



ADGM COURTS
PRACTICE DIRECTION 15
REAL PROPERTY CLAIMS

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PRACTICE DIRECTION 15

REAL PROPERTY CLAIMS

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This Practice Direction is to be read with, and subject to, the ADGM Court Procedure Rules 2016 (“CPR”) and the Divisions and Jurisdiction (Court of First Instance) Rules 2015. Except as provided otherwise in this Practice Direction, terms have the meanings set out in the CPR and a reference to a Rule is a reference to the CPR.

APPLICATION

This Practice Direction must be read in conjunction with the following Practice Directions:

- **Practice Direction 1 – General**
- **Practice Direction 6 – Service of Documents**
- **Practice Direction 7 – Applications**
- **Practice Direction 8 – Evidence**
- **Practice Direction 9 – Costs**
- **Practice Direction 10 – Enforcement**
- **Practice Direction 11 – Appeals**
- **Practice Direction 13 – Court-annexed Mediation**
- **Practice Direction 16 – Short-Term Residential Lease Claims**

To the extent to which the provisions of this Practice Direction differ from or are inconsistent with provisions of other Practice Directions, the provisions of this Practice Direction prevail in relation to real property claims.

Part 41 of the CPR contains special provisions for claims in the Real Property Division.

Unless the Court orders otherwise, the following provisions shall apply.

A. GENERAL PROVISIONS

15.1 A “real property claim” is a claim or dispute:

- (a) deriving from an interest in real property, including, without limitation: (i) an ownership, leasehold or security interest in real property (including a mortgage); (ii) an easement, caveat, covenant or other real property-related right, obligation or restriction; (iii) the appointment of a receiver (other than under the Insolvency Regulations 2022) over real property; (iv) the possession

or sale of real property; or (v) a construction related claim or dispute that involves or affects an interest in real property¹; or

- (b) brought pursuant to or in connection with any of the following: (i) the Real Property Regulations 2024; (ii) the Off-Plan Development Regulations 2024; (iii) Chapter 7 of Part 6 of the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015; (iv) the Strata Title Regulations 2015; or (iv) the Registration of Future Interest Regulations 2024.

15.2 A “short-term residential lease” means a lease of real property for use as a residential dwelling with a term of less than 4 years.

15.3 A “short-term residential lease claim” is a claim or dispute arising under or in relation to a short-term residential lease.

15.4 The practice directions for short-term residential lease claims are set out in Practice Direction 16.

15.5 This Practice Direction applies to all real property claims, except short-term residential lease claims.

B. MAKING A CLAIM [r.336]

15.6 A claim form which commences proceedings in the Real Property Division shall be made in accordance with **Form CFI 1A**.

Requirements

15.7 The claim form must:

- (a) identify the real property at issue and attach copies of all documents necessary to identify the real property and which record the claimant’s interest in it;²
- (b) state what final orders the claimant seeks;
- (c) include particulars of the claimant’s case in numbered paragraphs, which shall include:
 - (i) particulars of the factual matters relevant to the claim;
 - (ii) any relevant calculations for the amount or amounts claimed;
 - (iii) particulars of any sum sought by way of interest from a date earlier than the date of judgment including: (i) the interest rate claimed; (ii) the date from which interest is claimed; and (iii) any relevant calculations; and

¹ An example of a construction related dispute that involves or affects an interest in real property is where there is a delay in the handover of a real property under a sale and purchase agreement caused in whole or in part by construction delays.

² For example, and as applicable, title documents, lease agreement, registered instruments, sale and purchase agreement and mortgage documentation.

- (iv) the propositions of law which entitle the claimant to the final orders sought;
- (d) include the name and address for service of the defendant together with the defendant's email address and mobile phone number (if known);³
- (e) state whether the claimant is self-represented or is represented by an authorised officer or lawyer, and state as applicable the contact name, address, telephone number and email address of the claimant's representative;
- (f) attach a copy of any document (other than any ADGM enactment) referred to in the claim form or relied on to prove any allegation contained in the claim form; and
- (g) 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.

Additional requirements for claims for specific real property orders

15.8 Section Q of this Practice Direction ("Real Property Orders") includes further requirements that must be included in a claim form where the claimant seeks specific orders from the Court.

Service of the claim form

15.9 Rule 337 provides that the Registry will serve the claim form on the defendant, 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 in accordance with Rule 15(7); or
- (b) any Rule, practice direction, ADGM enactment or a Court order provides otherwise.

15.10 Part 4 of the CPR prescribes how a claim form may be served.

15.11 Where the claim form has not been served on a defendant by the Registry in accordance with paragraph 15.9, the claimant must file a certificate of service in accordance with Rule 21.

C. RESPONDING TO A REAL PROPERTY CLAIM [r.338]

15.12 A defendant is not required to file an acknowledgement of service in relation to a real property claim.

³ Where the defendant is a company, partnership or other entity, the claimant must include the defendant's registered office or any place of business of the defendant which has a real connection with the claim together with an email address and mobile phone number (if known) of a person who meets the description set out in paragraph 6.14 of Practice Direction 6.

15.13 Rule 338(1) provides that within 21 days after a defendant is served with a claim form, a defendant must file and serve either:

- (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 decide the claim.

Admission and request for time to pay [r.42, r.43 and r.338(1)]

15.14 The defendant may file and serve an admission, together with any request for time to pay, in accordance with **Form CFI 34** which must include:

- (a) whether the admission is for the whole or part of the claim;
- (b) details of the timing, amounts and frequency of payments proposed (with any payment plan not to exceed 3 years from the date the first payment is to be made);
- (c) reasons for the request for time to pay, and the reasonableness of the request; and
- (d) information about the employment (if applicable) and financial circumstances of the defendant.

Response to admission and request for time to pay [r.43]

15.15 A claimant must respond to a defendant's admission and request for time to pay in accordance with **Form CFI 45** within 14 days after the admission and request for time to pay is served on him.

Disputing jurisdiction [r.338(1)]

15.16 An application to dispute the Court's jurisdiction to decide the claim must be made by filing an application notice in accordance with **Form CFI 12**, supported by witness statement evidence in accordance with **Form CFI 15**.

15.17 If a defendant makes an application to dispute the Court's jurisdiction, he need not file a defence before the hearing of the application.

D. FILING A DEFENCE AND MAKING A COUNTERCLAIM [r.49, r.50 and r.338]

15.18 A defence must set out the defendant's answer to:

- (a) the particulars of the claim; and

- (b) the propositions of law advanced in the claim.

15.19 A defence shall be made in accordance with **Form CFI 8**.

15.20 A defendant who wishes to make a counterclaim must:

- (a) state what final orders the counterclaimant seeks by counterclaim;
- (b) include particulars of the counterclaim in numbered paragraphs within the form, which shall include:
 - (i) particulars of the factual matters relevant to the counterclaim;
 - (ii) any relevant calculations for the amount or amounts claimed;
 - (iii) particulars of any sum sought by way of interest from a date earlier than the date of judgment, including: (i) the interest rate claimed, (ii) the date from which interest is claimed, and (iii) any relevant calculations; and
 - (iv) the propositions of law which entitle the counterclaimant to the final orders sought;
- (c) if a counterdefendant is not a party to the claim⁴, include the name and address for service of the counterdefendant together with the counterdefendant's email address and mobile phone number (if known);⁵
- (d) state whether the counterclaimant is self-represented or is represented by an authorised officer or lawyer, and state as applicable the contact name, address, telephone number and email address of the counterclaimant's representative;
- (e) identify the real property at issue and attach copies of all documents necessary to identify the real property and which record the counterclaimant's interest in it (to the extent not already filed on the eCourts Platform); and
- (f) include any of the matters set out in paragraphs 15.7(g) and 15.8 if they are relevant to the counterclaim being made.

15.21 A counterclaim shall be made in accordance with **Form CFI 9A**.

15.22 A copy of any document (other than any ADGM enactment) referred to in a defence or counterclaim or relied on to prove any allegation contained in a defence or counterclaim must be attached to the defence or the counterclaim (as the case may be), unless that document has previously been filed on the eCourts Platform.

⁴ Where a counterclaimant wishes to join a new party to the proceedings as a counterdefendant, the counterclaimant must first make an application that that person be added as an additional party in accordance with Rule 50(3).

⁵ Above n3.

E. REPLY TO A DEFENCE [r.339]

15.23 The claimant may file a reply to a defence within 14 days after service of the defence setting out the claimant's reply to:

- (a) the particulars of the defence; and
- (b) the propositions of law advanced in the defence.

15.24 A copy of any document (other than any ADGM enactment) referred to in the reply, or relied on to prove any allegation contained in the reply, must be attached to the reply, unless that document has previously been filed on the eCourts Platform.

15.25 A reply shall be made in accordance with **Form CFI 10**.

F. DEFENCE TO ANY COUNTERCLAIM AND SUBSEQUENT REPLY [r.49, r.338 and r.339]

15.26 A party who wishes to defend all or part of any counterclaim must file a defence to counterclaim within 21 days after service of the counterclaim and must set out that party's answer to the:

- (a) particulars of the counterclaim; and
- (b) the propositions of law advanced in the defence to counterclaim.

15.27 A defence to counterclaim shall be made in accordance with **Form CFI 8**.

15.28 A party who seeks to reply to a defence to counterclaim must file and serve a reply within 14 days after service of the defence to counterclaim and must set out the party's reply to:

- (a) the particulars of the defence to counterclaim; and
- (b) the propositions of law advanced in the reply to a defence to counterclaim.

15.29 A reply to a defence to counterclaim shall be made in accordance with **Form CFI 10**.

15.30 A copy of any document (other than any ADGM enactment) referred to in a defence to counterclaim or reply to defence to counterclaim, or relied on to prove any allegation contained in a defence or reply, must be attached to the defence or reply (as the case may be), unless that document has been previously filed on the eCourts Platform.

G. EXTENSION OF TIME TO RESPOND TO A CLAIM OR FILE A PLEADING [r.338]

15.31 Rule 338(3)(b) provides that a defendant may request that the Court extend the time period for responding to a claim (including a counterclaim) by up to 7 days. Any request must be made by email to registry@adgmcourts.com and must:

- (a) identify the proceedings to which the request relates;
- (b) state the reason or reasons for the request;

- (c) specify how much additional time (up to a maximum of 7 days from the date the response is due) the defendant needs to respond to the claim; and
- (d) be made before the deadline for filing the response (otherwise paragraph 15.32 shall apply).

15.32 In all other cases, an application for an extension of time to file:

- (a) a defence, reply to defence, counterclaim, defence to counterclaim or reply to defence to counterclaim (each referred to for the purpose of this section as a “pleading”); or
- (b) a response to a claim (other than a defence as to which see sub-paragraph (a) above),

must be made by application notice in accordance with **Form CFI 12**, supported by witness statement evidence in accordance with **Form CFI 15**.

15.33 An application made pursuant to paragraph 15.32 must:

- (a) be made at least 2 clear days before the deadline for the filing of the pleading or response unless it is not practicable to do so;
- (b) attach or set out an outline of the pleading or response proposed to be filed (or a draft of the pleading or response if the application is made after the due date unless it is not possible to do so);
- (c) provide an explanation for why the pleading or response is/was not able to be filed within the relevant time period;
- (d) state the time by which the applicant proposes to file the pleading or response; and
- (e) attach the applicant’s written request to the other parties to the proceedings seeking their consent to an extension of time to file the pleading or response and any response(s) received to that request.

H. APPLICATION FOR DEFAULT JUDGMENT [r.340]

15.34 An application for default judgment shall be made in accordance with **Form CFI 12** supported by witness statement evidence in accordance with **Form CFI 15**, and must include:

- (a) the order or orders that the claimant seeks from the Court; and
- (b) evidence addressing the default relied on and confirming that the default has not been remedied.

15.35 An application for default judgment may be made without notice if a defendant has failed to file a defence. Any evidence relied on by a claimant in support of his application need not be served on a party who has failed to file a defence.

- 15.36 Subject to Rule 40A, a default judgment may include interest at the rate agreed between the parties or, if there is no agreed rate, at the rate of 5 per cent per annum from the date the money was due.
- 15.37 A default judgment will be made available to the claimant through the eCourts Platform and will be served by the Registry on all other parties to the proceedings who are to be served within the United Arab Emirates.

I. APPLICATION FOR SUMMARY JUDGMENT [rr.68-70 and r.341]

- 15.38 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.
- 15.39 Summary judgment is only available once the defendant has filed a defence, unless the Court otherwise gives permission.
- 15.40 An application for summary judgment shall be made by filing an application notice in accordance with **Form CFI 12**, supported by witness statement evidence in accordance with **Form CFI 15**.

J. CASE MANAGEMENT [r.8, r.78, r.79, r.306 and r.342]

- 15.41 The Court may make any order, give any direction or take any step it considers appropriate for the purpose of managing the proceedings. These powers shall be exercised with the aim of expeditiously resolving a real property claim within 6 months of the claim form being issued.

Case management conference [r.8 and r.79]

- 15.42 Within 7 days after the close of pleadings (which in the normal course will be after the filing of a reply or the deadline for doing so having elapsed), the parties shall each file a completed copy of the directions questionnaire set out in Appendix A. If all parties agree to try and settle the claim by court-annexed mediation, a mediation shall take place within 21 days of the date that the last directions questionnaire was filed.
- 15.43 Subject to any referral of the case to court-annexed mediation under paragraph 15.42, the Court will convene a case management conference within 14 days of the close of pleadings. Case management conferences will ordinarily be conducted by videoconference as arranged by the Court.
- 15.44 At the case management conference, the parties or their legal representatives (if a party is legally represented) should be in a position to inform the Court of the following:

- (a) whether the case should be referred to court-annexed mediation as the next step in the proceedings (if a mediation has not already been conducted);
- (b) the issues of fact and law likely to arise in the proceedings;
- (c) the number of witnesses that each party will seek to rely on and the time for provision of witness statements;
- (d) whether the parties wish to seek permission to adduce expert evidence, and, if so, the issues that the expert evidence is to address and the grounds on which such evidence would assist the Court;
- (e) the directions which each party seeks in relation to the pre-hearing steps and any other relevant matters, including any agreement reached between the parties in regard to those directions; and
- (f) any other matter which the parties may wish to bring to the Court's attention to achieve the efficient management of the case to hearing.

15.45 At the case management conference, the Court may:

- (a) decide a timetable for the pre-hearing steps necessary to be taken; and
- (b) fix a hearing date or a provisional hearing date.

15.46 The Court may decide to hold more than one case management conference with the parties depending on the circumstances of the case.

Court-ordered mediation [r.78 and r.306]

15.47 The Court may if it considers it appropriate, refer the parties to mediation at any stage of the proceedings whether on the request of a party or parties, or on its own initiative.

15.48 The Court's power to refer a dispute to mediation does not depend on the consent of the parties.

15.49 Where the Court has ordered mediation, the mediation shall be conducted in accordance with Parts D to N of Practice Direction 13.

Timetables [r.8]

15.50 The parties must comply with the Court's procedural timetable.

15.51 If a party seeks an adjustment to the procedural timetable, they must:

- (a) first seek the written consent of the other party or parties to the case; and
- (b) in any correspondence with the Court, provide evidence that they have sought the written consent of the other party or parties to the case together with any response(s) received.

15.52 If the parties agree that the timetable should be adjusted, the party who first sought the adjustment must file a consent order to the adjusted timetable in accordance

with **Form CFI 22**. The consent order must also be sent to the Registry by email in Word format.

15.53 If the parties cannot agree to make an adjustment to the timetable which is sought by a party and:

(a) the due time has not passed for the carrying out of the step in respect of which the adjustment is sought and the adjustment sought will not affect or have a consequential impact on the dates fixed for a hearing or a trial:

(i) the party seeking the adjustment must file and serve, at least 4 days before the due time for carrying out the step in respect of which an adjustment is sought, a statement in accordance with **Form CFI 36** setting out its justification for the adjustment it seeks; and

(ii) the other party or parties must file and serve any response in accordance with **Form CFI 36** within 2 days of receipt of such statement. (The Court will ordinarily resolve that dispute on the papers);

or

(b) the due time has passed for carrying out the step in respect of which an adjustment is sought or the adjustment sought will affect or have a consequential impact on the dates fixed for a hearing or a trial, the party seeking the adjustment must make an application for an extension of time in accordance with **Form CFI 12**, supported by witness statement evidence in accordance with **Form CFI 15**.

K. **DISCLOSURE [rr.85-91 and r.345]**

15.54 If a party wishes to make standard disclosure of any additional documents that it will seek to rely on at trial that have not previously been filed on the eCourts Platform, such disclosure must be made within 10 days of the close of pleadings or before the case management conference referred to in paragraph 15.43, whichever is earlier.

15.55 Where a party has good reason to believe that documents held by another party would be likely to support their case or adversely affect that other party's case, they may seek an order from the Court for the specific disclosure of such documents, and the Court may make an order for specific disclosure of those documents if it is satisfied that disclosure is necessary in order to dispose fairly of the claim or to save costs.

15.56 An application for specific disclosure must be made by application notice in accordance with **Form CFI 12**, supported by witness statement evidence in accordance with **Form CFI 15**.

15.57 Any application made to the Court for disclosure by a person who is not a party to the proceedings must be made in accordance with paragraphs 2.101-2.106 of Practice Direction 2.

L. WITNESS STATEMENTS [r.97]

15.58 The Court will make any order as to the filing of witness statements that it considers appropriate. All witness statements ordered by the Court must be prepared and filed in accordance with **Form CFI 15**. Any supporting document referred to in a witness statement must be given an exhibit number and attached to the witness statement unless that document has previously been filed on the eCourts Platform (in which case an appropriate cross-reference should be made to that document in the witness statement).⁶

M. EXPERTS [r.142(2) and r.346]

15.59 No party may call an expert to give evidence or file an expert's report without the permission of the Court.

15.60 Any request by a party to use expert evidence in the case must be included in that party's directions questionnaire to be filed in advance of the case management conference in accordance with paragraph 15.42 above.

N. HEARING [r.8, r.175 and r.343]

Power to dispense with an oral hearing [r.343]

15.61 The Court may decide the claim on the papers without an oral hearing where:

- (a) the parties agree as to the terms of any order or direction to be made or given by the Court;
- (b) the parties agree that the Court should dispose of the claim without a hearing; or
- (c) the Court considers that the claim can be fairly determined on the papers without an oral hearing and, in all the circumstances, it would be appropriate to do so.

Allocation of hearing date [r.8]

15.62 A real property claim will be given a hearing date as soon as reasonably possible.

15.63 The Court will inform the parties of the amount of time allowed for the hearing.

Conduct of the hearing [r.8 and r.175]

15.64 The Court may adopt any method of proceedings at a hearing that it considers to be fair.

⁶ The purpose of this provision is that all supporting documents referred to in a witness statement must be able to be readily located by the Judge.

Bundles [r.8]

15.65 If the Court directs that a party file any bundle for any trial, hearing (including the hearing of an application) or case management conference, the bundle shall be prepared having regard to paragraphs 2.114 to 2.119 of Practice Direction 2 (as applicable).

O. INTEREST

15.66 Where interest is payable on a judgment debt and there is no agreed rate, it shall be at the rate of 5 per cent per annum from the date that judgment is given until payment.

15.67 Subject to any ADGM enactment, where interest is payable on all or any part of a debt or damages in relation to a period prior to, or as at, the date of judgment and there is no agreed rate, it shall be at the rate of 5 per cent per annum.

P. APPLICATIONS [Part 8 of CPR]

15.68 Subject to paragraph 15.69 below, an application made in the Real Property Division must be made by application notice in accordance with **Form CFI 12**, supported by witness statement evidence in accordance with **Form CFI 15**, save that a pre-claim application must be made in accordance with **Form CFI 12A**, supported by witness statement evidence in accordance with **Form CFI 15**.

15.69 Paragraph 15.68 is to be read subject to the following:

- (a) Rule 108(2) sets out the circumstances in which affidavit evidence is required. If a Rule, practice direction or ADGM enactment requires the written evidence to be in the form of an affidavit, it must be made in accordance with **Form CFI 14**; and
- (b) Practice Direction 7 contains special provisions for particular types of applications which are to apply in the Real Property Division.

Pre-claim applications [r.64(3 and 4)]

15.70 Ordinarily, applications should only be made once a claim has been filed. However, where an applicant requires urgent interim relief in relation to a real property claim, an applicant may make an application before filing a claim on the undertaking that a claim will be filed within a period of 2 days after the application is filed.

15.71 A pre-claim application notice must include or attach:

- (a) the order or orders that the applicant seeks from the Court;
- (b) the details of the real property at issue and attach copies of all documents necessary to identify the real property at issue and which record the applicant's interest in it;
- (c) the evidence that the applicant relies on in support of the application;

- (d) an undertaking by the applicant to file a claim within 2 days of the application notice being issued by the Court; and
- (e) a statement as to whether the applicant requests a hearing of the application and, if so, whether the hearing is to be conducted without notice to the respondent or on an expedited basis including any reasons supporting the request.

15.72 Where the application is to be made *upon* notice to the respondent, the application notice and witness statement evidence must be served by the applicant in accordance with Part 4 of the CPR on each respondent within 7 days of the application being filed, and thereafter the applicant must file a certificate of service in accordance with **Form CFI 31** within a further 7 days.

15.73 A respondent to an application notice must file a notice of appearance in accordance with **Form CFI 23** within 7 days of being served with the application notice, if the respondent wishes to raise any matter before the Court in response to the application or in relation to the order(s) sought by the applicant.

Post-claim applications [r.64]

15.74 A post-claim application notice must include or attach:

- (a) the order or orders that the applicant seeks from the Court;
- (b) the details of the real property at issue and attach (unless previously filed on the eCourts Platform) copies of all documents necessary to identify the real property and which record the claimant's interest in it;
- (c) the evidence that the applicant relies on in support of the application; and
- (d) a statement as to whether the applicant requests a hearing of the application and, if so, whether the hearing is to be conducted without notice to the respondent or on an expedited basis including any reasons supporting the request.

Applications made without notice [r.64 and r.65]

15.75 Applications made without notice are to be made in accordance with paragraphs 7.4 to 7.7 of Practice Direction 7 (in respect of pre-claim applications), and paragraphs 7.14 to 7.17 of Practice Direction 7 (in respect of post-claim applications).

Hearing an application [r.8, r.66 and r.175]

15.76 The Court may give such directions regarding the hearing of an application as it considers appropriate. The Court may also determine the application on the papers without a hearing having regard to similar factors as set out in paragraph 15.61 above.

Particular applications

15.77 An application:

- (a) for further information;

- (b) for security for costs;
- (c) to set aside a notice of discontinuance;
- (d) for a freezing injunction or to vary or discharge a freezing injunction;
- (e) for any other type of injunction;
- (f) for permission to make a counterclaim against a claimant pursuant to Rule 50(1); or
- (g) for permission to make a counterclaim against a person other than the claimant pursuant to Rule 50(3);

is to be dealt with in accordance with the applicable provisions in Practice Direction 7.

15.78 An application to set aside or vary a default judgment order must:

- (a) be made by filing an application notice in accordance with **Form CFI 12**, supported by witness statement evidence in accordance with **Form CFI 15**; and
- (b) address (as applicable) the matters set out in Rule 41.

15.79 An application made under an ADGM enactment where no prior claim has been commenced is to be made in accordance with **Form CFI 1A**. This includes any application made by the Registrar (as that term is defined in the Real Property Regulations 2024) where no prior claim has been commenced. This provision does not apply to any application made on an urgent basis where a party provides an undertaking that a claim will be filed within a period of 2 days after the application is filed (as to which see paragraph 15.68 above).

Q. REAL PROPERTY ORDERS

15.80 The Court may make any order it considers appropriate in a real property claim, including in relation to any order sought as set out in this section.

15.81 This section sets out certain specific orders that the Court may make in a real property claim.

15.82 For the purposes of this section, a party may apply to the Court for an order in its:

- (a) claim form in accordance with **Form CFI 1A**; or
- (b) application notice in accordance with **Form CFI 12** and **Form CFI 15** (if made after the claim has been commenced) or in accordance with **Form CFI 12A** and **Form CFI 15** (if made before a claim has been commenced).

Order for possession of real property [r.347(1)(a)]

15.83 These provisions apply to any claim or application seeking an order for possession of real property.

15.84 Where a party seeks an order for possession of real property, the claim form or application (as applicable) must:

- (a) set out the grounds on which possession is sought;
- (b) include the details of every person who to the best of the applicant's knowledge is in possession of the property;
- (c) attach (as applicable) at least 3 months statements of account reflecting any arrears under the mortgage, lease agreement, sale and purchase agreement or other relevant instrument relied upon for the relief sought, and attach a copy of the relevant instrument or agreement; and
- (d) provide details of any breach(es) of the agreement(s) or instrument(s) relied on for the relief sought.

15.85 Where the order is sought by application on an urgent basis, the applicant may request an expedited hearing, or for the hearing to be without notice to the respondent in circumstances where:

- (a) there is a threat of damage to the real property;
- (b) there is actual or threatened anti-social behaviour;
- (c) there is actual or threatened use of the real property for unlawful purposes; or
- (d) there are other urgent circumstances of the case.

15.86 The Court may make an order for possession at its discretion. Any order for possession shall include:

- (a) a date by which the respondent must vacate the property, which will be no less than 14 days from the date of the order;
- (b) permission for the applicant to apply for a writ of possession should the respondent fail to vacate the property by the specified date; and
- (c) any order as to costs.

15.87 The Court may also make an order for payment or specific performance of a lease, agreement or other instrument at its discretion.

Relief against forfeiture [r.347(2)]

15.88 These provisions apply to any claim or application seeking an order for relief against forfeiture of a lease (other than a short-term residential lease which is to be dealt with in accordance with Practice Direction 16).

15.89 Where a party seeks an order for relief against forfeiture of a lease, the claim form or application (as applicable) must include details of or attach:

- (a) the alleged breach or grounds relied upon by the person seeking to exercise forfeiture;

- (b) evidence of any remedial action taken or willingness to rectify any breach by the person seeking relief against forfeiture;
- (c) evidence of why the person seeking relief against forfeiture alleges that the forfeiture was wrongful or has any reasonable grounds to remain in the property; and
- (d) evidence of any negotiations or communications between the parties concerning the relief sought⁷.

15.90 Following the filing of a request for an order for relief against forfeiture of a lease, the Court may:

- (a) suspend forfeiture pending judicial determination;
- (b) grant other relief against forfeiture on terms that the Court considers appropriate; or
- (c) refuse to grant any relief.

15.91 The Court shall have power to grant relief against forfeiture in a summary manner, in accordance with Section 42(1) of the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015.

15.92 In making an order, whether on an interim or final basis, the Court may consider:

- (a) the nature of the breach and whether it is remediable;
- (b) the parties' past conduct;
- (c) whether the party seeking relief against forfeiture is willing and able to:
 - (i) cure any breaches of the lease; and
 - (ii) comply with future lease obligations; and
- (d) any exceptional circumstances of the case.

15.93 The Court may grant such relief on grounds and conditions that it considers just, including the payment of rent, costs or specific performance with the terms of the lease.

15.94 Where the request for an order for relief against forfeiture is made by application, it may be made at any point in the proceedings but must be made promptly.

Mortgagee's power of sale [r.347(4)(a)]

15.95 These provisions apply to any claim or application by a mortgagee seeking an order for the sale of real property following default by a mortgagor.

15.96 A mortgagee seeking to exercise a power of sale in respect of mortgages registered and existing over real property located in Al Reem Island prior to 1 January 2025, must

⁷ There is no requirement under this paragraph for the claimant to produce evidence of any negotiations or communications that were conducted on a without prejudice basis.

first apply to the Court for permission to enforce its security in accordance with Section 72(3)(b) of the Real Property Regulations 2024, and may not proceed to conduct the sale until it receives an order from the Court allowing the exercise of such power.

15.97 Where an order is sought by a mortgagee for the sale of real property following default by the mortgagor, the claim form or application (as applicable) must:

- (a) include details of and a copy of the mortgage agreement;
- (b) include the particulars of the property to be sold;
- (c) include details, so far as the claimant is able to identify, of:
 - (i) the names and addresses of any other creditors who have a prior charge or hold other security over the property; and
 - (ii) the amount owed to each creditor;
- (d) include details of every person who to the best of the claimant's knowledge is in possession of the property;
- (e) include details of the amount in respect of which the mortgage was granted and the outstanding mortgage debt due as at the time that the claim or application is made;
- (f) attach at least the three most recent mortgage statements of account reflecting any arrears under the mortgage;
- (g) include an estimate of the price that would be obtained on sale of the property;
- (h) attach a copy of the notice of default served on the defendant, any guarantor or surety of the mortgagor, and any other registered mortgagee or chargee, in accordance with the mortgage agreement and Sections 72(3) and (4) of the Real Property Regulations 2024, which notice must:
 - (i) clearly state the nature of the breach;
 - (ii) provide the defendant with 30 days to remedy the default; and
 - (iii) outline the claimant's intention to proceed with a sale of the property if the breach is not remedied;
- (i) include details of the service of any notice in sub-paragraph (h) upon the defendant;
- (j) include any directions or orders sought as to the conduct of the sale; and
- (k) state whether the claimant is also applying for an order for possession in accordance with paragraphs 15.83 to 15.87 above.

15.98 The Court may grant an order for the claimant to proceed with the sale of the mortgaged property if it is satisfied that the claimant is entitled to exercise the power

of sale under Section 72 of the Real Property Regulations 2024. The order may include:

- (a) a direction that the claimant shall take reasonable care to obtain the market value for the real property at the time of the sale;
- (b) a timeline for the sale, including any method of sale or any steps to be taken to maximise the value of the property;
- (c) relevant directions as to advertisements, surveys or third-party involvement to facilitate the sale;
- (d) directions that the proceeds of sale are to be applied as relevant in the following order:
 - (i) to discharge any prior registered interests to which the sale is not made subject (or to pay into Court a sum to satisfy the obligations under any prior registered interests);
 - (ii) to pay all costs and expenses properly incurred in the sale or any attempted sale;
 - (iii) to discharge the principal, interest, costs, and any other money and liability secured by the mortgage in such order as may be provided in the mortgage or, if no such order is provided, as the mortgagee may determine in its sole discretion;
 - (iv) to pay later registered interests in the order of their priority; and
 - (v) to pay any residue to the person who appears from the Register to be entitled to the mortgaged property or to be authorised to give receipts for the proceeds of its sale; and
- (e) permission for the claimant as the registered mortgagee to lodge the transfer for registration with the Registrar (as that term is defined in the Real Property Regulations 2024).

15.99 If the defendant fails to vacate the property within the date specified in an order for possession, the claimant may apply for a writ of possession in accordance with paragraph 15.123 below.

Order to restrain a power of sale [r.347(4)(b)]

15.100 A party who is a mortgagor may apply to the Court for an injunction to restrain the exercise of the power of sale.

15.101 The Court may make any order it deems appropriate, including that the sale may be restrained, without the mortgagor having to offer to redeem the mortgage.

Order for foreclosure [r.347(4)(c)]

15.102 These provisions apply to any claim or application by a mortgagee seeking an order for foreclosure following default by a mortgagor. On registration by the Registrar (as that term is defined by the Real Property Regulations 2024) of a foreclosure order

made by the Court, the mortgagor's interest in the real property shall vest in the mortgagee, free from all liability under mortgages or other interests registered after the mortgage, except for leases and other interests that bind the mortgagee. Upon the order for foreclosure, the mortgagor's rights to redeem the mortgage are extinguished.

15.103 Before making any claim or application seeking an order for foreclosure, a mortgagee should carefully consider whether a claim or application seeking an order for the sale of the real property (together with any order for possession) is more appropriate. An order for foreclosure will only be granted in exceptional circumstances. An order for foreclosure may be appropriate in circumstances where:

- (a) there has been a persistent default of payment or other obligations by the mortgagor, and such default has continued without remedy for a continuous 60-day period;
- (b) the mortgagee has attempted, or considered in good faith, other remedies to redeem the mortgage, such as refinancing the mortgage, a payment plan or an order for sale, and has found or considered these to be ineffective, unpractical, or there are other reasons why they would not result in the recovery of the outstanding debt;
- (c) the mortgagor has no realistic ability to redeem the mortgage or is insolvent;
- (d) the mortgagee reasonably believes that the mortgagor's debt exceeds the value of the property;
- (e) there is no active market for the property or no identifiable purchaser;
- (f) there are no other interested parties likely to benefit from a sale; and
- (g) there would be no unfairness to the mortgagor.

15.104 Prior to making a claim or application for an order for foreclosure, the claimant must have first served a notice of default on the defendant, any guarantor or surety of the defendant, and any other registered mortgagee or chargee, in accordance with the mortgage agreement and Sections 72(3) and 72(4) of the Real Property Regulations 2024. The notice must:

- (a) clearly state the nature of the breach;
- (b) provide the defendant with 30 days to remedy the default;
- (c) outline the claimant's intention to apply to the Court for a foreclosure order if the breach is not remedied; and
- (d) inform the defendant that foreclosure terminates the defendant's right of redemption.

15.105 Where an order is sought for foreclosure of real property upon default by a mortgagor, the claim form or application (as applicable) must:

- (a) specify that foreclosure is the remedy sought;
- (b) provide details and a copy of the mortgage agreement;

- (c) provide particulars of the real property in question;
- (d) give details of the amount in respect of which the mortgage was granted and the outstanding mortgage debt due as at the time that the claim or application is made;
- (e) contain a statement by the claimant that it reasonably believes that the defendant's debt exceeds the value of the property;
- (f) attach the three most recent mortgage statements of account reflecting the arrears under the mortgage;
- (g) state, so far as the claimant is able to identify:
 - (i) the names and addresses of any other creditors who have a prior charge or hold other security over the property; and
 - (ii) the amount owed to each creditor;
- (h) specify whether the claimant intends to sell the property, and if so, give an estimate of the price which would be obtained on sale of the property;
- (i) include details of every person who to the best of the claimant's knowledge is in possession of the property; and
- (j) attach a copy of the notice of default and intention to foreclose.

15.106 A request for an order for foreclosure shall be heard by the Court at a hearing. The Court may exercise its discretion to grant or deny the foreclosure order, and in doing so it will consider any defences raised by the defendant and ensure that if a foreclosure order is to be made it is equitable in all the circumstances.

15.107 At the hearing the Court may consider:

- (a) the extent of the default;
- (b) the defendant's ability and willingness to cure the default;
- (c) the proportionality of the remedy in relation to the value of the debt;
- (d) whether the order for foreclosure will affect any other interested parties; and
- (e) whether any alternative remedies would be more appropriate.

15.108 The Court has wide discretion and may:

- (a) grant a conditional foreclosure order allowing the defendant a final time period to redeem the mortgage;
- (b) grant a final order for the foreclosure of the mortgage if the defendant has not paid the debt within the time specified;
- (c) make an order for possession or order for sale in place of an order for foreclosure;

- (d) direct the Registrar (as that term is defined in the Real Property Regulations 2024) to register the order for foreclosure;
- (e) grant an order for foreclosure in addition to any other order.

Order for appointment of a receiver [r.347(4)(d)]

15.109 These provisions apply to any claim or application seeking an order for the appointment of a receiver in a real property claim. Where a party applies to the Court for an order for the appointment of a receiver in a real property claim, the claim form or application (as applicable) must include details of or attach:

- (a) the reasons why the appointment is required;
- (b) the real property which it is proposed that the receiver should control or manage, including estimates of:
 - (i) the value of the property; and
 - (ii) the amount of income it is likely to produce;
- (c) the name, address and position of the individual whom the Court is to be asked to appoint as receiver;
- (d) subject to paragraph 15.111 below:
 - (i) confirmation that the person nominated to be appointed as receiver is (to the best of the claimant's belief) registered as an insolvency practitioner for the purposes of Section 289(1) of the Insolvency Regulations 2022; and
 - (ii) a written consent signed by the nominated insolvency practitioner that he or she consents to the appointment;
- (e) every person who to the best of the claimant's knowledge is in possession of the property;
- (f) if a receiver is proposed to be appointed by way of equitable execution of a judgment, details of:
 - (i) the judgment which the claimant is seeking to enforce;
 - (ii) the extent to which the debtor has failed to comply with the judgment;
 - (iii) the result of any steps already taken to enforce the judgment; and
 - (iv) why the judgment cannot be enforced by any other method; and
- (g) where relevant, an explanation of the reasons why the claimant considers it necessary in circumstances where the claimant is asking the Court to allow the receiver to act:
 - (i) without giving security; or

(ii) before he has given security or satisfied the Court that he has security in place.

15.110 Subject to the provisions set out in this section, an application for appointment of a receiver in a real property claim must be made in accordance with the applicable provisions in Part D of Practice Direction 10. An application may be made at the pre-claim stage, in accordance with Part A of Practice Direction 7.

15.111 If the claimant does not propose an insolvency practitioner as a receiver in accordance with paragraph 15.109, then at the time of filing the application, the claimant must:

- (a) file a witness statement in accordance with paragraph 15.112 explaining why no proposal is made and setting out the steps taken by the claimant to identify and propose a suitable insolvency practitioner; and
- (b) comply with paragraph 15.113 below.

15.112 A witness statement filed under paragraph 15.111 must normally include:

- (a) evidence that the claimant has made written enquiries of the insolvency practitioners who are registered for the purposes of Section 289(1) of the Insolvency Regulations 2022 in relation to the proposed appointment as a receiver; and
- (b) evidence that, as part of such enquiries, the claimant has provided the insolvency practitioner(s) with such information as the insolvency practitioner(s) might reasonably request in order to decide whether there is any proper reason that he or she should not be appointed if the Court makes an order for appointment of a receiver.

15.113 The claimant should enquire of the insolvency practitioners of whom such enquiries are made whether they consider that there is any good reason that they should not be appointed, including in particular:

- (a) whether there are any circumstances concerning the claimant, defendant or the property which would make appointment inappropriate;
- (b) whether the appointment would occasion issues concerning a conflict of interest; and
- (c) whether there are any other exceptional circumstances which would make the appointment inappropriate.

15.114 The claimant should inform the Court of any responses from insolvency practitioners in the witness statement filed under paragraph 15.111 (whether or not they consider that there is good reason that the insolvency practitioner should not be appointed).

15.115 The claim form or application notice must be verified by a statement of truth.

Order for sale, mortgage, charge, exchange or partition of real property [r.184]

15.116 These provisions apply to any claim or application seeking an order for the sale (other than in relation to a mortgagee's sale), mortgage, charge, exchange or partition of real

property. Where a party applies to the Court for an order for the sale, mortgage, charge, exchange or partition of real property, the claim form or application (as applicable) must include:

- (a) details, so far as the claimant is able to identify, of:
 - (i) the names and addresses of any other creditors who have a prior charge or hold other security over the property; and
 - (ii) the amount owed to each creditor;
- (b) details of every person who to the best of the claimant's knowledge is in possession of the property; and
- (c) if an order for sale is sought:
 - (i) an estimate of the value of the price which would be obtained on sale of the property; and
 - (ii) any directions or orders sought as to the conduct of the sale.

15.117 A party seeking the sale of a real property may simultaneously request an order for possession (see paragraph 15.83).

15.118 Where the Court has made an order for sale under Rule 184, it may give any other directions it considers appropriate for giving effect to the order, including:

- (a) appointing a party or other person to conduct the sale and directing it to update interested parties at designated intervals or junctures;
- (b) for obtaining evidence of the value of the property;
- (c) as to the manner of sale;
- (d) settling the particulars and conditions of the sale;
- (e) requiring that the seller adopt an appropriate sale strategy to achieve the best price reasonably obtainable;
- (f) fixing a minimum or reserve price;
- (g) as to the fees and expenses to be allowed to an auctioneer or estate agent;
- (h) for the purchase money to be paid:
 - (i) into Court;
 - (ii) to trustees; or
 - (iii) to any other person;
- (i) for the result of a sale to be certified; and
- (j) if an order for possession is also sought, specifying the date by which the defendant(s) must vacate the property.

Permission to bid

15.119 Where a claim or application has been made for the sale of real property under Rule 184, or in connection with the mortgagee's power of sale, and the party making the claim or application wishes to bid for the property, he should apply to the Court for permission to do so.

15.120 'Bid' for these purposes includes submitting a tender or other offer to buy.

15.121 An application for permission to bid must be made before the sale takes place.

15.122 If the Court gives permission to the claimant to bid, it may appoint an independent person to conduct the sale.

Writ of possession [r.347(1)(b)]

15.123 These provisions apply where an applicant seeks to enforce an order for possession of real property.

15.124 A writ of possession for these purposes is also a writ of execution.

15.125 If the respondent fails to vacate the property by the date specified in an order for possession, an applicant may apply for a writ of possession. The applicant must not attempt eviction itself.

15.126 The application notice seeking a writ of possession must include or attach:

- (a) a copy of the order for possession;
- (b) details of every person who to the best of the applicant's knowledge is in possession of the property;
- (c) evidence of service of the order for possession on the respondent and notification of the order (if reasonably able to be provided) to all other persons that to the best of the applicant's knowledge are in possession of the property;
- (d) evidence that the respondent has failed to comply with the order for possession; and
- (e) an explanation of any delay in applying for a writ of possession since the issuance of the order for possession.

15.127 The Court may issue a writ of possession where:

- (a) the respondent has had an opportunity to vacate the property and has not done so within the time frame provided; and
- (b) there are no exceptional circumstances that would otherwise make it unjust to issue a writ of possession.

15.128 The Court may issue a penal notice in any writ of possession.

15.129 The Court may award the costs of obtaining and executing a writ of possession, including any applicable Court fees, enforcement agent fees and charges and the applicant's legal costs. If the respondent's delay in vacating the property has caused measurable harm to the applicant, the Court may award additional damages, which shall be included in the enforcement action.

15.130 Upon issuance of a writ of possession, enforcement agents are authorised to enter the property and remove the respondent and any personal property.

15.131 Personal property of the respondent which has not been removed from the property must be treated with due care. The applicant is required to hold the items for the respondent for 14 days should the respondent fail to remove them, following which it may apply to the Court for an order to dispose of the items. Steps must be taken to inform the respondent and the respondent given an opportunity to collect the personal items.

15.132 A respondent can apply for relief against a writ of execution if it can demonstrate exceptional circumstances justifying delay or suspension of the enforcement.

R. APPEALS TO THE COURT OF APPEAL [r.206 and r.348]

15.133 Appeals against an order or judgement of the Real Property Division, except for short-term residential lease claims, shall be made to the Court of Appeal in accordance with Part 25 of the CPR and Practice Direction 11.

Appendix A - Directions Questionnaire

Case Details	
Division	Real Property Division
Case number	

Title of Proceedings	
[First] Claimant	[full name]
[Second Claimant] [include number of Claimants (if more than two)]	[#full name #number]
[First] Defendant	[full name]
[Second Defendant] [include number of Defendants (if more than two)]	[#full name #number]

Filing Details	
Filed for	[name of party(ies)]
Legal representative	[name]
Firm	[name of firm]
Firm reference	[reference number]
Contact name	[name]
Contact telephone	[telephone]
Contact email	[email address]

*Please read the **Notes** section before completing each question in this form. The answers which you provide in this form are intended to help the Court manage the case in the most fair, proportionate and efficient manner having regard to the circumstances of the case.*

Although it may be difficult to accurately answer any question due to the early stage of the proceedings, the parties are required to answer all questions on a “best efforts” basis. A failure by any party to do so, including a failure by a party to answer a question, may be considered by the Court when it deals with the question of costs, or may result in some other sanction being imposed on the defaulting party.

Wherever relevant, the parties are expected to consult and co-operate to the fullest extent possible on any question which would benefit from a joint discussion between the parties before completing and submitting this form.

You should note the date by which this questionnaire must be returned.

If you have settled this claim (or you settle it on a future date) and do not need to have it heard or tried, you must let the Court know immediately.

A: Settlement	<p>1. Do you wish to attempt to settle the claim by court-annexed mediation?</p> <p>2. If you answered 'No' to question 1, please state below the reasons why you consider it inappropriate to try and settle the claim at this stage.</p>	<p><i>If you think that you and the other party may be able to negotiate a settlement, you should answer 'Yes' to Q1.</i></p> <p><i>The parties are encouraged to read Practice Direction 13 (Court-annexed Mediation) and Court Procedure Rules 2016 ("CPR") Part 36 (Court-annexed Mediation) before completing this section.</i></p> <p><i>The Court may order that the parties go to court-annexed mediation whether or not all the other parties to the claim agree. <u>You should still complete the whole of the form, even if you are requesting a referral to mediation.</u></i></p>
B: Pre-trial Applications	<p>3. Do you intend to make, or foreshadow making, any future application(s) in this proceeding? If Yes:</p> <ul style="list-style-type: none"> provide details of all such applications including the Rule or provision pursuant to which each application will be made; for each application, set out how the application will assist the Court with its determination of the issues in the proceeding; and if the application will not assist the Court with its determination of the issues in the proceeding, set out the reason why the application is proposed to be made. 	<p><i>It is important for the Court to know if you intend to make any applications, what they will be for and when you wish them to be heard. The parties are encouraged to read Practice Direction 7 (Applications), the relevant sections of the CPR and this Practice Direction before completing this section.</i></p>
C: Disclosure of Documents	<p>4. Approximately how many documents and how many pages of documents do you intend to rely on at trial?</p> <p>5. Have you made standard disclosure of all documents that you intend to rely on?</p> <p>6. Do you intend to seek specific disclosure from any other party? If so, please give as much detail as is currently available.</p>	<p><i>The parties are encouraged to read CPR Part 13 (Disclosure and Inspection of Documents) before completing this section.</i></p>
D: Witnesses of Fact	<p>7. So far as you know at this stage, how many witnesses of fact do you intend to rely on at the trial?</p>	<p><i>The parties are encouraged to read Practice Direction 8 (Evidence) and CPR Part 14 (Evidence) before completing this section.</i></p>

8. By what date can you serve signed witness statements?	
E: Experts	
9. Do you wish to use expert evidence at the trial? If yes, please specify: <ul style="list-style-type: none"> • the discipline of each proposed expert; and • broadly what issue(s) they will likely address which will help to resolve the issues in the proceedings. 10. By what date can you serve signed expert reports?	<p><i>The parties are encouraged to read Practice Direction 8 (Evidence) and CPR Part 17 (Expert and Assessors) before completing this section. In particular, the parties are reminded that CPR 142(1) mandates that expert evidence shall be restricted to that which reasonably is required to resolve the proceedings. Therefore, the Court requires a short explanation of any proposals with regard to expert evidence.</i></p>
F: Trial	
11. What is your estimate of the minimum and maximum length of the trial? 12. What is the earliest date by which you believe you can be ready for trial?	