



ADGM COURTS
محاكم سوق أبوظبي العالمي

ADGM Court Procedure Rules Amendment No 1 of 2022



ADGM COURT PROCEDURE RULES AMENDMENT NO 1 OF 2022

Date of Enactment: 23 September 2022

The Chief Justice of the ADGM Courts, having power under section 187 of the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 to make court procedure rules, makes the following Rules –

Amendments to ADGM Court Procedure Rules 2016

The ADGM Court Procedure Rules are amended as follows:

- (1) In Rule 3(1)(f) the word “Friday,” shall be deleted and after the word “Saturday” the word “, Sunday” shall be inserted.
- (2) In Rule 3(1)(k) the number “2015” shall be deleted and replaced with “2020”.
- (3) A new Rule 3(1)(o) shall be inserted as follows:

“data message” means information generated, sent, received or stored by electronic, digital, magnetic, wireless, optical, electromagnetic or similar means”.

the consequential paragraph numbering of Rule 3(1)(o) – 3(1)(ll) shall be renumbered 3(1)(p) – 3(1)(mm).
- (4) Renumbered Rule 3(1)(r) shall be amended to read as follows:

““electronic means” means an electronic communication made by means of data messages”.
- (5) In renumbered Rule 3(1)(v) the word “Registrar,” shall be deleted.
- (6) In Rule 3(2) the words “pursuant to section 191 of the Regulations” shall be inserted at the end of the paragraph.
- (7) In Rule 6(2) the word “Friday” shall be deleted and after the word “Saturday” the word “, Sunday” shall be inserted.
- (8) In Rule 8(1) the words “as set out in Rule 2(2)” shall be inserted at the end of the paragraph.
- (9) In Rule 10(1) the words “or deferral” shall be inserted directly after the words “for full or part remission”.
- (10) Rule 16(2)(a) shall be amended to read as follows:

“if the individual to be served refuses to receive the document and the person serving the document leaves the document in the individual’s presence, the document is deemed to have been served on the individual at the time of the refusal;”
- (11) Rule 16(4)(a) shall be amended to read as follows:

“if the individual to be served refuses to receive the document and the person serving the document leaves the document in the individual’s presence, the document is deemed to have been served on the individual at the time of the refusal;”.

- (12) In Rule 18(1)(c) after the words “by email” the words “mobile text message (SMS), WhatsApp or like messaging” shall be inserted; after the words “if the email” the words “, WhatsApp or like messaging” shall be inserted and at the end of the paragraph the word “; or” shall be deleted and replaced with a full stop.
- (13) Current Rule 18(1)(d) shall be deleted.
- (14) A new Rule 24(2) shall be inserted as follows:
- “The claimant may, in accordance with this Part, serve the claim form on a person out of the jurisdiction where:”.
- (a) there is between the claimant and the defendant a real issue which it is reasonable for the Court to try; and.
- (b) the claimant wishes to serve the claim form on another person who is a necessary or proper party to that claim.”
- (15) A new Rule 24(3) shall be inserted as follows:
- “Paragraph 2 applies to a counterclaim brought pursuant to Rule 50 or an additional claim brought pursuant to Rule 51 where the person to be served is a necessary or proper party to the counterclaim or additional claim.”
- (16) A new Rule 24(4) shall be inserted as follows:
- “The claimant may serve the claim form on a defendant in reliance on paragraph (1) where a further claim is made against the same defendant which arises out of the same or closely connected facts.”
- (17) Current Rule 24(2) shall be renumbered Rule 24(5).
- (18) In Rule 28(2) the words “before 12 noon in the calendar day” shall be deleted and replaced with the word “within”.
- (19) In Rule 28(3) the words “no later than the calendar day” shall be deleted and replaced with the word “within”.
- (20) A new Rule 40(A) shall be inserted as follows:
- “40A. Supplementary provisions where applications for default judgment are made
- (1) Where the claimant makes an application for default judgment, the judgment shall be such judgment as it appears to the Court that the claimant is entitled to on his statement of case.
- (2) Unless it appears to the Court that judgment should be given for a lesser amount, a default judgment on a claim for a specified amount of money obtained on the filing of an application will be judgment for the amount of the claim (less any payments made), costs and post judgment interest (pre-judgment interest may be included if the conditions in paragraph (3) are satisfied).
- (3) A default judgment on a claim for a specified amount of money may include interest claimed to the date of judgment if:

- (a) the particulars of claim include the details required by any relevant practice direction; and
 - (b) the claimant's request for judgment includes a calculation of the interest claimed from the date up to which interest was stated to be calculated in the claim form to the date of the application for judgment.
 - (4) Where the claim is for an unspecified amount of money, a default judgment will be for:
 - (a) such amount;
 - (b) costs; and
 - (c) any interest,to be decided by the Court.
 - (5) Nothing in this Rule shall affect the Court's ability to give such directions, or make such orders, as it considers appropriate."
- (21) A new Rule 42(5) shall be inserted as follows:
- "(5) Where the Court has entered judgment in relation to a part of the claim which has been admitted and the defendant:
 - (a) has filed a defence in relation to the part of the claim which has not been admitted, the Court shall proceed to determine that part of the claim; or
 - (b) has not filed a defence in relation to part of the claim which has not been admitted, and the relevant time for doing so has expired, the claimant may apply for default judgment on that part of the claim."
- (22) In Rule 43(1) the words "paragraph (4) of rule 42" shall be deleted and replaced with "Rule 42(2)".
- (23) Current Rule 45(2) shall be deleted.
- (24) In Rule 58(2) the words "acknowledges service of the notice in accordance with Rule 35(1)" shall be deleted and replaced with the words "files an acknowledgment of service of the notice within 14 days of being served,".
- (25) Rule 64(7) shall be amended to read as follows:
- "This Rule does not require witness statement evidence to be filed if such evidence has already been filed, nor to be re-served on a party upon whom such evidence has already been served."
- (26) In Rule 68(1) the word "that" shall be inserted at the end of the first sentence.
- (27) In Rule 68(1)(a) the word "that" at the beginning of the sub-paragraph shall be deleted.
- (28) In Rule 68(1)(b) the word "that" at the beginning of the sub-paragraph shall be replaced by the word "the".
- (29) In Rule 68(1)(c) the word "that" at the beginning of the sub-paragraph shall be deleted.
- (30) In Rule 76(3) the words "by the Registrar" shall be deleted.

- (31) In Rule 85(1) the words “and claims brought in the Courts” shall be deleted and replaced with “before the Court”.
- (32) In Rule 88(1) the words “according to” shall be deleted and replaced with the words “in accordance with the relevant”.
- (33) The heading to Rule 97 shall be amended to read as follows:
“Witness statements and exhibits”.
- (34) Current Rule 105(b) shall be deleted.
- (35) Current Rule 105(c) shall be renumbered 105(b).
- (36) Current Rule 105(d) shall be renumbered 105(c).
- (37) Current Rule 105(e) shall be renumbered 105(d).
- (38) Current Rule 105(f) shall be renumbered 105(e).
- (39) Current Rule 105(g) shall be renumbered 105(f).
- (40) In Rule 116(1) the word “rule” shall be capitalised to read “Rule”.
- (41) In Rule 116(2) the word “It” shall be deleted and replaced with the words “This Rule”.
- (42) Rule 119(1) shall be amended to provide for sub-paragraphs as follows:
“(1) The following Rules provide for the circumstances:
(a) in which a party may be required to attend Court to give evidence or produce a document, and
(b) for a party to obtain evidence before a hearing to be used at the hearing.”
- (43) The heading to Rule 122 shall be amended to read as follows:
“Witness summons in aid of another court, tribunal or panel”.
- (44) In Rule 122(1) the words “an inferior” shall be deleted and replaced with the word “another” and the word “of” before the words “a tribunal” and “a panel” shall be deleted.
- (45) In Rule 122(2) the words “In paragraph (1) of this Rule, inferior” shall be deleted and replaced with the words “In this Part, another”.
- (46) In Rule 123(3) the words “another court or” shall be inserted before the words “a tribunal” and the words “the attending of the witness” shall be deleted and replaced with the words “the witness’s attendance”.
- (47) In Rule 130(2) the word “inferior” shall be deleted and replaced with the word “other”.
- (48) Rule 154(2) shall be amended to provide for sub-paragraphs as follows:
“(2) The offer must:
(a) make clear that it is made pursuant to Part 18;
(b) specify:

- (i) a period of not less than 21 days within which the offer can be accepted; and
 - (ii) the consequences of the offer being accepted as set out in Rule 161;
 - (c) state whether it relates to the whole of the claim or to part of it or to an issue that arises in it and if so to which part or issue; and
 - (d) state whether it takes into account any counterclaim.”
- (49) Rule 163(5) shall be amended to provide for sub-paragraphs as follows:
- “(5) Paragraphs (3) and (4) do not apply to a Part 18 offer which:
- (a) has been withdrawn;
 - (b) has been changed so that its terms are less advantageous to the offeree where the offeree has beaten the less advantageous offer; or
 - (c) was made less than 21 days before trial unless the Court has abridged the relevant period.”
- (50) In Rule 194 the words “or is determined by the Board pursuant to Article 6 of the ADGM Founding Law,” shall be inserted after the word “Regulations,”
- (51) In Rule 205(5) the words “, unless the Court orders otherwise” shall be inserted at the end of the paragraph.
- (52) In Rule 205(8) the words “or Employment Division” shall be inserted after the words “Commercial and Civil Division”.
- (53) A new Rule 216(a) shall be inserted as follows:
- “(a) an “appeal” means an appeal against an order, judgment, decision or procedure of a Global Market Authority under section 25 of the Regulations;”.
- and the subsequent paragraphs shall be renumbered accordingly to 216(b) to 216(e).
- (54) In Rule 224(3) the reference to “Rule 36(3)” shall be deleted and replaced by “Rule 36(4)”.
- (55) A new sub-Rule 230A shall be inserted as follows:
- “230A Appeal against decisions or procedures of Global Market Authorities
- (1) In this Rule, Global Market Authorities has the same meaning set out in section 25(2) of the Regulations.
 - (2) Any order, judgment, decision or procedure made by any Global Market Authority may be appealed against or questioned by any interested party, or by any party to the proceedings, on the grounds that it is wrong in law or is in excess of jurisdiction by applying to the Commercial and Civil Division of the Court.
 - (3) Any such application is to be brought using the Rule 30 procedure unless otherwise modified by a rule, practice direction or as ordered by the Court.
 - (4) Rules 220, 221, 219(1), 222(1) and (3), 223, 224(3), 227(2), 229 and 230 shall apply to an appeal under this section of this Part and for that purpose any reference to “judicial review” in those rules should be read as “appeal”.

- (56) In Rule 231(5) the words “30(4) of the Regulations” shall be deleted and replaced with the words “32(4) of the Arbitration Regulations”.
- (57) In Rule 232(1) the number “56” shall be deleted and replaced the number “61”.
- (58) In Rule 232(5) the number “48” shall be deleted and replaced by the number “53”.
- (59) In Rule 274 the word “Registrar” shall be deleted and replaced with the words “keeper of the relevant register”.
- (60) In Rule 290(2) the word “an inferior” shall be deleted and replaced with the word “another”.
- (61) In Rule 301(1) the word “claims” shall be deleted and replaced with the word “cases”.
- (62) Rule 311(3) shall be amended to read as follows:
- “(3) In relation to the time period for responding to a claim specified in paragraph (1):
- (a) the parties may agree that the time period shall be extended by up to 7 days; or
- (b) the defendant may request, in accordance with the relevant practice direction, that the Court extend the time period by up to 7 days.”
- (63) A new Rule 311(4) shall be inserted as follows:
- “(4) For the purpose of paragraph (3)(b), the request shall be dealt with by the Registry of the Court unless the Registry considers that, in the circumstances, the request should be dealt with by a Judge.”
- (64) Current Rule 311(4) shall be renumbered 311(5).
- (65) A new Rule 312(1) shall be inserted as follows:
- “(1) In this Rule, “default judgment” means judgment without trial or a hearing where a defendant has failed to file a defence.”
- (66) Current Rule 312(1) shall be renumbered 312(2).
- (67) Current Rule 312(2) shall be sub-Rule renumbered 312(3).
- (68) Current Rule 312(3) shall be sub-Rule renumbered 312(4) and after the number “40” the number “, 40A” shall be inserted.
- (69) Current Rule 312(4) shall be sub-Rule renumbered 312(5).
- (70) A new Rule 318(1) shall be inserted as follows:
- “(1) “In this Rule, “default judgment” means judgment without trial or a hearing where a defendant has failed to file a defence.”
- (71) Current Rule 318(1) shall be renumbered 318(2).
- (72) Current Rule 318(2) shall be sub-Rule renumbered 318(3).
- (73) Current Rule 318(3) shall be sub-Rule renumbered 318(4) and after the number “40” the number “, 40A” shall be inserted.
- (74) Current Rule 318(4) shall be sub-Rule renumbered 318(5).

(75) A new Part 39 shall be inserted as follows:

” PART 39 – WRIT OF CONTROL

320. Interpretation and application

(1) In this Part –

- (a) “debtor” has the meaning set out in section 1(3)(b) of Schedule 1 of the Regulations;
- (b) “creditor” has the meaning set out in section 1(3)(c) of Schedule 1 of the Regulations;
- (c) “writ of control” means an order that commands an enforcement agent to take control and sell enough of a debtor’s goods in order to obtain the funds to satisfy a money judgment;
- (d) “enforcement agent” means an individual authorised by section 123(2) of the Regulations to act as an enforcement agent;
- (e) “insolvency practitioner” has the meaning set out in section 298 of the Insolvency Regulations 2015;
- (f) “Schedule 1” means Schedule 1 of the Regulations; and
- (g) “TCG Rules” means the Taking Control of Goods and Commercial Rent Arrears Recovery Rules 2015.

(2) This Part relates to the procedure for obtaining a writ of control for the purpose of taking control of goods and selling them in accordance with Schedule 1 and the TGC Rules.

321. Request for writ of control

- (1) Subject to Rule 322, a creditor may apply for a writ of control by submitting a request in accordance with the relevant practice direction.
- (2) A request for a writ of control may be made without notice being served on any other party unless the Court directs otherwise.
- (3) The request must be signed by or on behalf of the person entitled to execution, or by that person’s legal representative.
- (4) Issue of a writ of control takes place on it being sealed by the Court.
- (5) The writ will not be sealed unless at the time it is presented for sealing:
 - (a) the person making the request produces:
 - (i) the judgment or order on which the writ is to issue;
 - (ii) where permission was required for the writ to be issued, the order granting such permission or evidence of the granting of it; and
 - (b) the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act thereunder has expired.
- (6) Every writ of control shall bear the date of the day on which it is issued.

322. **Permission of the Court**

- (1) A writ of control must not be issued without the permission of the Court where:
 - (a) six years or more have elapsed since the date of the judgment or order;
 - (b) any change has taken place, whether by death or otherwise, in the parties:
 - (i) entitled to enforce the judgment or order; or
 - (ii) liable to have it enforced against them;
 - (c) the judgment or order is against the assets of a deceased person coming into the hands of that person's executors or administrators after the date of the judgment or order, and it is sought to issue execution against such assets;
 - (d) any goods to be seized under a relevant writ are in the hands of a receiver or insolvency practitioner appointed by the Court;
 - (e) under the judgment or order, any person is entitled to a remedy subject to the fulfilment of any condition, and it is alleged that the condition has been fulfilled (other than where non-compliance with the terms of suspension of enforcement of the judgment or order is the failure to pay money); or
 - (f) the writ of control sought is to be in aid of another writ; or
- (2) An application for permission must be made in accordance with Part 8 of these Rules and in accordance with the relevant practice direction.
- (3) An application for permission may be made without notice being served on any other party unless the court directs otherwise.
- (4) Where the Court grants permission, whether under Rule 322(1) or otherwise, for the issue of a writ of control and the writ is not issued within one year after the date of the order granting such permission, the order shall cease to have effect, without prejudice, however, to the making of a fresh order.
- (5) Rule 322(1) is without prejudice to any enactment or Rule by virtue of which a person is required to obtain the permission of the Court for the issue of a writ of control or to proceed to execution on or otherwise to the enforcement of a judgment or order.

323. **Duration of writ of control and priority**

- (1) A writ of control will be valid for the period in which an enforcement agent may take control of goods in question in accordance with section 8 of Schedule 1 and Rule 6 of the TCG Rules.
- (2) For the avoidance of doubt, if a period in which to take control of goods is extended by the Court under section 8(3) of Schedule 1 and Rule 6(3) of the TCG Rules, the validity of the writ will be extended for the same period.
- (3) Irrespective of whether it has been extended, the priority of a writ will be determined by reference to the time it is originally received by the person who is under a duty to endorse it."