;
  - (i) has failed to disclose information concerning their suitability to hold judicial office to the person who made the appointment or who made the recommendation or nomination for the appointment which the judicial office holder concerned knew about before their appointment to their judicial office;
  - (j) has at any time been subject to any investigation or proceedings concerning their fitness to practice by any licensing body, the final outcome of which was –

- (i) the suspension of the judicial office holder concerned from a register held by the licensing body, and that suspension has not been terminated;
  - (ii) the erasure of the name of the judicial office holder concerned from a register held by the licensing body;
  - (iii) a decision that had the effect of preventing the judicial office holder concerned from practising that profession licensed or regulated by the licensing body; or
  - (iv) a decision that had the effect of only allowing the judicial office holder concerned to practise that profession subject to conditions, and those conditions have not been lifted;
- (k) has been removed from another judicial office in accordance with prescribed procedures;
  - (l) has failed without reasonable excuse to comply with any sitting requirement specified in the terms of appointment to the judicial office concerned;
  - (m) is subject to any form of restriction or restraint in bringing proceedings before a court or a tribunal in any jurisdiction.
- (2) For the purposes of this rule only, any reference to the Emirate includes the Abu Dhabi Global Market.

### **13. Procedure**

- (1) Before advice may be given under rule 12(1), the Bureau must give the judicial office holder concerned an opportunity to make representations as to –
  - (a) whether the alleged ground took place; and
  - (b) if so, why they should not be removed from their judicial office.
- (2) The judicial office holder concerned must provide the representations referred to in paragraph (1) within 14 business days of the request for them.
- (3) The Bureau can continue to provide advice under rule 12(1) if –
  - (a) the judicial office holder concerned has provided representations within the time allowed; or
  - (b) the time allowed for providing representations has elapsed and the judicial office holder concerned has not provided any representations.

### **14. Report**

- (1) The Bureau must prepare a report if they intend to advise the Chief Justice under rule 12(1).

- (2) The report must state –
  - (a) that one or more of the grounds under rule 12(1) applies; and
  - (b) any representations provided by the judicial office holder concerned under rule 13(1).

**15. Reporting procedure**

The Bureau must send the report to –

- (a) the Chief Justice; and
- (b) the judicial office holder concerned.

## **PART 4 – CONSIDERATION BY NOMINATED JUDGE**

### **16. Scope**

This Part applies where –

- (a) the Bureau refers a complaint to a nominated judge under rule 8(4); or
- (b) the Chief Justice refers a complaint to a nominated judge under rule 10 of the Judicial Discipline Rules.

### **17. Consideration by nominated judge**

- (1) The nominated judge must consider a complaint and –
  - (a) determine the facts of a matter;
  - (b) determine whether the facts amount to misconduct; and
  - (c) advise as to whether disciplinary action should be taken and, if so, what.
- (2) Any question as to whether a fact is established must be decided on the balance of probabilities.
- (3) For the purposes of considering a complaint, the nominated judge may –
  - (a) make such inquiries into the allegation as they consider appropriate;
  - (b) request any documents which appear to be relevant;
  - (c) interview any person they consider appropriate.

### **18. Dismissal, referral and recommendations by nominated judge**

- (1) The nominated judge may –
  - (a) advise the Chief Justice that a complaint should be dismissed;
  - (b) dismiss a complaint;
  - (c) deal with a complaint informally and direct that it may be considered as a pastoral or training matter;
  - (d) recommend that disciplinary action should be taken; or
  - (e) refer a complaint to an investigating judge in accordance with paragraph (4).
- (2) A nominated judge may only dismiss a complaint under paragraph (1)(b) or make a direction under paragraph (1)(c) where they consider that there has been no misconduct.
- (3) Where the nominated judge dismisses a complaint under paragraph (1)(b) or makes a direction under paragraph (1)(c), they must inform –

- (a) the complainant of the dismissal and the reasons for it and, if applicable, that a direction has been given that the complaint is to be considered as a pastoral or training matter; and
  - (b) the judicial office holder concerned.
- (4) The nominated judge may refer a complaint, or part of a complaint, to an investigating judge to investigate in accordance with Part 5 where they consider that a complaint is sufficiently serious or complex or that a detailed investigation is required to establish the facts of a complaint.
- (5) Where a complaint is referred to an investigating judge, the nominated judge must inform the judicial office holder concerned and the complainant accordingly.

**19. Report of nominated judge**

- (1) The nominated judge must prepare a report if they –
- (a) advise the Chief Justice under rule 18(1)(a) to dismiss a complaint;
  - (b) recommend that disciplinary action should be taken.
- (2) Where the nominated judge advises dismissal of a complaint the report must state –
- (a) what findings of fact the nominated judge has made; and
  - (b) why they consider that the complaint should be dismissed.
- (3) Where the nominated judge considers that the judicial office holder concerned should be removed or suspended from judicial office the report must state –
- (a) what findings of fact the nominated judge has made;
  - (b) what misconduct there has been; and
  - (c) why the nominated judge considers removal or suspension from judicial office to be an appropriate sanction.
- (4) Where the nominated judge considers that some other disciplinary action should be taken in relation to the complaint the report must state –
- (a) what findings of fact the nominated judge has made;
  - (b) what misconduct there has been;
  - (c) what disciplinary action the nominated judge considers should be taken and why; and
  - (d) why the nominated judge considers that further investigation is not necessary.

**20. Reporting procedure and referral to a disciplinary panel**

- (1) The nominated judge must send their report to the Bureau.

- (2) The Bureau must send the report to the judicial office holder concerned.
- (3) When sending the report to the judicial office holder concerned and where the report recommends removal or suspension from judicial office, the Bureau must ask the judicial office holder concerned if they want a disciplinary panel to consider the complaint.
- (4) The judicial office holder concerned may –
  - (a) provide comments on the report to the Bureau;
  - (b) make representations to the Bureau regarding the need for further investigation into the complaint;
  - (c) where the report recommends removal or suspension from judicial office, state whether they want a disciplinary panel to consider the complaint.
- (5) The judicial office holder concerned must respond under paragraph (4) within 14 business days of the day that the report is sent to them.
- (6) If the judicial office holder concerned confirms in accordance with paragraph (4)(c) that they want a disciplinary panel to consider the complaint, the Bureau must –
  - (a) refer the complaint to a disciplinary panel to consider in accordance with Part 6 of these Rules; and
  - (b) send the report and any comments received under paragraph (4) to the disciplinary panel.
- (7) In all other cases where a report has been prepared under rule 19(1), the Bureau must send the report and comments to the Chief Justice.

## **PART 5 – JUDICIAL INVESTIGATION**

### **21. Scope**

This Part applies where a referral is made to an investigating judge by –

- (a) a nominated judge under rule 18(4); or
- (b) the Chief Justice under rule 10 of the Judicial Discipline Rules.

**22. Nomination of investigating judge**

The investigating judge must be nominated in accordance with rule 7 of the Judicial Discipline Rules.

**23. Investigation by an investigating judge**

- (1) The investigating judge must consider a complaint and –
  - (a) determine the facts of a case;
  - (b) determine whether the facts amount to misconduct; and
  - (c) advise as to whether disciplinary action should be taken and, if so, what.
- (2) Any question as to whether a fact is established must be decided on the balance of probabilities.
- (3) The investigating judge must –
  - (a) decide how to conduct the investigation;
  - (b) notify the judicial office holder concerned and any complainant of the proposals for the conduct of the investigation, and whether oral evidence will be taken;
  - (c) invite the judicial office holder concerned to give evidence and make representations about the procedure adopted; and
  - (d) record any representations on the proposals that are received.
- (4) The investigating judge may invite the complainant or any person who may be able to assist the investigation to give evidence about the case.
- (5) Any evidence or representations from the complainant, the judicial office holder concerned or any other person must be provided to the investigating judge within 10 business days of an invitation under paragraphs (3)(c) or (4).
- (6) The investigating judge may take oral evidence if it is considered necessary to do so.
- (7) The investigating judge must disclose any evidence obtained under paragraph (4) to the judicial office holder concerned and must invite them to make representations on the evidence.
- (8) The judicial office holder concerned must make any representations under paragraph (7) within 10 business days of the invitation under that paragraph.

**24. Report of investigating judge**

- (1) The investigating judge may decide the form of their report.
- (2) The investigating judge must disclose a draft of their report to the judicial office holder concerned and invite the judicial office holder concerned to comment on it. The comments may include proposals for changes to the report.
- (3) The investigating judge may show a draft of their report to any other person, and invite them to comment on it. The comments may include proposals for changes to the report.
- (4) Disclosure of the draft report under paragraph (3) –
  - (a) may be of the whole or part; and
  - (b) may be in the form of a summary.
- (5) Any comments must be provided to the investigating judge within ten business days of disclosure of the draft report under paragraphs (2) and (3).
- (6) After considering any comments received in accordance with paragraphs (2) and (3) the investigating judge must –
  - (a) complete their report and submit it to the Chief Justice with details of any requested changes which the investigating judge has not made; and
  - (b) send a copy of their report to the judicial office holder concerned.

**PART 6 – DISCIPLINARY PANEL**

**25. Scope**

This Part applies where –

- (a) the judicial office holder concerned has confirmed under rule 20(4)(c) that they want a disciplinary panel to consider the complaint;
- (b) the Chief Justice has referred a complaint to a disciplinary panel under rule 10 or 11 of the Judicial Discipline Rules; or
- (c) a referral is made under rule 31(3)(b)(iv).

**26. Disciplinary panel**

The disciplinary panel must be convened in accordance with rule 8 of the Judicial Discipline Rules.

**27. Functions of a disciplinary panel**

- (1) A disciplinary panel may consider and review –
  - (a) any findings of fact;
  - (b) any recommendation as to the conduct of the judicial office holder concerned; and
  - (c) any proposed disciplinary action.
- (2) Where a disciplinary panel reviews any findings of fact under paragraph (1)(a), any question as to whether the fact is established must be decided on the balance of probabilities.
- (3) Where a nominated judge has recommended that the judicial office holder concerned should be removed or suspended from their judicial office, the disciplinary panel must advise the Chief Justice whether removal or suspension is justified.
- (4) Where a disciplinary panel is considering whether the judicial office holder concerned should be suspended from judicial office, the disciplinary panel must consider the question in relation to each judicial office held by the judicial office holder concerned.

**28. Procedure of disciplinary panel**

- (1) The disciplinary panel may –
  - (a) make such inquiries as it considers are appropriate to fulfil its functions;
  - (b) request any documents which appear to be relevant.
- (2) A disciplinary panel must take oral evidence from the judicial office holder concerned unless it considers it unnecessary to do so.
- (3) A disciplinary panel may take evidence, including oral evidence, from any other person.

**29. Report and recommendation**

The disciplinary panel must prepare a report that sets out –

- (a) the facts of the case;
- (b) whether in its opinion there has been any misconduct; and
- (c) whether disciplinary action should be taken and, if so, what.

**30. Report procedure**

- (1) The disciplinary panel must send its draft report to the judicial office holder concerned.
- (2) The disciplinary panel may disclose its draft report to the complainant or any other person who may be affected by its contents.
- (3) Disclosure of the report under paragraph (2) –
  - (a) may be of the whole or part;
  - (b) may be in the form of a summary.
- (4) The disciplinary panel must invite each person to whom it discloses its report to comment on it.
- (5) Any comments on the report must be made within 10 business days of the day on which the report was sent by the disciplinary panel.
- (6) In finalising its report the disciplinary panel –
  - (a) must have regard to any comments received under paragraph (4); and
  - (b) must include those comments with its report.
- (7) The disciplinary panel must send its report to the Chief Justice.

**PART 7 – MISCELLANEOUS**

**31. Re-opening a case that has been dismissed**

- (1) Exceptionally, a nominated judge may re-open a complaint that has been dismissed where they receive new information concerning a complaint.

- (2) For these purposes, new information means information which –
  - (a) relates to judicial misconduct;
  - (b) is cogent and credible;
  - (c) has not already been considered under these Rules; and
  - (d) is sufficiently serious to justify re-opening a complaint.
- (3) If a nominated judge decides to re-open a complaint, they may –
  - (a) consider the complaint in accordance with Part 4; or
  - (b) refer the complaint to:
    - (i) another nominated judge to consider under Part 4;
    - (ii) the Bureau to consider in accordance with Part 2;
    - (iii) an investigating judge to consider in accordance with Part 5; or
    - (iv) a disciplinary panel to consider in accordance with Part 6.

**32. Procedure to be followed when re-opening a case**

- (1) A nominated judge may re-open a case of their own volition.
- (2) The Bureau may refer new information to a nominated judge for the purposes of paragraph (1).
- (3) A complainant may provide new information to the Bureau.
- (4) The Bureau may only refer new information received from a complainant to a nominated judge if the Bureau is satisfied that it is new information within the meaning of rule 31(2).

**33. Consideration of matters in absence of a complaint**

- (1) Where a nominated judge received information from any source which suggests to them that taking disciplinary action might be justified they may refer the case to the Bureau.
- (2) The Bureau must investigate the case in accordance with Part 2 of these Rules as though it were a complaint of misconduct, with the exception that any obligation to be discharged in relation to a complainant does not apply.

**34. Withdrawal of a complaint**

- (1) A complainant may withdraw their complaint at any time.
- (2) Where a complaint is withdrawn, it may still be investigated if paragraph (3) applies.

- (3) A withdrawn complaint may continue to be investigated where it is being considered by –
- (a) the Bureau under Part 2 of these Rules;
  - (b) a nominated judge under Part 4 of these Rules;
  - (c) an investigating judge under Part 5 of these Rules;
  - (d) a disciplinary panel under Part 6 of these Rules,
- if the Bureau, the nominated judge, the investigating judge or the disciplinary judge (as the case may be) considers it appropriate to continue to investigate the complaint.
- (4) Where paragraph (3) applies, the case is to continue to be considered under these Rules as if the complaint had not been withdrawn and the complainant must be informed of this decision by the Bureau, the nominated judge, the investigating judge or the disciplinary panel as the case may be.

**35. Deferral of consideration of a case**

- (1) The Bureau may defer consideration of a case where there is good reason to do so.
- (2) Where the Bureau defers a complaint under paragraph (1), it must inform the complainant and, if they are aware of the complaint, the judicial office holder concerned.

**36. Transitional provision**

These Rules apply to any complaint made before these Rules come into force which has not been withdrawn, dismissed or determined.

**PART 8 – INTERPRETATION, CITATION, COMMENCEMENT AND EXTENT**

**37. Interpretation**

In these Rules, unless the context otherwise provides or requires –

- (a) “business day” means any day other than a Friday, Saturday or a public holiday;
- (b) “case” means a complaint or issue of misconduct being considered under the Judicial Discipline Rules;
- (c) “complaint” means a complaint containing an allegation of misconduct by a person holding judicial office;
- (d) “disciplinary action” means the exercise by –
  - (i) the Board of the Board’s power to remove a person from judicial office under section 217(1) of the Regulations;
  - (ii) the Chief Justice of any of the Chief Justice’s powers under section 217(3) and (4) of the Regulations;
- (e) “disciplinary panel” has the meaning given by rule 8 of the Judicial Discipline Rules;
- (f) “investigating judge” has the meaning in rule 7 of the Judicial Discipline Rules;
- (g) “judicial office” and “judicial office holder” have the meaning given under section 218(3) of the Regulations;
- (h) “judicial office holder concerned” means the holder of a judicial office whose conduct is being considered in accordance with the Judicial Discipline Rules;
- (i) “nominated judge” has the meaning given in rule 6 of the Judicial Discipline Rules;
- (j) “public holiday” means New Year’s day, Al-Mawlid Al Nabawi, Israa & Miaraj Night, Start of Ramadan, Eid Al Fitr, Arafat (Haj) Day, Eid Al Adha, Hijri New Year’s Day and UAE National Day;
- (k) “the Judicial Discipline Rules” means the Judicial Discipline Prescribed Procedures Rules 2015.
- (l) “the Regulations” means the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015.

**38. Short title, extent and commencement**

- (1) These Rules may be cited as the Judicial Conduct (Judicial Office Holders) Rules 2015.
- (2) These Rules shall apply in the whole of the Abu Dhabi Global Market.

- (3) These Rules shall come into force on the date of their publication (the “Commencement Date”). The Chief Justice may by rules make any transitional, transitory, consequential, saving, incidental or supplementary provision in relation to the commencement of these Rules as he thinks fit.
- (4) Nothing in these Rules shall have retrospective effect.
- (5) On and from the Commencement Date, any law or rules previously in force in the Abu Dhabi Global Market which are inconsistent with, or deal with the same subject matter as, these Rules shall, subject to the ADGM Founding Law, the Regulations and the Judicial Discipline Rules, cease to have any effect or force in the Abu Dhabi Global Market.