

JUDICIAL DISCIPLINE PRESCRIBED PROCEDURES RULES 2015

Table of Contents

Rule	Page
PART 1 – INTRODUCTION.....	3
1. Application.....	3
2. The Abu Dhabi Global Market Judicial Conduct Investigations Bureau	3
3. Measurement of time for doing an act	4
PART 2 – COMPLAINTS AND INVESTIGATIONS OF CASES.....	5
4. Complaint of misconduct.....	5
5. Investigation process.....	5
6. Nominated judge	5
7. Investigating judge.....	5
8. Disciplinary panel	6
PART 3 – DECISIONS.....	7
9. Consideration of advice	7
10. Further investigation	7
11. Removal when other disciplinary power is recommended.....	7
12. Decision	8
13. Notification of final decision	8
PART 4 – MISCELLANEOUS.....	9
14. Suspension	9
15. Publication of decision.....	9
16. Delegation	9
17. Ceasing to hold office	10
18. Transitional provision	10
PART 5 – INTERPRETATION, CITATION, COMMENCEMENT AND EXTENT	11
19. Interpretation.....	11

20.	Short title, extent and commencement.....	11
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JUDICIAL DISCIPLINE PRESCRIBED PROCEDURES RULES 2015

Date of Enactment: [●] 2015

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

PART 1 – INTRODUCTION

1. Application

These Rules apply to a judicial office.

2. The Abu Dhabi Global Market Judicial Conduct Investigations Bureau

- (1) The Board must, with the agreement of the Chief Justice, designate officials for the purpose of performing functions under these Rules.
- (2) Officials designated by the Board under paragraph (1) are known collectively as the Abu Dhabi Global Market Judicial Conduct Investigations Bureau (the “Bureau”).
- (3) The Bureau may undertake such enquiries as are necessary for it to perform its functions under these Rules or under any rules made under these Rules.
- (4) The Bureau may provide advice to any person regarding the application and interpretation of these Rules and any rules made under these Rules.
- (5) For the purpose of paragraph (4), advice may include advice regarding any proposed disciplinary action.
- (6) The Bureau may provide administrative assistance to a nominated judge, an investigating judge or a disciplinary panel in relation to the exercise of their functions under these Rules or rules made under these Rules.

3. 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 on 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 – COMPLAINTS AND INVESTIGATIONS OF CASES

4. Complaint of misconduct

A complaint about a judicial office holder must be made to the Bureau.

5. Investigation process

- (1) The Chief Justice may make rules about the process to be applied in respect of an allegation of misconduct, whether the allegation is made by way of complaint or otherwise.
- (2) The rules may include provision as to any of the following –
 - (a) the form of a complaint;
 - (b) the information to be contained in a complaint;
 - (c) time limits for taking any step and procedures for extending or shortening time limits;
 - (d) the circumstances in which a case may be dismissed;
 - (e) the circumstances in which an investigation may be undertaken (on the making of a complaint or otherwise);
 - (f) the conduct of an investigation, including steps to be taken by the judicial office holder concerned, by a complainant or any other person;
 - (g) the circumstances in which a case may be investigated by the Bureau, a nominated judge, an investigating judge, or a disciplinary panel;
 - (h) the circumstances in which a case may be dealt with under a summary procedure;
 - (i) the circumstances in which a case which has initially been dismissed may be reconsidered.

6. Nominated judge

- (1) A nominated judge means a judicial office holder who is nominated by the Chief Justice to deal with a case in accordance with rules made under rule 5.
- (2) The Chief Justice may nominate different judicial office holders to deal with different cases or to deal with different aspects of the same case.

7. Investigating judge

- (1) An investigating judge means a judicial office holder or a former judicial office holder who is nominated by the Chief Justice to investigate a case in accordance with the rules made under rule 5.

- (2) The Chief Justice may nominate different judicial office holders to investigate different cases or to investigate different aspects of the same case.

8. Disciplinary panel

- (1) A disciplinary panel is a panel consisting of –
 - (a) either a judicial office holder or former judicial office holder;
 - (b) a practising or employed lawyer; and
 - (c) one other member, who has never been –
 - (i) a judicial office holder; or
 - (ii) a practising or employed lawyer.
- (2) The Chief Justice must nominate the members of a disciplinary panel under subparagraphs (a) and (b) of paragraph (1).
- (3) The Board, with the agreement of the Chief Justice, must nominate the other member in paragraph (1)(c).
- (4) A person is ineligible for membership of a disciplinary panel if that person has had any previous involvement in the disciplinary process relating to the case that is being referred to the disciplinary panel.
- (5) The judicial office holder or former judicial office holder nominated under paragraph (1)(a) must chair the disciplinary panel.

PART 3 – DECISIONS

9. Consideration of advice

Before making a decision under rule 12 in relation to a case, the Chief Justice must consider any advice provided by a person who or a body that has conducted an investigation into a case in accordance with rules made under rule 5.

10. Further investigation

- (1) This rule applies where the Chief Justice has considered advice in accordance with rule 9 and he requires further investigation before making a decision under rule 12.
- (2) If the Chief Justice agrees, he may refer a case to a person or body listed in paragraph (3) to further investigate.
- (3) The persons and bodies are –
 - (a) a nominated judge;
 - (b) an investigating judge; or
 - (c) a disciplinary panel.
- (4) Any further investigation must be carried out in accordance with rules made under rule 5.

11. Removal when other disciplinary power is recommended

- (1) This rule applies where –
 - (a) advice has been provided to the Chief Justice by a person who or a body that has conducted an investigation into a case in accordance with rules made under rule 5; and
 - (b) that advice does not recommend the removal or suspension of a judicial office holder from office but the Chief Justice considers removal or suspension to be the appropriate disciplinary action.
- (2) The Chief Justice must constitute a disciplinary panel and refer the complaint to it.
- (3) The disciplinary panel must –
 - (a) investigate the case in accordance with rules made under rule 5; and
 - (b) advise the Chief Justice whether disciplinary action should be taken, and if so, what disciplinary action should be taken.
- (4) The Chief Justice must consider the advice provided by the disciplinary panel before making a decision in accordance with rule 12.

12. Decision

- (1) This rule applies where the Chief Justice has considered advice in accordance with rule 9 and –
 - (a) decides either not to exercise, or exercise further, his powers in rule 10; and
 - (b) rule 11 does not apply.
- (2) The Chief Justice may agree –
 - (a) to dismiss a case; or
 - (b) to take a particular disciplinary action.
- (3) Where a case is dismissed, the Chief Justice –
 - (a) may agree that the alleged conduct took place but did not constitute misconduct; and
 - (b) may deal with the matter informally.

13. Notification of final decision

- (1) The Bureau must inform the persons listed in paragraph (2) of the decision made by the Chief Justice under rule 12.
- (2) The persons referred to in paragraph (1) are –
 - (a) the judicial office holder concerned; and
 - (b) the complainant.

PART 4 – MISCELLANEOUS

14. Suspension

- (1) Where a person or body conducting an investigation into a complaint or otherwise considers that the matter should be referred to the Chief Justice with a view to the exercise of the power under section 217(4)(a) or (b) of the Regulations to suspend the judicial office holder, that person or body must send a report to that effect to the Chief Justice.
- (2) If the Chief Justice decides to suspend a judicial office holder from their office under section 217(4) of the Regulations, the Chief Justice must –
 - (a) notify the judicial office holder of the suspension, the reasons for it and if the suspension is not immediate, the time when it comes into effect;
 - (b) notify the judicial office holder of the factors that will be taken into account in determining when the suspension will end; and
 - (c) invite the judicial office holder to make representations.
- (3) The judicial office holder must make any representations within 10 business days of the notification under paragraph (1).
- (4) Where, after a suspension comes into effect, any of the factors which the Chief Justice has indicated would be taken into account in accordance with paragraph (2)(b) become operative, or any other matter which the Chief Justice considers relevant arises, the Chief Justice must –
 - (a) decide whether continuation of the suspension is appropriate;
 - (b) notify the judicial office holder of his decision under sub-paragraph (a) and of the reasons for that decision; and
 - (c) invite the judicial office holder to make representations.
- (5) The judicial office holder must make any representations within 10 business days of a notification under paragraph (3).

15. Publication of decision

- (1) The Chief Justice may agree to the publication of information about disciplinary proceedings or the taking of disciplinary action.
- (2) Publication for this purpose means any form of communication which is addressed to an individual, a section of the public or the public at large.

16. Delegation

The Chief Justice may delegate any function under these Rules other than under rule 5(1).

17. Ceasing to hold office

- (1) Subject to paragraph (2), where the judicial office holder concerned ceases to hold their office, consideration of the complaint under these Rules or rules made under rule 5 must cease.
- (2) The Chief Justice may continue to deal with the case and then make a finding of misconduct in relation to the judicial office holder concerned where the circumstances in paragraph (3) apply.
- (3) The circumstances are –
 - (a) the judicial office holder concerned ceases to hold their office;
 - (b) a disciplinary panel or an investigating judge proposes to advise, or has advised, the Chief Justice that the judicial office holder concerned should be removed from holding their office; and
 - (c) no decision has been made under rule 12.

18. Transitional provision

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

PART 5 – INTERPRETATION, CITATION, COMMENCEMENT AND EXTENT

19. 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 these Rules;
- (c) “complaint” means a complaint containing an allegation of misconduct by a person holding judicial office;
- (d) “disciplinary action” means the exercise by 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;
- (f) “investigating judge” has the meaning in rule 7;
- (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 these Rules;
- (i) “nominated judge” has the meaning given in rule 6;
- (j) “public holiday” means New Year’s day, Al-Mawlid Al Nabawi, Israa & Miaraaj Night, Start of Ramadan, Eid Al Fitr, Arafat (Haj) Day, Eid Al Adha, Hijri New Year’s Day and UAE National Day;
- (k) “the Regulations” means the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015.

20. Short title, extent and commencement

- (1) These Rules may be cited as the Judicial Discipline Prescribed Procedures 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 the Chief Justice thinks fit.
- (4) Nothing in these Rules shall have retrospective effect.
- (5) On and from the Commencement Date, any law previously in force in the Abu Dhabi Global Market which is inconsistent with, or deals with the same subject matter as these

Rules, shall, subject to the ADGM Founding Law or the Regulations, cease to have any effect or force in the Abu Dhabi Global Market.