



**ADGM COURTS**  
**PRACTICE DIRECTION 3**  
**SMALL CLAIMS**

## PRACTICE DIRECTION 3

### SMALL CLAIMS

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## PRACTICE DIRECTION 3

### SMALL CLAIMS

Date re-issued: 17 October 2025

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 8 – Evidence**
- **Practice Direction 9 – Costs**
- **Practice Direction 10 – Enforcement**
- **Practice Direction 13 – Court-annexed Mediation**

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 all claims that are, or are dealt with as, small claims.

Part 37 of the CPR contains special provisions dealing with claims in the Small Claims Division.

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

#### A. **MAKING A CLAIM [r.309]**

- 3.1 A “small claim” is a claim or dispute for US\$100,000 or less except for employment claims, all of which must be commenced in the Employment Division.
- 3.2 A claim form which commences proceedings in the Small Claims Division shall be in accordance with **Form CFI 2**.

#### *Requirements*

- 3.3 The claim form must:
  - (a) state what final orders the claimant seeks;
  - (b) include particulars of the claimant’s case in numbered paragraphs within the form, which shall include:

- (i) particulars of the factual matters relevant to the claim;
- (ii) any relevant calculations for the amount or amounts claimed; and
- (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 (ii) any relevant calculations;
- (c) include the name and address for service of the defendant together with the defendant's email address and mobile phone number (if known)<sup>1</sup>;
- (d) 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;
- (e) attach a copy of any document (other than an ADGM enactment) referred to in the claim form or relied on to prove any allegation contained in the claim form; and
- (f) 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.

#### ***Service of the claim form***

- 3.4 Rule 310(1) 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 Court order provides otherwise.
- 3.5 Part 4 of the CPR prescribes how a claim form may be served.
- 3.6 Where the claim form has not been served on a defendant by the Registry in accordance with paragraph 3.4, the claimant must file a certificate of service in accordance with Rule 21.

#### **B. ANSWERING A CLAIM [r.311]**

- 3.7 For the avoidance of doubt, a defendant is not required to file an acknowledgement of service in relation to a small claim.
- 3.8 Rule 311(1) provides that within 7 days after a defendant is served with a claim form, a defendant must file in accordance with the relevant practice direction:
  - (a) an admission and any request for time to pay in accordance with Rules 42 and 43;

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<sup>1</sup> 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 Practice Direction 6, paragraph 6.14.

- (b) an admission and any request for time to pay in accordance with Rules 42 and 43, and a defence, together with any counterclaim, if the defendant admits only part of the claim;
- (c) a defence, together with any counterclaim, if the defendant disputes the whole of the claim; or
- (d) an application to dispute the Court's jurisdiction to try the claim.

***Admission and request for time to pay [r.42, r.43 and r.313]***

3.9 The defendant may file 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.

3.10 Unless otherwise directed by the Court, an order for time to pay shall be limited to 3 years from the date the first payment is due and payable.

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

3.11 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.311]***

3.12 An application to dispute the Court's jurisdiction to try the claim must be made by filing an application notice in accordance with **Form CFI 12C**.

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

**C. FILING A DEFENCE AND MAKING A COUNTERCLAIM [r.49, r.50 and r.311]**

3.14 A defence must set out the defendant's answer to the particulars of the claim advanced by the claimant.

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

3.16 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:
  - (c) particulars of the factual matters relevant to the counterclaim;
    - (i) any relevant calculations for the amount or amounts claimed; and
    - (ii) 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 (ii) any relevant calculations;
  - (d) if a counterdefendant is not a party to the claim<sup>2</sup>, include the name and address for service of the counterdefendant together with the counterdefendant's email address and mobile phone number (if known)<sup>3</sup>;
  - (e) 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; and
  - (f) where the claim form is to be served outside the jurisdiction, include the grounds on which the counterclaimant is entitled to bring the counterclaim against the counterdefendant.

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

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

#### **D. REPLY TO A DEFENCE [r.311A]**

3.19 The claimant may file a reply to a defence within 7 days after service of the defence setting out the claimant's reply to the particulars of the defence.

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

3.21 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.

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<sup>2</sup> 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).

<sup>3</sup> Above n1.

**E. DEFENCE TO ANY COUNTERCLAIM AND SUBSEQUENT REPLY [r.49, r.311 and r.311A]**

- 3.22 A party who wishes to defend all or part of any counterclaim must file a defence within 7 days after service of the counterclaim and must set out that party's answer to the particulars of the counterclaim.
- 3.23 A defence to counterclaim shall be in accordance with **Form CFI 8**.
- 3.24 A copy of any document (other than any ADGM enactment) referred to in the defence to counterclaim or relied on to prove any allegation contained in the defence to counterclaim must be attached to the defence to counterclaim, unless that document has been previously filed on the eCourts Platform.
- 3.25 A party may file and serve a reply to a defence to counterclaim within 7 days after service of the defence to counterclaim.
- 3.26 A reply to the defence to counterclaim shall be in accordance with **Form CFI 10**.
- 3.27 A copy of any document (other than any ADGM enactment) referred to in the reply to the defence to counterclaim or relied on to prove any allegation contained in the reply to the defence to counterclaim must be attached to the reply to the defence to counterclaim, unless that document has previously been filed on the eCourts Platform.

**F. EXTENSION OF TIME TO RESPOND TO A CLAIM OR FILE A PLEADING [r.311]**

- 3.28 Rule 311(3)(a) provides that the parties may agree that the time period for responding to a claim (including a counterclaim) be extended by up to 7 days. Any agreement must be in writing and provided to the Registry before the deadline for the filing of the response.
- 3.29 Rule 311(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 should be made by email to [registry@adgmcourts.com](mailto: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 claimant needs to respond; and
  - (d) be made before the deadline for filing the response (otherwise paragraph 3.30 shall apply).
- 3.30 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 12C**.

3.31 An application made pursuant to paragraph 3.30 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 file the pleading or response and any response(s) received to that request.

#### **G. APPLICATION FOR DEFAULT JUDGMENT [r.312]**

3.32 An application for default judgment shall be made in accordance with **Form CFI 12B** 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.

3.33 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.

3.34 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.

3.35 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 proceeding who are to be served within the United Arab Emirates.

## H. CASE MANAGEMENT [r.8, r.78, r.86, r.88, r.97, r.142(2), r.175 and r.306]

### ***Case Management [r.8]***

3.36 The Court may make any order, give any direction or take any step it considers appropriate for the purpose of managing the proceedings.

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

3.37 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.

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

3.39 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]***

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

3.41 If a party seeks an adjustment to the timetable for the taking of a procedural step, 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 received.

3.42 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.

3.43 If the parties cannot agree to make an adjustment 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 shall 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 12C**.

***Order for specific disclosure [r.86(5)]***

3.44 Where a party has good reason to believe that documents held by the other party would be likely to support their case or adversely affect the 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.

3.45 An application for specific disclosure must be made by application notice in accordance with **Form CFI 12C**.

***Order for disclosure against non-party [r.88]***

3.46 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.

***Witness statements [r.97]***

3.47 The Court will make any order as to the filing of witness statements 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).<sup>4</sup>

***Experts [r.142(2)]***

3.48 No expert may give evidence, whether written or oral, at a hearing without the permission of the Court.

***Determination of the claim on the papers [r.8]***

3.49 The Court may decide the claim on the papers without a hearing:

(a) if the parties agree as to the terms of any order or direction to be made or given by the Court;

(b) if the parties agree that the Court should dispose of the claim without a hearing; or

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<sup>4</sup> The purpose of this provision is so that all supporting documents referred to in a witness statement can be readily located by the Judge.

- (c) where the Court considers that the claim can be fairly determined on the papers without a hearing.

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

3.50 If the Court decides to list the case for a hearing, it will provide such orders and directions as it considers appropriate in relation to:

- (a) any pre-hearing steps to be undertaken by the parties; and
- (b) the conduct of the hearing.

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

3.52 The Court may give permission to a party who is not a natural person to be represented by an employee or director who is not a lawyer, on being satisfied that the person is likely to be able to present the party's case efficiently and to assist the Court in reaching a just result in accordance with the overriding objective set out in Rule 2(2).

**I. OTHER MATTERS**

***Interest [r.179]***

3.53 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.

3.54 Subject to any ADGM enactment, where interest is payable on all of 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.

***Remission or deferral of fees [r.10]***

3.55 Where a party applies for full or part remission, or deferral of payment, of any court fees:

- (a) that party must set out in the relevant application form a statement of the grounds on which that party seeks full or part remission, or deferral of payment, of the court fees;
- (b) a person appointed by the Registrar to decide on a party's application for remission or deferral of court fees shall decide without any hearing whether to grant that party's application;
- (c) if a party wishes to dispute a decision on any such application, the party may apply to have the decision reviewed by the Registrar;
- (d) the Registrar's decision on review shall be final and not subject to further administrative review; and

- (e) ordinarily, an application for remission or deferral of court fees will not be granted post judgment at the enforcement stage.

## J. APPLICATIONS

### ***Pre-claim applications [r.64(3)]***

- 3.56 An applicant who wishes to apply to the Court for an urgent interim remedy prior to a claim being filed must file an application notice in accordance with **Form CFI 12A**, supported by witness statement evidence in accordance with **Form CFI 15**.
- 3.57 The application notice must include or attach:
  - (a) the order or orders that the applicant seeks from the Court;
  - (b) all witness statements that the applicant relies on in support of the application;
  - (c) an undertaking by the applicant to file a claim within 2 days of the issuing of the application notice by the Court; and
  - (d) a statement as to whether the applicant requests a without notice hearing of the application and the reasons for the request.
- 3.58 Where the application is to be made *upon* notice, the application notice and witness statement evidence must be served by the applicant on each respondent within 7 days after the filing of such documents, and thereafter the applicant must file a certificate of service in accordance with **Form CFI 31** within a further 7 days. For the purpose of this paragraph, service is to be effected by the claimant in accordance with Part 4 of the CPR.
- 3.59 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]***

- 3.60 Unless specifically provided for in this practice direction, any application to the Court is to be made in accordance with **Form CFI 12C**.
- 3.61 The application notice must include:
  - (a) the order or orders that the applicant seeks from the Court;
  - (b) the evidence that the applicant relies on in support of the application; and
  - (c) a statement as to whether the applicant requests:
  - (d) a hearing or that the application can be determined without a hearing;

- (e) an expedited hearing of the application or for the hearing to be without notice, and the reasons for the request.

#### ***Without notice applications [r.64 and r.65]***

- 3.62 Post claim applications made without notice are to be submitted on the eCourts Platform. It is the responsibility of the party submitting the application to select the without notice filing option on the eCourts Platform.
- 3.63 An application may be made without notice if this is permitted by a rule, a practice direction or otherwise is with the Court's permission. The Court's permission will be granted only where:
  - (a) there is exceptional urgency;
  - (b) it is otherwise desirable to do so in the interests of justice; or
  - (c) there are good reasons for making the application without notice, for example, because the notice would or might defeat the object of the application.
- 3.64 Where the Court is asked to make an order on an application without notice, the applicant must bring to the Court's attention any matter which, if the respondent was represented, the respondent would wish the Court to be aware of. This includes any matters which might tend to undermine the application.
- 3.65 Where the Court makes an order on an application without notice, whether granting or dismissing an application, the Court may make such orders as it considers appropriate in relation to the service of the order and any other documents on every person against whom an order was sought or made.

#### ***Hearing [r.8 and r.175]***

- 3.66 The Court may give such directions regarding the hearing of an application as it considers appropriate.

#### ***Proceeding without a hearing [r.8]***

- 3.67 The Court may deal with any application on the papers without a hearing:
  - (a) if the parties agree as to the terms of the order or orders that the applicant seeks from the Court;
  - (b) if the parties agree that the Court should dispose of the application without a hearing; or
  - (c) where the Court considers that the application can be fairly determined on the papers without a hearing and, in all of the circumstances, it would be appropriate to do so.

### ***Particular Applications***

3.68 Subject to paragraph 3.60, 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 permission to make a counterclaim against a claimant pursuant to Rule 50(1); or
- (f) 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.

3.69 A claimant may apply for summary judgment following the filing of a defence in accordance with **Form CFI 12C**.

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

- (a) be made in accordance with **Form CFI 12C**; and
- (b) address (as applicable) the matters set out in Rule 41.

## **K. APPEALS TO THE COMMERCIAL AND CIVIL DIVISION OF THE COURT OF FIRST INSTANCE**

### ***Form of notice [r.205]***

3.71 A notice of appeal must:

- (a) be filed and served within 14 days of the date of the final judgment or order;
- (b) be in accordance with **Form CFI 19**;
- (c) not exceed 10 pages;
- (d) attach a copy of the reasons given for the judgment or order against which the appeal is brought;
- (e) state the question or questions of law which the appellant alleges arise;
- (f) state in summary form why the appeal should be allowed; and
- (g) state what judgment or order the appellant alleges should have been given or made.

***Response to notice of appeal [r.205]***

3.72 A party who seeks to respond to a notice of appeal may file and serve on the other parties to the proceedings a written response within 14 days of being served with the notice.

3.73 Any response to a notice of appeal must:

- (a) be in accordance with **Form CFI 20**;
- (b) not exceed 10 pages; and
- (c) set out the grounds on which the appeal should be refused.

3.74 The Court may give written directions to the parties about the further conduct of the appeal.

***Conduct of the appeal [r.8 and r.205]***

3.75 The Court may decide the appeal on the papers without a hearing where the Court considers that the appeal can be fairly determined on the papers alone.

3.76 The decision by the Court on the appeal is final, and it may not be challenged by any proceeding in the Court, whether by way of review, appeal or otherwise.