



**Taking Control of Goods and Commercial Rent Arrears  
Recovery Rules 2015**

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## TAKING CONTROL OF GOODS AND COMMERCIAL RENT ARREARS RECOVERY RULES 2015

Date of Enactment: 17 December 2015

The Board of Directors of the Abu Dhabi Global Market make the following Rules in exercise of the powers conferred by sections 128(8), 132(4), 135(5) and (6) and 140 of, and paragraphs 3(1), 7(2) and (4), 8, 11(3), 12(3), 13(3), 16(6) and (8), 17(5), 19(1), (3), (4), (14) and (15), 20(2), (4), (6), (7) and (10), 21(4), 22(2), 23, 26(2), (4), (5), (12), (14) and (15), 27(1), (2) and (3), 30(1), (3), (4), (7) and (8), 31(4) and (7), 34(4), 39(4) and (5) and 41 of Schedule 1 to, the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015:-

### PART 1 – INTRODUCTORY

#### 1. Application of these Rules

- (1) These Rules apply in relation to taking control of goods and selling them in the exercise of a power to use the procedure in Schedule 1.
- (2) These Rules apply to all such cases except to the extent that they provide otherwise.

#### 2. Exempt goods

The following goods of the debtor are exempt goods –

- (a) items or equipment (for example, tools, books, telephones, computer equipment and vehicles) which are necessary for use personally by the debtor in the debtor's employment, business or trade, profession, study or education except that in any case the aggregate value of the items of equipment to which the exemption is applied shall not exceed US\$2,000;
- (b) such clothing, bedding, furniture, household equipment, items and provisions as are reasonably required to satisfy the basic domestic needs of the debtor and every member of the debtor's household, including (but not restricted to) –
  - (i) a cooker or microwave;
  - (ii) a refrigerator;
  - (iii) a washing machine;
  - (iv) a dining table large enough, and sufficient dining chairs, to seat the debtor and every member of the debtor's household;
  - (v) beds and bedding sufficient for the debtor and every member of the debtor's household; and
  - (vi) one landline telephone, or if there is no landline telephone at the premises, a mobile or internet telephone which may be used by the debtor or a member of the debtor's household;

- (c) any item or equipment reasonably required –
  - (i) for the medical care of the debtor or any member of the debtor’s household or, if the item or, in respect of business premises, any employee of the debtor;
  - (ii) for safety on or in the business premises or dwelling-house, as the case may be;
  - (iii) for the security of the business premises or dwelling-house, as the case may be, (for example, an alarm system) or security in the business premises or dwelling-house, as the case may be, (for example, a surveillance system); and
  - (iv) to satisfy the basic heating, cooling and lighting needs of the debtor’s business premises or household, as the case may be;
- (d) any item or equipment necessary for the care of –
  - (i) a person under the age of 21;
  - (ii) a disabled person; or
  - (iii) an older person;
- (e) assistance dogs (including guide dogs, hearing dogs and dogs for disabled persons), guard dogs or domestic pets;
- (f) a vehicle in relation to which there are reasonable grounds for believing that it is used for the carriage of a disabled person;
- (g) a vehicle (whether in public ownership or not) which is being used for, or in relation to which there are reasonable grounds for believing that it is used for, police, fire or ambulance purposes; and
- (h) premises which are occupied by the debtor or another person as the debtor’s or that person’s only or principal home.

## **PART 2 – PROCEDURE FOR TAKING CONTROL OF GOODS**

### **Chapter 1: Notice of Enforcement Prior to Taking Control of Goods**

#### **3. Minimum period of notice**

- (1) Subject to paragraph (3), notice of enforcement must be given to the debtor not less than 7 clear days before the enforcement agent takes control of the debtor’s goods.
- (2) Where the period referred to in paragraph (1) includes a day other than a business day that day does not count in calculating the period.
- (3) The Court may order that a specified shorter period of notice may be given to the debtor.

- (4) The Court may only make an order under paragraph (3) where it is satisfied that, if the order is not made, it is likely that goods of the debtor will be moved to premises other than relevant premises, or otherwise disposed of, in order to avoid the goods being taken control of by the enforcement agent.

#### **4. Form and contents of notice**

Notice of enforcement must be given in writing, and must contain the following information –

- (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;
- (b) the reference number or numbers;
- (c) the date of the notice;
- (d) details of the Court judgment or order or enforcement power by virtue of which the debt is enforceable against the debtor;
- (e) the following information about the debt –
  - (i) sufficient details of the debt to enable the debtor to identify the debt correctly;
  - (ii) the amount of the debt including any interest due as at the date of the notice;
  - (iii) the amount of any enforcement costs incurred up to the date of the notice; and
  - (iv) the possible additional costs of enforcement if the sum outstanding should remain unpaid as at the date mentioned in sub-paragraph (h);
- (f) how and between which hours and on which days payment of the sum outstanding may be made;
- (g) a contact telephone number and address (including e-mail address) at which, and the days on which at the hours between which, the enforcement agent or enforcement agent's office may be contacted; and
- (h) the date and time by which the sum outstanding must be paid to prevent goods of the debtor being taken control of and sold and the debtor incurring additional costs.

#### **5. Method of giving notice and who must give it**

- (1) Notice of enforcement must be given –
- (a) by post or courier service addressed to the debtor at the place, or one of the places, where the debtor usually lives or carries on a trade or business;
  - (b) by e-mail or other means of electronic communication;

- (c) by delivery by hand to the place, or one of the places, where the debtor usually lives or carries on a trade or business;
  - (d) by affixing the notice at or in a place where it is likely to come to the attention of the debtor;
  - (e) where the debtor is an individual, to the debtor personally; or
  - (f) where the debtor is not an individual (but is, for example, a company, corporation or partnership), by delivering the notice to –
    - (i) the place, or one of the places, where the debtor carries on a trade or business; or
    - (ii) if located within the Abu Dhabi Global Market, the registered office of the company or partnership.
- (2) Notice must be given by the enforcement agent or the enforcement agent’s office.

## **Chapter 2: Taking Control of Goods**

### **6. Time limit for taking control of goods**

- (1) Subject to paragraphs (2) and (3), the enforcement agent may not take control of goods of the debtor after the expiry period of 12 months beginning with the date of the notice of enforcement.
- (2) Where –
  - (a) after giving notice of enforcement the enforcement agent enters into an arrangement with the debtor for the repayment, by the debtor, of the sum outstanding by instalments (a repayment arrangement); and
  - (b) the debtor breaches the terms of the repayment arrangement,

the period of paragraph (1) begins with the date of the debtor’s breach of the repayment arrangement.
- (3) The Court may order that the period in paragraph (1) be extended by up to 12 months.
- (4) The Court may make an order under paragraph (3) only –
  - (a) on application by the enforcement agent or the creditor;
  - (b) on one occasion; and
  - (c) if the Court is satisfied that the applicant has reasonable grounds for not taking control of goods of the debtor during the period referred to under paragraph (1).

**7. Circumstances in which the enforcement agent may not take control of goods**

- (1) The enforcement agent may not take control of goods of the debtor where –
  - (a) a child or vulnerable person (whether more than one or a combination of both) is the only person present in the relevant or specified premises in which the goods are located;
  - (b) the goods are also premises in which a child or vulnerable person (whether more than one or a combination of both) is the only person present; or
  - (c) the goods are exempt goods.
- (2) Where an item which belongs to the debtor is in the hands of, or being operated by, any person at the time at which the enforcement agent seeks to take control of it, the enforcement agent may not do so if such action is in all the circumstances likely to result in a breach of the peace.

**8. Circumstances in which the enforcement agent may not take control of goods: public places**

- (1) This rule applies in relation to relevant goods which the enforcement agent finds in a public place (see paragraph 11(1)(b) of Schedule 1).
- (2) In this rule –
  - (a) “relevant goods” means any goods which the enforcement agent believes to be or to include –
    - (i) hazardous goods or materials; or
    - (ii) perishable goods or materials;
  - (b) “hazardous goods or materials” includes –
    - (i) nuclear waste;
    - (ii) radioactive waste; and
    - (iii) any other article or substance that has been and remains contaminated (whether radioactively or chemically).
- (3) The enforcement agent may not take control of any relevant goods if –
  - (a) to do so would pose a risk to public health; and
  - (b) the enforcement agent is or ought to be aware of that risk.
- (4) Where paragraph (1) applies the enforcement agent may not take control of a debtor’s vehicle in which such goods are contained.

**9. Days for taking control of goods**

The enforcement agent may take control of goods of the debtor on any business day.

## **10. Prohibited hours of taking control**

- (1) Subject to paragraph (2), the enforcement agent may not take control of goods of the debtor before 6 am or after 10 pm on any business day.
- (2) Paragraph (1) does not apply where –
  - (a) the Court, on application by the enforcement agent, orders otherwise;
  - (b) goods are located on the debtor's or another person's premises which are used (whether wholly or partly) to carry on a trade or business and the premises (or part of the premises) are open for the conduct of that trade or business during hours that are prohibited under paragraph (1); or
  - (c) the enforcement agent has begun to take control of goods during hours that are not prohibited under paragraph (1), or during hours to which paragraph (1) does not apply by virtue of sub-paragraph (a) or (b), and to complete taking control of goods it is reasonably necessary for the enforcement agent to continue to do so during prohibited hours, provided the duration of time spent in taking control of goods is reasonable.

## **11. Who may enter into a controlled goods agreement**

- (1) Subject to paragraph (2), a controlled goods agreement, as defined by paragraph 11(4) of Schedule 1, may only be entered into by an enforcement agent and –
  - (a) a debtor who is not a child;
  - (b) a person, aged 21 or over, authorised by the debtor to enter into a controlled goods agreement on the debtor's behalf; or
  - (c) a person in apparent authority who is on the premises, where those premises are used (whether wholly or partly) to carry on a trade or business.
- (2) The enforcement agent may not enter into a controlled goods agreement with the debtor or another person who it appears (or ought to appear) to the enforcement agent does not understand the effect of, and would therefore not be capable of entering into, such an agreement.

## **12. Controlled goods agreements**

- (1) This rule applies where a controlled goods agreement is entered into under paragraph 11(1)(d) of Schedule 1.
- (2) The agreement must be in writing, and signed by the enforcement agent and –
  - (a) the debtor; or
  - (b) the person authorised by the debtor in accordance with rule 11(1)(b); or
  - (c) the person in apparent authority in accordance with rule 11(1)(c).
- (3) The agreement must contain the following information –

- (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;
  - (b) the reference number or numbers and the date of the agreement;
  - (c) the names of the persons entering into the agreement;
  - (d) a contact telephone number and address (including e-mail address) at which, and the days on which and the hours between which the enforcement agent or the enforcement agent's office may be contacted;
  - (e) a list of the goods of which control has been taken with a description to enable the debtor to identify the goods correctly, including, where applicable –
    - (i) the manufacturer, model and serial number of the goods;
    - (ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and
    - (iii) the material, colour and usage, and (where appropriate) any other identifying characteristic of the goods; and
  - (f) the terms of the arrangement entered into between the enforcement agent and the debtor for the repayment, by the debtor, of the sum outstanding.
- (4) At the time of entering into the agreement, the enforcement agent must give a copy of the signed agreement to the person who signed it under paragraph (2).
- (5) Where the enforcement agent enters into the agreement with a person authorised by the debtor in accordance with rule 11(1)(b) or with a person in apparent authority in accordance with rule 11(1)(c), the enforcement agent must also provide the debtor with a copy of the signed agreement by –
- (a) leaving it in a conspicuous place on the relevant or specified premises, where the enforcement agent has taken control of the goods on such premises; or
  - (b) delivering it to any relevant premises, in a sealed envelope addressed to the debtor, where the enforcement agent has taken control of the goods in a public place.
- (6) Where the enforcement agent leaves a copy of the agreement in accordance with paragraph (5)(a) and the enforcement agent knows that a person other than the debtor is on the premises or that there are other occupiers, the copy must be left in a sealed envelope addressed to the debtor.
- (7) Paragraph (3)(e) is complied with if –
- (a) the enforcement agent provides the debtor with a list of goods of which control has been taken under rule 27(2)(f)(i) or rule 30(1)(e) at the same time as entering into the controlled goods agreement; and

- (b) the goods of which control has been taken are the same as those referred to in the list mentioned in sub-paragraph (a).

### **Chapter 3: Ways of Securing Goods**

#### **13. Securing goods of the debtor on premises where found**

- (1) Subject to paragraphs (2) and (3), an enforcement agent who is securing goods of the debtor on the premises on which they are found (under paragraph 11(1)(a) of Schedule 1) may secure the goods –
  - (a) in a cupboard, storeroom, room, garage or outbuilding;
  - (b) in the case of goods on premises (or on a part of the premises) which are not occupied for residential purposes, by the enforcement agent remaining on the premises to guard the goods of the debtor of which the enforcement agent has taken control;
  - (c) by fitting an immobilisation device (which must be provided by the enforcement agent); or
  - (d) by securing –
    - (i) the whole of the premises, where the premises are occupied solely for the purpose of a trade or business; or
    - (ii) such part of the premises, where the premises are occupied for residential and trade or business purposes, that is occupied solely for the purpose of a trade or business.
- (2) The enforcement agent may not secure goods in any of the ways listed under paragraph (1)(a) to (c) where any person (whether or not the debtor) in occupation of the premises, or any part of the premises, would, as a result, be deprived of adequate access to essential facilities, including exempt goods, or adequate means of entering and leaving the premises, including means of emergency entry and escape.
- (3) Where the goods are secured by an immobilisation device under paragraph (1)(c), the enforcement agent must, at the time of immobilising the goods, provide a written warning to the debtor, signed by the enforcement agent, to be affixed in a prominent position on the immobilised goods, which must contain the following information –
  - (a) that the enforcement agent has immobilised the goods;
  - (b) the date and time of immobilisation;
  - (c) that the goods have been immobilised because the debtor has failed to pay the sum outstanding;
  - (d) a telephone number, which is available 24 hours every day (save for public holidays), for enquiries; and

- (e) the reference number or numbers.
- (4) Premises may only be secured under paragraph (1)(d) if it is not practicable either –
  - (a) to secure the goods in any of the other ways listed under paragraph (1); or
  - (b) to take control of the goods under paragraph 11(1)(c) of Schedule 1.

**14. Securing goods of the debtor in a public place or elsewhere**

- (1) Subject to paragraph (3), where the enforcement agent is proceeding under paragraph 11(1)(b) or (c) of Schedule 1 the enforcement agent may secure goods of the debtor by fitting an immobilisation device.
- (2) Where the goods are secured by fitting an immobilisation device, the enforcement agent must –
  - (a) provide the immobilisation device; and
  - (b) provide a written warning to the debtor in accordance with rule 13(3).
- (3) This rule does not apply where the goods to be secured in a public place under paragraph 11(1)(b) of Schedule 1 are a vehicle.

**15. Securing goods of the debtor in a public place and removal: vehicles**

- (1) Where the enforcement agent is proceeding under paragraph 11(1)(b) of Schedule 1 and the goods to be secured are a vehicle, those goods must be secured in accordance with this rule.
- (2) The vehicle must be secured by an immobilisation device, unless the debtor voluntarily surrenders the keys to the vehicle to the enforcement agent.
- (3) The immobilisation device must be provided by the enforcement agent.
- (4) At the time of immobilising the goods, the enforcement agent must provide a written warning to the debtor in accordance with rule 13(3).
- (5) A vehicle must remain immobilised where it is positioned for a period of not less than 2 hours from the time of immobilisation unless the sum outstanding is paid or an agreement to release the vehicle, on part payment of the sum outstanding, is made between the enforcement agent and the debtor.
- (6) On expiry of the period of time referred to under paragraph (5), the enforcement agent may remove the vehicle to storage.
- (7) Where a vehicle is removed to storage, the enforcement agent must comply with the requirements of rule 31 (care of controlled goods).

**16. Removal and securing goods of the debtor: location**

Subject to rule 31 (care of controlled goods), where the enforcement agent takes control of the goods of the debtor under paragraph 11(1)(c) of Schedule 1 the enforcement agent must,

save in exceptional circumstances, remove the goods and secure them in or at a place which is within a reasonable distance from the place where control was taken of the goods.

#### **Chapter 4: Entry**

##### **17. Mode of entry or re-entry to premises**

The enforcement agent may enter relevant or specified premises under paragraph 12 or 13 of Schedule 1 respectively, or re-enter premises under paragraph 14 of Schedule 1, only by –

- (a) any door, or any usual means by which entry is gained to the premises (for example, a loading bay to premises where a trade or business is carried on); or
- (b) any usual means of entry, where the premises are a vehicle, vessel, aircraft, hovercraft, a tent or other moveable structure.

##### **18. Days of entry**

- (1) This rule applies where the enforcement agent is –
  - (a) entering or remaining on relevant or specified premises under paragraph 12 or 13 of Schedule 1 to search for and take control of goods; or
  - (b) re-entering or remaining on premises under paragraph 14 of Schedule 1 to inspect controlled goods or to remove them for storage or sale.
- (2) The enforcement agent may enter or re-enter the premises on any business day.
- (3) The enforcement agent may remain on the premises on any day of the week.

##### **19. Hours of entry**

- (1) This rule applies where the enforcement agent is entering, re-entering or remaining on premises in the circumstances mentioned in rule 18(1).
- (2) Subject to paragraphs (3) to (5) –
  - (a) the enforcement agent may only enter or re-enter the premises after 6 am and before 10 pm on any business day;
  - (b) the enforcement agent may remain on the premises at any time.
- (3) Where the premises are used (whether wholly or partly) for a trade or business, the enforcement agent may enter, re-enter or remain on the premises (or part of the premises so used) during any hours when the premises (or part of the premises) are open for the conduct of that trade or business.
- (4) Where the enforcement agent has, during hours permitted under paragraph (2), (3) or (5), already entered or re-entered premises, the enforcement agent may, outside such permitted hours, remain on the premises, if it is reasonably necessary for him to continue to search for and take control of goods, inspect controlled goods or

remove controlled goods for storage or sale provided the duration of time spent is reasonable.

- (5) The Court may authorise the enforcement agent to enter, re-enter or remain on premises during times other than those permitted by paragraph (2), (3) or (4) if (and only if) an application for authorisation is made to the Court by the enforcement agent.

**20. Restrictions on entry and re-entry to, and remaining on, premises**

- (1) This rule applies where the enforcement agent is entering, re-entering or remaining on premises in the circumstances mentioned in rule 18(1).
- (2) The enforcement agent may enter, re-enter or remain on the premises only if –
  - (a) the debtor is not a child; or
  - (b) a child or vulnerable person (whether more than one or a combination of both) is not the only person present in the premises which the enforcement agent proposes to enter or re-enter.

**21. Restrictions on repeated entry (with or without warrant) to premises**

- (1) This rule applies where the enforcement agent, having entered relevant or specified premises under paragraph 12 or 13 of Schedule 1 respectively, has determined that there are no or insufficient goods of the debtor on the premises of which control may be taken that will pay the sum outstanding.
- (2) The enforcement agent may enter the premises on a second or subsequent occasion only –
  - (a) if the enforcement agent has reason to believe that, since the occasion of the enforcement agent's last entry, there have been brought on to the premises further goods of the debtor of which control has not yet been, but may be, taken; or
  - (b) where the enforcement agent was prohibited from taking control of particular goods at the time of the original entry by virtue of rule 7(2) (control not to be taken of goods if those goods are in use and the enforcement agent considers that a breach of the peace would be likely if an attempt were made to take control of them).
- (3) Paragraph (2)(b) does not authorise the enforcement agent to enter to take control of any goods other than those to which that paragraph applies, except to the extent that paragraph (2)(a) also applies.

**22. Minimum period of notice of intention to re-enter premises**

- (1) Subject to paragraph (3), notice of the enforcement agent's intention to re-enter premises must be given to the debtor not less than 2 clear days before the enforcement agent re-enters the premises.

- (2) Where the period referred to in paragraph (1) includes a day other than a business day, that day does not count in calculating the period.
- (3) The Court may order that a specified shorter period of notice may be given to the debtor.
- (4) The Court may only make an order under paragraph (3) where it is satisfied that, if the order is not made, it is likely that goods of the debtor will be moved to premises other than relevant premises, or otherwise disposed of, in order to avoid the goods being inspected or removed for storage or sale.

**23. Form and contents of notice of re-entry**

Notice of the enforcement agent's intention to re-enter premises must be in writing, be signed by the enforcement agent and contain the following information –

- (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;
- (b) the reference number or numbers;
- (c) the date of the notice;
- (d) sufficient details of the controlled goods agreement, the repayment terms of which the debtor has failed to comply with, to enable the debtor to identify the agreement correctly;
- (e) how the debtor has failed to comply with the repayment terms of the controlled goods agreement;
- (f) the amount of the sum outstanding as at the date of the notice;
- (g) how and between which hours and on which days payment of the sum outstanding may be made;
- (h) a contact telephone number and address (including e-mail address) at which, and the days on which and the hours between which, the enforcement agent or the enforcement agent's office may be contacted;
- (i) the date and time by which the sum outstanding must be paid to prevent the controlled goods being inspected or removed for storage or sale; and
- (j) that the enforcement agent may if necessary use reasonable force to re-enter the premises to inspect the goods or remove them for storage or sale.

**24. Method of giving notice of re-entry and who must give it**

- (1) Notice of the enforcement agent's intention to re-enter premises must be given –
  - (a) by e-mail or other means of electronic communication;
  - (b) by delivery by hand to the place, or one of the places, where the debtor usually lives or carries on a trade or business;

- (c) by affixing the notice at or in a place that is likely to come to the attention of the debtor;
  - (d) where the debtor is an individual, to the debtor personally; or
  - (e) where the debtor is not an individual (but is, for example, a company, corporation or partnership), by delivering the notice to –
    - (i) the place, or one of the places, where the debtor carries on a trade or business; or
    - (ii) if located within the Abu Dhabi Global Market, the registered office of the company or partnership.
- (2) The notice must be given by the enforcement agent.

**25. Issue of warrant authorising enforcement agent to use reasonable force to enter premises**

- (1) This rule applies where the enforcement agent has power to enter premises under paragraph 12 or 13 of Schedule 1.
- (2) The conditions of which the Court must be satisfied before it issues a warrant under paragraph 17(2) of Schedule 1, or includes provision in a warrant under paragraph 17(4) of that Schedule, are –
  - (a) either –
    - (i) the enforcement agent is attempting to recover a debt enforceable under section 114 of the Regulations; or
    - (ii) the premises are premises to which the goods have been deliberately removed in order to avoid control being taken of them;
  - (b) there are, or are likely to be, goods of the debtor on the premises of which control can be taken;
  - (c) the enforcement agent has explained to the Court –
    - (i) the likely means of entry, and the type and amount of force that will be required to make the entry;
    - (ii) how, after entry, the enforcement agent proposes to leave the premises in a secure state; and
  - (d) in all the circumstances it is appropriate for the Court to give an authorisation, having regard (among other matters) to –
    - (i) the sum outstanding;
    - (ii) the nature of the debt.

**26. Issue of warrant authorising enforcement agent to use reasonable force in relation to goods in a public place**

- (1) This rule applies where an enforcement agent is taking control of goods in a public place.
- (2) The conditions of which the Court must be satisfied before it issues a warrant under paragraph 20(1) of Schedule 1 are –
  - (a) the enforcement agent is attempting to recover a debt enforceable by virtue of a writ under section 114 of the Regulations;
  - (b) the enforcement agent has explained to the Court the type and amount of force that will be required to take control of the goods; and
  - (c) in all the circumstances an authorisation ought to be given, having regard to (among other matters) –
    - (i) the sum outstanding; and
    - (ii) the nature of the debt.
- (3) The writs mentioned in paragraph (2)(a) are –
  - (a) a writ of control which confers a power to recover a sum of money;
  - (b) a writ of delivery which confers a power to take control of goods and sell them to recover a sum of money;
  - (c) a writ of possession which confers a power to take control of goods and sell them to recover a sum of money.

**Chapter 5: Notice After Entry and Taking Control of Goods**

**27. Form and contents of notice after entry, and/or taking control of goods in a public place**

- (1) This rule applies to the notices required by paragraphs 19(13) and 20(9) of Schedule 1.
- (2) Subject to rules 28 and 29, the notice must be in writing, be signed by the enforcement agent and contain the following information –
  - (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;
  - (b) the enforcement agent's name, the reference number or numbers and the date of the notice;
  - (c) that the enforcement agent has done one or more of the following –
    - (i) entered the premises;

- (ii) taken control of goods in a public place;
  - (iii) entered a vehicle in a public place with the intention of taking control of goods;
- (d) the address of the premises which the enforcement agent has entered or the location in or of the public place where the enforcement agent has taken control of goods or entered a vehicle;
- (e) where a vehicle in a public place has been entered with the intention of taking control of goods, the manufacturer, model, colour and registration mark of that vehicle; and
- (f) whether or not the enforcement agent has taken control of goods of the debtor and, if so, the location where and the time when control has been taken of the goods and –
  - (i) a list of the goods of which control has been taken with a description to enable the debtor to identify the goods correctly, including, where applicable –
    - a. the manufacturer, model and serial number of the goods;
    - b. in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and
    - c. the material, colour and usage, and (where appropriate) any other identifying characteristic, of the goods;
  - (ii) the amount of the sum outstanding as at the date of the notice;
  - (iii) the date and time by which the sum outstanding must be paid to prevent the controlled goods being sold;
  - (iv) how and between which hours and on which days payment of the sum outstanding may be made; and
  - (v) that the controlled goods will be released on payment in full (or may be released on part payment) of the sum outstanding.
- (3) Where the enforcement agent is –
  - (a) re-entering premises under paragraph 14 of Schedule 1 to inspect goods of which control has previously been taken; and
  - (b) not using force to effect re-entry,

the requirement to provide notice under paragraph 19(13) of Schedule 1 does not apply.
- (4) Paragraph (2)(f)(i) is complied with if –

- (a) the enforcement agent provides the debtor with a list of goods of which control has been taken under rule 12(3)(e) or rule 30(1)(e) at the same time as the notice; and
- (b) the goods of which control has been taken are the same as those referred to in the list mentioned in sub-paragraph (a).

**28. Additional notice requirements where goods are immobilised**

- (1) Subject to paragraph (2), where control is taken of goods of the debtor in any of the ways listed under paragraph 11(1) of Schedule 1 and the goods have been immobilised, the notice mentioned under rule 27(1) must also contain the information mentioned in rule 13(3) (written warning on immobilisation).
- (2) Where control is taken of goods under paragraph 11(1)(b) of Schedule 1 (goods found in a public place and secured in a public place) and the goods are a vehicle which are immobilised, the notice mentioned in rule 27(1) must also contain the information mentioned in rule 15(4) (written warning on immobilisation).

**29. Additional notice requirements where goods are removed for storage or sale**

- (1) Where control is taken of goods of the debtor under paragraph 11(1)(c) of Schedule 1 or controlled goods are removed to storage or for sale, the notice under rule 27(1) must also contain the following information –
  - (a) that the enforcement agent has removed controlled goods to secure storage or for sale;
  - (b) a list of the goods so removed (where the goods are different to those included in a list provided by virtue of rule 27(2)(f)(i));
  - (c) the date of removal of the goods to storage or for sale;
  - (d) the daily or weekly storage charge payable (in US\$), where the goods are removed to storage; and
  - (e) the procedure for collection by or on behalf of the debtor of goods of which control has been taken on payment of the sum outstanding or on part payment of the sum outstanding where an agreement is made between the enforcement agent and the debtor.
- (2) Where any of the information required by paragraph (1) is not known to the enforcement agent at the time of providing the notice to the debtor under rule 27(1) the enforcement agent must provide such information, in writing to the debtor, as soon as reasonably practicable.
- (3) Paragraph (1)(b) is complied with if the enforcement agent provides the debtor with a copy of the inventory required by paragraph 21 of Schedule 1 at the same time as the notice, which describes all goods removed to storage or for sale.

## Chapter 6: Inventory

### 30. Inventory of goods of which control has been taken: form and contents

- (1) The inventory required by paragraph 21 of Schedule 1 must be in writing, be signed by the enforcement agent and contain the following information –
  - (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;
  - (b) the enforcement agent's name, the reference number or numbers and the date of the inventory;
  - (c) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the co-owner, if any;
  - (d) that the enforcement agent has taken control of the goods of the debtor or of the debtor and the co-owner as specified in the inventory; and
  - (e) a list of the goods of which control has been taken with a description to enable the debtor or the co-owner to identify the goods correctly, including, where applicable –
    - (i) the manufacturer, model and serial number of the goods;
    - (ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and
    - (iii) the material, colour and usage, and (where appropriate) any other identifying characteristic, of the goods.
- (2) The inventory may be combined with a controlled goods agreement under rule 12(1) or the notice required by paragraph 19(13) or 20(9) of Schedule 1 if –
  - (a) the enforcement agent provides the debtor with the inventory at the same time as the controlled goods agreement or the notice; and
  - (b) the goods of which control has been taken are the same as those listed in the list of goods of which control has been taken required by rule 12(3)(e) or rule 27(2)(f)(i).

## Chapter 7: Dealing with Controlled Goods

### 31. Care of controlled goods

- (1) Where the enforcement agent removes controlled goods, other than securities, from premises or a public place where the enforcement agent has found them –
  - (a) the enforcement agent must keep the controlled goods, so long as they remain in the enforcement agent's control in a similar condition to that in

- which the enforcement agent found them immediately prior to taking control of them;
- (b) the goods must be removed to storage, unless the goods are removed for sale; and
  - (c) the storage must be secure and the conditions of that storage such as to prevent damage to or deterioration of the goods for so long as they remain in the enforcement agent's control.
- (2) The enforcement agent must not remove controlled goods to a place where there would be at any time a contravention of any prohibition or restriction by or under any Emirate law, or any Applicable Abu Dhabi Law or any ADGM enactment.

## **Chapter 8: Valuation**

### **32. Valuation of controlled goods**

- (1) This rule applies where an enforcement agent makes (paragraph (2)) or obtains (paragraph (3)) a valuation of controlled goods as required by paragraph 23(1) of Schedule 1.
- (2) Where the enforcement agent makes the valuation –
  - (a) the valuation must be in writing, be signed by the enforcement agent and set out –
    - (i) the enforcement agent's name, the reference number or numbers and the date of the valuation; and
    - (ii) where appropriate, a separate value for each item of goods of which control has been taken; and
  - (b) the enforcement agent must provide a copy of the written valuation, once made, to the debtor and any co-owner.
- (3) Where the enforcement agent obtains the valuation the enforcement agent must –
  - (a) only instruct a qualified independent valuer;
  - (b) instruct the valuer to make a written valuation and, where appropriate, to value each item of goods separately; and
  - (c) provide a copy of the written valuation, once made by the valuer, to the debtor and any co-owner.

## **PART 3 – SALE OF CONTROLLED GOODS**

### **Chapter 1: Securities**

#### **33. Part 3 not to apply to securities**

This Part does not apply to controlled goods which are securities.

### **Chapter 2: Notice of Sale**

#### **34. Minimum period before sale**

- (1) Subject to paragraph (2), the minimum period before sale required by paragraph 26(1) and (2) of Schedule 1 is 7 clear days from removing controlled goods for sale.
- (2) Sale may take place on the business day after removing controlled goods for sale where, if the sale were to take place after the expiry of the period of time referred to in paragraph (1), the goods would become unsaleable, or their sale value would be extinguished or substantially reduced due to the nature of any characteristic of those goods.
- (3) Sale under this Part may not take place on any day other than a business day.

#### **35. Minimum period of notice of sale**

- (1) Subject to paragraph (2), the minimum period of notice of the date, time and place of sale required by paragraph 26(3) to (9) of Schedule 1 is 7 clear days before the sale of the goods.
- (2) Notice may be given on the business day before the sale of the goods where, if the sale were to take place after the expiry of the period of time referred to in paragraph (1), the goods would become unsaleable, or their sale value would be extinguished or substantially reduced due to the nature or any characteristic of those goods.

#### **36. Form and contents of notice of sale**

- (1) Notice of the date, time and place of the sale required by paragraph 26(3) to (9) of Schedule 1 must be made in writing, be signed by the enforcement agent and contain the following information –
  - (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;
  - (b) the enforcement agent's name, the reference number or numbers and the date of the notice;
  - (c) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the co-owner, if any;
  - (d) that the controlled goods may be sold as the debtor has failed to pay the sum outstanding;

- (e) a list of the controlled goods that may be sold with a description to enable the debtor or co-owner to identify the goods correctly, including, where applicable –
    - (i) the manufacturer, model and serial number of the goods;
    - (ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and
    - (iii) the material, colour and usage and (where appropriate) any other identifying characteristic, of the goods;
  - (f) that the sale of the controlled goods is conditional on –
    - (i) an offer to purchase the goods being made; and
    - (ii) the reserve price, if any, on the controlled goods being met;
  - (g) that if the conditions in sub-paragraph (f) are not met the date, the time and place of sale will be set out in a further notice;
  - (h) the amount of the sum outstanding as at the date of the notice;
  - (i) the date and time by which the sum outstanding must be paid to prevent the controlled goods being sold;
  - (j) how and between which hours and on which days payment of the sum outstanding may be made; and
  - (k) the procedure for collection by or on behalf of the debtor or co-owner of goods of which control has been taken on payment of the sum outstanding or on part payment of the sum outstanding where an agreement is made between the enforcement agent and the debtor.
- (2) Where the conditions in paragraph (1)(f) are not met and a further notice is given to the debtor and any co-owner by virtue of paragraph (1)(g), the notice must –
- (a) comply with the requirements of rule 35;
  - (b) provide the information required by paragraph (1); and
  - (c) state that it is a further notice.
- (3) The enforcement agent may replace the notice with a new notice, in accordance with paragraph 26(5) of Schedule 1, only if –
- (a) the date, time or location of the sale has had to be re-arranged;
  - (b) the minimum period of notice of the date, time and place of sale in the new notice is of the same period as in the notice which is to be replaced; and
  - (c) the new notice sets out –
    - (i) the information required by paragraph (1);

- (ii) that it is a new notice;
- (iii) that it replaces the last notice given to the debtor or co-owner; and
- (iv) the date of the notice which it replaces.

**37. Method of giving notice of sale**

- (1) The method of giving the notice of the date, time and place of sale required by paragraph 26(3) to (9) of Schedule 1 is the method required under rule 5(1) (method of giving notice).
- (2) For the purposes of this rule, references in rule 5(1) to a debtor include a co-owner.

**Chapter 3: Sale**

**38. Methods of sale**

- (1) Where an enforcement agent applies to the Court under paragraph 26(11) of Schedule 1 for an order that the sale be by a method other than public auction, the types of sale the Court may order include sale by –
  - (a) private contract;
  - (b) sealed bids;
  - (c) advertisement; and
  - (d) such other method as the Court considers appropriate.
- (2) Where the enforcement agent has stated to the Court (as required by paragraph 26(13) of Schedule 1) that the enforcement agent has reason to believe that an enforcement power has become exercisable by another creditor against the debtor or a co-owner, the notice of application required by paragraph 26(14) of that Schedule must –
  - (a) be in writing, signed by the enforcement agent and set out –
    - (i) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;
    - (ii) the enforcement agent's name, the reference number or numbers and the date of the notice;
  - (b) attach a copy of the enforcement agent's application to the Court; and
  - (c) be given to that other creditor –
    - (i) by the enforcement agent; and
    - (ii) by a method required under rule 5(1) (method of giving notice).

- (3) For the purposes of paragraph (2)(c)(ii), references in rule 5(1) to a debtor are to be read as a reference to the other creditor.

**39. Place of sale**

- (1) Subject to paragraph (2), a sale of controlled goods by public auction may only be held in a public auction house or on an online or internet auction site.
- (2) The sale may be held on premises where goods were found by the enforcement agent where those premises are occupied solely for the purposes of a trade or business.
- (3) A sale of controlled goods by public auction in a public auction house will satisfy the requirement of paragraph (1) whether the public auction house is located in the Abu Dhabi Global Market or the Emirate.

**40. Conduct of sale**

Where controlled goods are sold by public auction, the auction must be conducted by –

- (a) a qualified auctioneer; or
- (b) where the auction takes place online or on an internet auction site, an auction provider independent of the enforcement agent.

**PART 4 – SECURITIES OF THE DEBTOR**

**41. Part 4 only to apply to securities**

This Part only applies to controlled goods which are securities.

**42. Holding of securities**

- (1) The enforcement agent may hold securities until they mature.
- (2) While holding securities, the enforcement agent must ensure each security has the benefit of the same protection in every respect (for example, from damage, destruction, theft or unauthorised or fraudulent interference) as that security had immediately before the enforcement agent took control of it.

**43. Disposal of securities**

- (1) The minimum period of notice required by paragraph 30(5) of Schedule 1 (which requires the enforcement agent to give notice to the debtor, etc. of the disposal of securities) is 7 clear days.
- (2) Subject to paragraph (3), the notice must be in writing, be signed by the enforcement agent and contain the following information –
  - (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;

- (b) the enforcement agent's name, the reference number or numbers and the date of the notice;
  - (c) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the co-owner, if any;
  - (d) for each security, sufficient details of the security to enable the debtor or any co-owner to identify the security correctly;
  - (e) that the securities may be disposed of by –
    - (i) realising the sums secured or made payable by them;
    - (ii) the creditor issuing proceedings in the name of the debtor (or in the name of any person in whose name the debtor might have sued) for the recovery of any sum secured or made payable by securities, when the time of payment arrives; or
    - (iii) the creditor assigning the right to sue for the recovery of such sums to another person;
  - (f) the date and time when the sums will be realised, where sub-paragraph (e)(i) applies;
  - (g) the amount of the sum outstanding as at the date of the notice;
  - (h) the date and time by which the sum outstanding must be paid to prevent the securities being disposed of;
  - (i) how and between which hours and on which days payment of the sum outstanding may be made; and
  - (j) the procedure for release to the debtor or co-owner of the securities of which control has been taken on payment of the sum outstanding or on part payment of the sum outstanding where an agreement is made between the enforcement agent and the debtor.
- (3) Where paragraph (2)(e)(ii) or (iii) applies, the notice must also provide for the following information –
- (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the applicant to the proceedings;
  - (b) the names and addresses, including, where appropriate, the trading or business names and the trading or, if registered in the Abu Dhabi Global Market, the registered office addresses of the defendants to the proceedings;
  - (c) the amount of the claim –
    - (i) in respect of each security; and
    - (ii) in total.

- (4) The enforcement agent may replace the notice with a new notice, in accordance with paragraph 30(8) of Schedule 1, only if –
- (a) the method of disposal under paragraph (2)(e) has changed; or
  - (b) the date or time of the disposal under paragraph (2)(f) has had to be re-arranged,
- and the new notice complies with the requirements of paragraph (5).
- (5) Where the notice is replaced with a new notice under paragraph (4) –
- (a) the minimum period of notice given in the new notice must be the same period as in the notice which is to be replaced; and
  - (b) the new notice must provide the following information –
    - (i) the information required by paragraph (2);
    - (ii) the information required by paragraph (3), where paragraph (2)(e)(ii) or (iii) applies;
    - (iii) that it is a new notice;
    - (iv) that it replaces the last notice given to the debtor or co-owner; and
    - (v) the date of the notice which it replaces.
- (6) The method of giving the notice is the method required under rule 5(1) (method of giving notice) and for the purposes of this rule, references in that rule to a debtor include a co-owner.

## **PART 5 – ABANDONMENT OF GOODS**

### **44. Abandonment of goods other than securities**

- (1) This rule applies where, pursuant to paragraph 34(3)(b) of Schedule 1, the enforcement agent makes controlled goods, which are abandoned, available for collection by the debtor.
- (2) Where the goods are immobilised, the enforcement agent must on (but not before) collection by the debtor, remove all immobilisation devices from the goods.
- (3) Where the enforcement agent removed goods from where they were found, the enforcement agent must as soon as reasonably practicable give the debtor a written notice, signed by the enforcement agent which must contain the following information –
  - (a) the name and address, including, where appropriate, the trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the debtor;

- (b) the enforcement agent's name, reference number or numbers and the date of the notice;
  - (c) that the controlled goods are abandoned and the reason why they are abandoned;
  - (d) a list of the abandoned goods with a description of each to enable the debtor to identify the goods correctly, including, where applicable –
    - (i) the manufacturer, model and serial number of the goods;
    - (ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle;
    - (iii) the material, colour and usage, and (where appropriate) any other identifying characteristic of the goods;
  - (e) that the goods are available for collection by the debtor;
  - (f) the procedure for collection of the goods; and
  - (g) that if the debtor fails to collect the goods within 28 days from when the goods were made available for collection, the enforcement agent will make an application to the Court for determination of how the uncollected goods are to be disposed of.
- (4) The method of giving notice is the method required under rule 5(1) (method of giving notice).
- (5) Where the debtor fails to collect the controlled goods within 28 days from when the goods were made available for collection, the enforcement agent must apply to the Court to determine how the uncollected goods are to be disposed of.
- (6) On application by the enforcement agent under paragraph (5), the Court may make one of the following order –
- (a) that the goods are to be made available for collection by the debtor during a further period of time (to be determined by the Court);
  - (b) that the goods are to be –
    - (i) given to a charitable organisation nominated by the Court; or
    - (ii) destroyed; or
  - (c) that the goods are to be made available for collection by the debtor during a further period of time (to be determined by the Court) and, if not collected during that period, are to be –
    - (i) given to a charitable organisation nominated by the Court; or
    - (ii) destroyed.

## **PART 6 – THIRD PARTY CLAIMING CONTROLLED GOODS**

### **45. Application of Part 6**

This Part applies where a person (“the applicant”) makes an application to the Court claiming that the goods of which control has been taken are that person’s and not the debtor’s.

### **46. Payments into Court by third party: underpayments**

- (1) Any underpayment to be determined by reference to an independent valuation under paragraph 39(5) of Schedule 1 must be undertaken by a qualified independent valuer.
- (2) Any underpayment determined by the qualified independent valuer must be paid within 14 clear days after provision of a copy of the valuation to the applicant.

## **PART 7 – COMMERCIAL RENT ARREARS RECOVERY (CRAR)**

### **Chapter 1: General**

### **47. Part 7 to apply only to CRAR**

This Part only applies to debts enforceable under section 127 of the Regulations.

### **48. Authorisation by landlord to another to exercise CRAR on landlord’s behalf**

Where a landlord gives authorisation under section 128(8) of the Regulations to a person to exercise CRAR on the landlord’s behalf, the authorisation must –

- (a) only authorise an enforcement agent; and
- (b) be in writing, be signed by the landlord and provide the following information –
  - (i) the date of the authorisation;
  - (ii) the landlord’s name and contact details, including, where appropriate, the landlord’s trading or business name and the trading or, if registered in the Abu Dhabi Global Market, the registered office address of the landlord;
  - (iii) the name and contact details of the person authorised to act on behalf of the landlord;
  - (iv) sufficient detail to enable the authorised person to identify the commercial premises in respect of which CRAR may now be exercised on the landlord’s behalf;
  - (v) the amount of rent owed; and
  - (vi) the period in relation to which the rent is owed.

**49. Minimum amount of net unpaid rent for CRAR to become exercisable**

The minimum amount of net unpaid rent for the purpose of section 132(3) of the Regulations is an amount equal to 1 months' rent.

**Chapter 2: Right to Rent from Sub-Tenant**

**50. Notice to sub-tenant: when notice takes effect and service**

- (1) A notice served on any sub-tenant under section 135(2) of the Regulations takes effect 28 clear days after the notice is served on the sub-tenant.
- (2) The notice must be served on the sub-tenant by a method required under rule 5(1) (method of giving notice).

**51. Notice to sub-tenant: form and contents**

The notice must be in writing, be signed by the landlord and contain the following information –

- (a) the landlord's name, reference and contact details and the date of the notice;
- (b) the amount of rent the landlord has the right to recover from the immediate tenant by CRAR ("the notified amount");
- (c) that while the notified amount remains unpaid, the sub-tenant must pay the sub-tenant's rent directly to the landlord instead of to the immediate tenant, as a discharge for any rent payable by the sub-tenant under the sub-lease, until –
  - (i) the notified amount has been paid (by payments under the notice or otherwise); or
  - (ii) the notice is replaced or withdrawn; and
- (d) that the landlord may withdraw the notice in accordance with rule 52.

**52. Notice to sub-tenant: withdrawal of notice**

A notice served on any sub-tenant under section 135(2) of the Regulations is withdrawn if the landlord provides written notice, to the sub-tenant who received that notice that it is withdrawn.

**PART 8 – TAKING CONTROL OF GOODS (FEES)**

**53. Application of Part 8**

This Part applies when an enforcement agent uses the Schedule 1 procedure.

**54. Recovery of fees for enforcement-related services from the debtor**

- (1) The enforcement agent may recover from the debtor the fees indicated in the Schedule to these Rules in accordance with this rule and rules 60, 61, 62, 65 and 66, by reference to the stage, or stages of enforcement for which enforcement-related services have been supplied.
- (2) The fees referred to in paragraph (1) may be recovered out of proceeds.
- (3) The enforcement agent may recover under this regulation the whole fee provided in the Schedule to these Rules for a stage where the amount outstanding is paid after the commencement, but before the completion, of that stage.
- (4) For the purposes of this rule, the relevant stage of enforcement is determined according to rule 55.
- (5) Where –
  - (a) the enforcement agent and the debtor enter into a controlled goods agreement which the debtor does not breach, only the first enforcement stage fee may be recovered from the debtor; or
  - (b) the enforcement agent and the debtor –
    - (i) enter into a controlled goods agreement which the debtor breaches; or
    - (ii) do not enter into a controlled goods agreement,both the first enforcement stage and second enforcement stage fees may be recovered from the debtor, and the first enforcement stage fee is recoverable where sub-paragraph (ii) applies notwithstanding that the first enforcement stage did not apply.

**55. Stages of enforcement for which fees may be recovered**

- (1) The relevant stages of enforcement under an enforcement power are as follows –
  - (a) the compliance stage, which comprises all activities relating to enforcement from the receipt by the enforcement agent of instructions to use that procedure in relation to a sum to be recovered up to but not including the commencement of the first enforcement stage, or, where sub-paragraph (c)(ii) applies, the commencement of the second enforcement stage;
  - (b) where the enforcement agent and the debtor enter into a controlled goods agreement, the first enforcement stage, which comprises all activities relating to enforcement from the first attendance at the premises in relation to the instructions until the agreement is completed or breached;
  - (c) the second enforcement stage, which comprises –
    - (i) where the enforcement agent and the debtor enter into a controlled goods agreement but the debtor breaches that agreement, all

activities relating to enforcement from the time at which the debtor breaches the agreement up to but not including the commencement of the sale or disposal stage;

(ii) where the enforcement agent and the debtor do not enter into a controlled goods agreement, all activities relating to enforcement from the first attendance at the premises in relation to the instructions up to but not including the commencement of the sale or disposal stage;

(d) the sale or disposal stage, which comprises all activities relating to enforcement from the first attendance at the property for the purpose of transporting goods to the place of sale, or from commencing preparation for sale if the sale is to be held on the premises, until the completion of the sale or disposal (including application of the proceeds and provision of the information required by rule 63).

(2) Where the goods against which enforcement is sought are securities, the sale or disposal stage commences with the provision of a notice of disposal in accordance with paragraph 30(6) of Schedule 1.

**56. Calculation of fees by reference to value sum sought to be recovered**

The percentage fee or fees are to be calculated by multiplying the amount of the sum to be recovered which exceeds US\$2,000 by the percentage indicated in the relevant column of the table in the Schedule; in the total amount of the fee so calculated, any fraction of US\$1 is to be reckoned as US\$1, but any fraction of a cent is to be disregarded.

**57. Disbursements recoverable from the debtor**

(1) The enforcement agent may recover disbursements from the debtor only in accordance with this rule and rules 58, 59 and 60.

(2) The following disbursements are recoverable provided that they are reasonably and actually incurred –

(a) the cost of storing goods which have been taken into control and removed from the premises or public place;

(b) the cost of hiring a locksmith to gain access to premises when using reasonable force to enter them in accordance with Schedule 1, and to secure them thereafter;

(c) Court fees in relation to any applications made by the enforcement agent in relation to the enforcement power which are granted.

(3) The disbursements referred to in this rule and rules 58 and 59 may be recovered out of proceeds.

**58. Disbursements recoverable from the debtor in relation to sale of goods by auction or by private sale**

- (1) The enforcement agent may recover disbursements related to the sale of the goods from the debtor in accordance with this rule and rules 59 and 60.
- (2) Where the sale is held on premises provided by the auctioneer conducting the sale, the enforcement agent may recover from the debtor –
  - (a) a sum in respect of the auctioneer’s commission not exceeding 15% of the sum realised by the sale of the goods;
  - (b) the auctioneer’s out of pocket expenses; and
  - (c) reasonable disbursements incurred in respect of advertising the sale.
- (3) Where the sale is held on other premises in accordance with subordinate legislation made under paragraph 27 of Schedule 1, the enforcement agent may recover from the debtor the sums and disbursements referred to in paragraph (2), except that the sum referred to in paragraph (2)(a) may not exceed 7.5% of the sum realised by the sale of the goods.
- (4) Where the goods are –
  - (a) auctioned by way of an internet auction; or
  - (b) sold other than by auction,

the enforcement agent may recover from the debtor 7.5% of the sum realised by the sale of the goods.

**59. Exceptional disbursements**

- (1) Upon application by the enforcement agent with the consent of the creditor in accordance with rules of court, the Court may order that the enforcement agent may recover from the debtor exceptional disbursements associated with the use of the Schedule 1 procedure which are not otherwise recoverable under these Rules.
- (2) The Court may not make an order under paragraph (1) unless satisfied that the disbursements to which it relates are necessary for effective enforcement of the sum to be recovered, having regard to all the circumstances including –
  - (a) the amount of that sum; and
  - (b) the nature and value of the goods which have been taken into control, or which it is sought to take into control.

**60. More than one enforcement power available against the same debtor**

- (1) This rule applies for the purpose of calculating the fees and disbursements payable to the enforcement agent in accordance with rules 54, 57, 58 and 59 in a case where –
  - (a) the enforcement agent receives instructions to use the procedure under Schedule 1 in relation to the same debtor but in respect of more than one enforcement power; and

- (b) those enforcement powers can reasonably be exercised at the same time.
- (2) In paragraph (1)(b), “can reasonably be exercised at the same time” means in particular –
  - (a) taking control of goods in relation to all such enforcement powers on the same occasion; and
  - (b) selling or disposing of all goods so taken into control on the same occasion, except where it is impracticable to do so.
- (3) The enforcement agent may recover the compliance stage fee in respect of each enforcement power to which the instructions relate.
- (4) Where paragraph (1) applies the fee recoverable in respect of the enforcement stage (or stages) and the sale or disposal stage respectively is to be calculated as follows –
  - (a) the fixed fee for each stage may be recovered only once, regardless of the number of enforcement powers to which the instructions relate;
  - (b) the amount in relation to which the percentage fee for each stage, if any, is to be calculated is the total amount of the sums to be recovered under all enforcement powers to which paragraph (1) applies.
- (5) Where this rule applies, the enforcement agent must, as far as practicable, minimise the disbursements recoverable from the debtor under these Rules by dealing with the goods taken into control pursuant to the instructions together and on as few occasions as possible.

**61. Recovery of fees from vulnerable debtors**

Where the debtor is a vulnerable person, the fee or fees due for the enforcement stage (or, where rule 55 applies, the first, or first and second, enforcement stages as appropriate) and any disbursements related to that stage (or stages) are not recoverable unless the enforcement agent has, before proceeding to remove goods which have been taken into control, given the debtor an adequate opportunity to get assistance and advice in relation to the exercise of the enforcement power.

**62. Application of proceeds where less than the amount outstanding**

- (1) Subject to paragraph 31(6) of Schedule 1, when the proceeds from the exercise of an enforcement power are less than the amount outstanding, they must be applied in accordance with this rule.
- (2) Where the goods are sold or disposed of at a public auction (other than by internet auction), the proceeds must be applied first in payment of the auctioneer’s fees calculated in accordance with rule 58(2) or (3) as appropriate.
- (3) Following the payment at paragraph (2), the enforcement agent may then recover the compliance fee.

- (4) Subject to paragraph (5), following any payment due by virtue of paragraphs (2) and (3), the proceeds must be applied pro rata in payment of –
  - (a) the sum to be recovered; and
  - (b) any remaining amounts recoverable in respect of fees and disbursements payable to the enforcement agent in accordance with these Rules.
- (5) Where the same legal person is both the creditor and the enforcement agent, paragraph (4) does not apply and the proceeds must be applied in payment of the amount referred to in paragraph (4)(b) before payment of the amount at paragraph (4)(a).
- (6) In paragraphs (4) and (5), references to the proceeds are to the proceeds after deduction of the sums, if any, to which paragraphs (2) and (3) relate.

**63. Provision of information to debtor and co-owner by enforcement agent**

- (1) As soon as possible after sale or disposal of the goods, the enforcement agent must provide the debtor and any co-owner of goods of whom the enforcement agent is aware with –
  - (a) an itemised list of the goods sold or otherwise disposed of;
  - (b) a statement of –
    - (i) the sum received in relation to each item;
    - (ii) the proceeds;
    - (iii) the application of the proceeds;
    - (iv) the disbursements recoverable under these Rules and incurred in relation to the goods.
- (2) The enforcement agent must provide the debtor and any co-owner with a copy of all receipts for the disbursements referred to at paragraph (1)(b)(iv), except in relation to disbursements to which rule 58(4) applies.
- (3) Where the debtor pays, or seeks to pay, the amount outstanding at any time after the enforcement agent has incurred disbursements in relation to the enforcement power but before sale or disposal of the goods, the enforcement agent must provide the debtor with –
  - (a) a statement of disbursements recoverable in accordance with paragraph (1)(b)(iv);
  - (b) any receipts in accordance with paragraph (2);
  - (c) a statement of the fixed and percentage fees (if any) charged.

**64. Dispute regarding co-owner’s share of proceeds**

Upon application in accordance with rules of court by the enforcement agent, the creditor, the debtor or a co-owner of goods, any dispute about the amount of the proceeds payable to that co-owner under paragraph 31(6)(a) of Schedule 1 is to be determined by the Court.

**65. Disputes about the amount of fees and disbursements recoverable under Rules**

Upon application in accordance with rules of court, any dispute regarding the amount recoverable under these Rules is to be determined by the Court.

**66. Fees and disbursements not recoverable where enforcement process ceases**

- (1) The enforcement agent may not recover fees or disbursements from the debtor in relation to any stage of enforcement undertaken at a time when the relevant enforcement power has ceased to be exercisable.
- (2) Paragraph (1) does not apply where the enforcement power ceases to be exercisable because the debtor has paid the amount outstanding or that amount has been recovered from the proceeds or otherwise.
- (3) In a case in which the enforcement agent is instructed by a landlord to exercise CRAR and the Court makes an order under section 133(1) of the Regulations –
  - (a) the enforcement agent may not recover fees or disbursements from the debtor where the order is made under section 133(1)(a);
  - (b) where the order is made under section 133(1)(b), the enforcement agent may recover fees and disbursements from the debtor in accordance with these Rules only if the Court has made a further order permitting further steps to be taken under CRAR.

**PART 9 – INTERPRETATION, CITATION, COMMENCEMENT AND EXTENT**

**67. Interpretation**

- (1) In these Rules, unless the context otherwise provides or requires –
  - (a) “Abu Dhabi Global Market” means the financial free zone established by Federal Decree No. (15) of 2013 issued by the President of the United Arab Emirates, as delimited by Resolution No. (4) of 2013 of the Cabinet of the United Arab Emirates and as governed by the ADGM Founding Law;
  - (b) “ADGM enactment” means ADGM regulations and any rules made under ADGM regulations, including court procedure rules;
  - (c) “ADGM Founding Law” means Law No. (4) of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler;
  - (d) “ADGM regulations” means regulations enacted by the Board under Article 6(1) of the ADGM Founding Law;

- (e) “amount outstanding” has the meaning given by paragraph 31(3) of Schedule 1 (application of proceeds);
- (f) “Applicable Abu Dhabi Law” means a law issued after the date of enactment of these Regulations by His Highness the Ruler of the Emirate of Abu Dhabi which expressly provides for the law to have application in the Abu Dhabi Global Market, including any rules, regulations, orders, resolutions or similar measures adopted pursuant to such law;
- (g) “Board” means the Board of Directors of the Abu Dhabi Global Market as constituted by Article 4 of the ADGM Founding Law;
- (h) “business day” means any day other than a Friday, Saturday or a public holiday;
- (i) “Chief Justice” means the Chief Justice of the Abu Dhabi Global Market Courts appointed under Article 13(2) of the ADGM Founding Law;
- (j) “child” means a person under the age of 21;
- (k) “clear days” means that in computing the number of days –
  - (i) the day on which the period begins;
  - (ii) if the end of the period is defined by reference to an event, the day on which that event occurs; and
  - (iii) any public holiday falling during the period,
 are not included;
- (l) “controlled goods” has the meaning given in paragraph 3(1) of Schedule 1 (general interpretation);
- (m) “controlled goods agreement” has the meaning given by paragraph 11(4) of Schedule 1 (ways of taking control);
- (n) “co-owner” has the meaning given in paragraph 3(1) of Schedule 1 (general interpretation);
- (o) “Court” means the Court of First Instance;
- (p) “court procedure rules” means rules made under Part 7 of the Regulations;
- (q) “CRAR” has the meaning given by section 127 of the Regulations (commercial rent arrears recovery (CRAR));
- (r) “creditor” has the meaning given in paragraph 1(3) of Schedule 1 (the procedure);
- (s) “debtor” has the meaning given in paragraph 1(3) of Schedule 1 (the procedure);
- (t) “disabled person” means a person –

- (i) whose sight, hearing or speech is substantially impaired;
- (ii) who has a mental disorder; or
- (iii) who is physically substantially disabled by any illness, any impairment present since birth, or otherwise;
- (u) “Emirate” means the Emirate of Abu Dhabi;
- (v) “enforcement agent” has the meaning given in paragraph 2(1) of Schedule 1 (enforcement agents);
- (w) “enforcement power” has the meaning given by paragraph 1(2) of Schedule 1;
- (x) “enforcement-related services” has the meaning given by paragraph 41(5) of Schedule 1 (costs);
- (y) “Global Market’s Authority” has the meaning given in Articles 1 and 10 of the ADGM Founding Law;
- (z) “net unpaid rent” has the meaning given in section 132(5) of the Regulations (the rent recoverable);
- (aa) “notice of enforcement” means the notice of enforcement required by paragraph 7(1) of Schedule 1 (notice of enforcement);
- (bb) “notice of the enforcement agent’s intention to re-enter premises” means the notice of the enforcement agent’s intention to re-enter premises required by paragraph 16(5)(d) of Schedule 1 (general powers to use reasonable force: supplementary);
- (cc) “older person” means a person aged 75 or over;
- (dd) “percentage fee” means a fee calculated in accordance with rule 56;
- (ee) “premises” has the meaning given in paragraph 3(1) of Schedule 1 (general interpretation);
- (ff) “proceeds” has the meaning given by paragraph 31(2) of Schedule 1 (application of proceeds);
- (gg) “public authority” includes any Global Market’s Authority;
- (hh) “public holiday” means New Year’s day, Al-Mawlid Al Nabawi, Israa & Miaraj Night, Start of Ramadan, Eid Al Fitr, Arafat (Haj) Day, Eid Al Adha, Hijri New Year’s Day, UAE National Day and any other day declared to be a public holiday by the government of the United Arab Emirates;
- (ii) “public ownership” means wholly or partly owned by the Emirate or the Abu Dhabi Global Market and controlled through a public authority;
- (jj) “the Regulations” means the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015;

- (kk) “reference number” means a reference number assigned to the debt by the enforcement agent or the enforcement agent’s office;
  - (ll) “relevant premises” has the meaning given by paragraph 12(4) and (6) of Schedule 1 (entry without warrant);
  - (mm) “rent” has the meaning given by section 131 of the Regulations (rent);
  - (nn) “Schedule 1” means Schedule 1 to the Regulations;
  - (oo) “securities” has the meaning given in paragraph 3(1) of Schedule 1 (general interpretation);
  - (pp) “specified premises” means the premises specified in a warrant issued under paragraph 13(1) of Schedule 1 (entry under warrant);
  - (qq) “sum to be recovered” means the amount of the debt which remains unpaid, or an amount that the creditor agrees to accept in full satisfaction of the debt;
  - (rr) “the sum outstanding” means the outstanding debt together with any interest and costs of enforcement to date;
  - (ss) “taking control of goods” has the meaning given by paragraph 11(1) of Schedule 1 (ways of taking control).
- (2) In these Rules, references to “the compliance stage”, “the first enforcement stage”, “the second enforcement stage” and to “the sale and disposal stage” are to be construed in accordance with rule 55.
  - (3) In these Rules, any notice, agreement, warning, inventory, valuation or authorisation that are, pursuant to these Rules, required to be made or given in writing must be written in English.

**68. Correction of errors in the Rules**

The Chief Justice may, after consultation with the Chairman of the Board, at any time correct an accidental slip or omission in these Rules.

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

- (1) These Rules may be cited as the Taking Control of Goods and Commercial Rent Arrears Recovery 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 Board may by rules make any transitional, transitory, consequential, saving, incidental or supplementary provision in relation to the commencement of these Rules as the Board 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.

**SCHEDULE**

**Rule 54**

**Table**

<b>Fee Stage</b>	<b>Fixed Fee</b>	<b>Percentage fee (rule 56): percentage of sum to be recovered exceeding US\$2,000</b>
Compliance stage	US\$100.00	0%
First enforcement stage	US\$200.00	7.5%
Second enforcement stage	US\$500.00	0%
Sale or disposal stage	US\$600.00	7.5%