

INTERPRETATION REGULATIONS 2015

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INTERPRETATION REGULATIONS 2015

Regulations to define certain terms and expressions used in enactments and to make provision for the construction, interpretation and verification of enactments and for matters connected therewith.

Date of Enactment: 3 March 2015

The Board of Directors of the Abu Dhabi Global Market, in exercise of its powers under Article 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi, hereby enacts the following Regulations:-

PART 1

GENERAL PROVISIONS OF INTERPRETATION

1. Interpretation of certain words and expressions

- (1) In these Regulations, in every enactment (whenever enacted) and in any subordinate legislation (whenever adopted), the following words and expressions shall have the meanings respectively assigned to them unless there is something in the subject or context inconsistent with such construction or unless it is therein otherwise expressly provided:

"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;

"ADGM Founding Law" means Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi;

"ADGM regulations" means regulations enacted by the Board under Article 6(1) of the ADGM Founding Law;

"animal" includes bird, reptile, fish and every kind of vertebrate animal and the young thereof;

"appoint" includes re-appoint;

"Board" means the Board of Directors of the Abu Dhabi Global Market as constituted by Article 4 of the ADGM Founding Law;

"Chief Justice" means the Chief Justice of the Abu Dhabi Global Market Courts appointed under Article 13(2) of the ADGM Founding Law;

"commencement" in relation to an enactment or subordinate legislation, means the time at which the enactment or legislation comes into operation in the Abu Dhabi Global Market;

"Constitution" means the Constitution of the United Arab Emirates, as amended or re-enacted from time to time;

"Court" means any of the courts established pursuant to Article 10 of the ADGM Founding Law;

"enactment" means (i) any ADGM regulations, and (ii) any Act (as defined in the Application of English Law Regulations 2015) applied and having legal force in, and forming part of the law of, the Abu Dhabi Global Market pursuant to the Schedule to the Application of English Law Regulations 2015;

"Federal Law" means a law issued by the President of the United Arab Emirates in his capacity as the President, including any rules, orders, decrees, resolutions, by-laws, notifications or similar measures adopted pursuant to such law;

"Financial Services Regulator" means the Financial Services Regulations Bureau established by Article 10 of the ADGM Founding Law and governed by Article 12 of that law;

"Financial Free Zones Law" means Federal Law No. 8 of 2004 on the Financial Free Zones issued by the President of the United Arab Emirates;

"month" means calendar month;

"oath" and "affidavit", in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and "swear" in the like case includes affirm and declare;

"person" and "party" include any company or association or body of persons, corporate or unincorporate;

"public holiday" means any day which is declared to be or proclaimed as a public holiday or which under any enactment or Federal Law is to be observed as a public holiday in the Abu Dhabi Global Market;

"registered", in relation to a document, means registered under the provisions of any enactment for the time being applicable to the registration of such document;

"Registrar" means the Global Market Registration Bureau established by Article 10 of the ADGM Founding Law and governed by Article 11 of that law;

"repeal" includes rescind, revoke, cancel or replace;

"ship" includes every description of vessel used in navigation not exclusively propelled by oars or paddles;

"sign", with its grammatical variations and cognate expressions, with reference to a person who is unable to write his name, includes "mark" with its grammatical variations and cognate expressions;

"subordinate legislation" means any rules, orders, by-laws, notifications or similar measures made by or on behalf of the Board or the Registrar pursuant to or under the ADGM Founding Law or an enactment and having legislative effect;

"value", in relation to a suit, means the value of the subject-matter of the suit;

"vessel" includes floating craft of every description;

"will" includes a codicil;

"writing" and expressions referring to writing include printing, lithography, typewriting, photography and other modes of representing or reproducing words or figures in visible form; and

"year" means a year reckoned according to the Gregorian calendar.

- (2) In these Regulations, in any other enactment (whenever enacted) and in any subordinate legislation (whenever adopted), unless a contrary intention appears -
 - (a) a reference to a day shall refer to a business day, being a normal working day in the Abu Dhabi Global Market;
 - (b) a reference to the masculine gender includes the feminine and vice versa; and
 - (c) a reference to words in the singular shall include the plural and vice versa.
- (3) Where a word or expression is defined in an enactment or subordinate legislation, then, unless the contrary intention appears, other parts of speech and grammatical forms of that word or expression, and cognate expressions, have corresponding meanings in that enactment or subordinate legislation.
- (4) Where an enactment or subordinate legislation authorises or requires any document to be served by post, whether the word "serve", "give" or "send" or any other word is used, then, unless a contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and, unless the contrary is proved, shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post.

2. Criteria for determining death

- (1) For all purposes, a person has died when there has occurred either -
 - (a) irreversible cessation of circulation of blood and respiration in the body of the person; or
 - (b) total and irreversible cessation of all functions of the brain of the person.
- (2) The determination of the irreversible cessation of circulation of blood and respiration in the body of a person shall be made in accordance with the ordinary standards of current medical practice.

- (3) The determination of the total and irreversible cessation of all functions of the brain of a person shall, subject to subsection (4), be made in accordance with the prescribed criteria.
- (4) The determination of the total and irreversible cessation of all functions of the brain of a person shall be certified in the prescribed form by 2 medical practitioners -
 - (a) at least one of whom has not been involved in the care or treatment of the person so certified; and
 - (b) who possess the prescribed postgraduate medical qualifications.
- (5) The Board may, for the purposes of all laws or any specified enactment or subordinate legislation, make rules prescribing -
 - (a) the criteria for determining the total and irreversible cessation of all functions of the brain of a person referred to in subsections (1)(b) and (3); and
 - (b) the postgraduate medical qualifications and form of the death certificate for the purposes of subsection (4).
- (6) Nothing in this section shall -
 - (a) affect the operation of any other enactment or subordinate legislation relating to the presumption of death;
 - (b) prevent the certification or determination of death in a case where the body of a person is not found or recovered.
- (7) In this section, "medical practitioner" means an individual who is licensed to practise medicine in the Abu Dhabi Global Market or in the Emirate of Abu Dhabi.

PART 2

GENERAL PROVISIONS REGARDING ENACTMENTS

3. Enactments to be public enactments

All enactments shall be public enactments, and shall be judicially noticed as such unless the contrary is expressly provided by the enactment.

4. Enactments to be divided into sections without introductory words

All enactments shall be divided into sections, if there be more enactments than one, which sections shall be deemed to be substantive enactments without any introductory words.

5. Schedules

Every Schedule to an enactment shall, together with any note thereto, be construed and have effect as part of the enactment.

6. Subdivisions of enactments

When an enactment is divided into Parts, Chapters, titles or other subdivisions, the fact and particulars of such division shall, with or without express mention thereof in the enactment, be taken notice of in all courts and for all purposes whatsoever.

7. Forms

Except as is otherwise expressly provided, whenever forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them.

8. Examples and illustrations

Where an enactment includes an example or illustration of the operation of a provision -

- (a) the example or illustration shall not be taken to be exhaustive; and
- (b) if the example or illustration is inconsistent with the provision, the provision prevails.

9. Mode of citing enactments

- (1) Where any enactment is referred to, it shall be sufficient for all purposes to cite the enactment by the short title, if any, by which it is made citable.
- (2) Any such citation of an enactment shall, unless the contrary intention appears, be construed as a reference to the enactment as amended from time to time by any other enactment.

10. Construction in an enactment of references to sections, etc.

- (1) Where in any enactment there is a reference to a section, Part, Chapter, Schedule or other division of the enactment by number or letter only, and not in conjunction with the title or number of an enactment, the reference shall be construed as a reference to the section, Part, Chapter, Schedule or other division of that number or letter contained in the enactment in which the reference occurs.
- (2) Where in any section or other division of an enactment there is a reference to a subsection, paragraph or sub-paragraph by number or letter only, the reference shall be construed as a reference to the subsection, paragraph or sub-paragraph of that number or letter contained in the section or other division in which the reference occurs.
- (3) This section shall apply, with suitable modification, to subordinate legislation.

11. Purposive interpretation of enactments and use of extrinsic materials

- (1) In the interpretation of a provision of an enactment, an interpretation that would promote the purpose or object underlying the enactment (whether that purpose or object is expressly stated in the enactment or not) shall be preferred to an interpretation that would not promote that purpose or object.
- (2) Subject to subsection (4), in the interpretation of a provision of an enactment, if any material not forming part of the enactment is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material -

- (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the enactment and the purpose or object underlying the enactment; or
 - (b) to ascertain the meaning of the provision when -
 - (i) the provision is ambiguous or obscure; or
 - (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the enactment and the purpose or object underlying the enactment leads to a result that is manifestly absurd or unreasonable.
- (3) Without limiting the generality of subsection (2), the material that may be considered in accordance with that subsection in the interpretation of a provision of an enactment shall include -
- (a) any explanatory statement or guidance relating to the enactment issued by the Board;
 - (b) any treaty or other international agreement that is referred to in the enactment; and
 - (c) any document that is declared by the enactment to be a relevant document for the purposes of this section.
- (4) In determining whether consideration should be given to any material in accordance with subsection (2), or in determining the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to -
- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the enactment and the purpose or object underlying the enactment; and
 - (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

12. Time of commencement of ADGM regulations

- (1) ADGM regulations or a provision in ADGM regulations shall come into operation -
- (a) where a particular day for their coming into operation is specified by or under those regulations, on the expiration of the previous day; or
 - (b) where the day of their coming into operation is the date of their publication, on the expiration of the day on which the regulations are published.
- (2) Where ADGM regulations are to come into operation on a day specified by any subordinate legislation, the subordinate legislation may specify different days for different provisions of the regulations to come into operation.

13. Effect of repeal of an enactment on subordinate legislation made thereunder

Where any enactment or part of an enactment is repealed, subordinate legislation issued under or made in virtue thereof shall remain in force so far as it is not inconsistent with the repealing enactment and unless the contrary intention appears until it has been revoked or replaced by subordinate legislation issued or made under the provisions of the repealing enactment.

14. Repeal of repealing enactments

Where any enactment repealing in whole or in part any former enactment is itself repealed, the last repeal shall not revive the enactment or the provisions previously repealed, unless words be added reviving that enactment or those provisions.

15. Repeal of amended enactment to include amendments

Where any enactment which has been amended by any other enactment is itself repealed, such repeal shall be deemed to include the repeal of all enactments or parts of enactments by which the first-mentioned enactment has been amended.

16. Repeal and substitution

Where an enactment repeals wholly or in part any former enactment and substitutes other provision therefor, the repealed enactment shall remain in force until the substituted provision comes into operation.

17. References to amended and re-enacted provisions

- (1) Where in any enactment a reference is made to another enactment, the reference shall, except where the context otherwise requires, be deemed to include a reference to the last-mentioned enactment as the same may from time to time be amended.
- (2) Where any enactment repeals and re-enacts, with or without modification, any provision of a former enactment, then, unless the contrary intention appears -
 - (a) any reference in any other enactment to the provision so repealed shall be construed as a reference to the provision so re-enacted;
 - (b) in so far as any subordinate legislation made or other thing done under the provision so repealed, or having effect as if so made or done, could have been made or done under the provision so re-enacted, it shall have effect as if made or done under that provision.

18. Effect of repeal

- (1) Where an enactment repeals in whole or in part any other enactment, then, unless the contrary intention appears, the repeal shall not -
 - (a) revive anything not in force or existing at the time at which the repeal takes effect;
 - (b) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed;
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed;

- (d) affect any fine or forfeiture incurred in respect of any contravention committed against any enactment so repealed; or
 - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, fine or forfeiture as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such fine or forfeiture may be imposed, as if the repealing enactment had not been passed.
- (2) A reference in this section to the repeal of an enactment in whole or in part includes a reference to -
- (a) a repeal effected by implication;
 - (b) the abrogation or limitation of the effect of the enactment or part; and
 - (c) the exclusion of the application of the enactment or part to any person, subject-matter or circumstance.
- (3) Where an enactment expires, lapses or otherwise ceases to have effect, this section applies as if the enactment had been repealed by another enactment.
- (4) A reference in this section to a part of an enactment includes a reference to any provision of, or words, figures, drawings or symbols in, the enactment.

19. Construction of amending enactment

Where an enactment amends or adds to any enactment, the amending enactment shall, so far as is consistent with the tenor thereof, and unless the contrary intention appears, be construed as one with the amended enactment and as part thereof.

20. Effect of expiration of enactment

The expiration of an enactment shall not affect any legal proceedings previously commenced under such enactment, but every such proceeding may be continued and everything in relation thereto may be done in all respects as if the enactment continued in force.

PART 3

SUBORDINATE LEGISLATION

21. General provisions with respect to power given to any authority to make subordinate legislation

When any enactment confers powers on any authority to make subordinate legislation, the following provisions shall, unless the contrary intention appears, have effect with reference to the making and operation of the subordinate legislation -

- (a) subordinate legislation may at any time be amended, varied, rescinded or revoked by the same authority and in the same manner by and in which it was made subject to the following provisions -

- (i) where any enactment is to come into operation on a date to be fixed by subordinate legislation, the power to make the subordinate legislation shall not include the power of amending, revoking or suspending the same; and
 - (ii) where the authority has been replaced wholly or partially by another authority, the power conferred herein upon the original authority may be exercised by the replacing authority concerning all matters or things within its jurisdiction as if it were the original authority;
- (b) when any enactment confers powers on any authority to make subordinate legislation for any general purpose, and also for any special purpose incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose; and
 - (c) no subordinate legislation made under an enactment shall be inconsistent with the provisions of any enactment.

22. Additional provisions as to subordinate legislation

The following provisions shall also apply to subordinate legislation -

- (a) authority to make subordinate legislation shall include -
 - (i) authority to amend any forms prescribed by the enactment under which the subordinate legislation was made;
 - (ii) authority to prescribe new forms for the purpose thereof and for the purpose of the subordinate legislation; and
 - (iii) authority to provide for the manner and method in which any document, record, application, permit, approval or licence may be submitted, issued or served by electronic means, or for the authentication thereof;
- (b) authority to provide for fees and charges shall include authority to provide for the determination of the manner and method of payment and the reduction, waiver or refund thereof, either generally or in any particular event or case or class of cases or in the discretion of any person; and
- (c) a reference in an enactment to another enactment shall include reference to any subordinate legislation made thereunder.

23. Use of defined terms in subordinate legislation

Where any enactment confers powers to make any subordinate legislation, expressions used in the subordinate legislation shall, unless the contrary intention appears, have the same respective meanings as in the enactment conferring the power.

24. Anticipatory exercise of powers

Where an enactment or any part thereof does not come into operation immediately on its passing and the enactment or that part confers power to make subordinate legislation or to make appointments or to issue notifications or to prescribe forms or to do any other thing for the

purposes of the enactment or that part, then, unless the contrary intention appears, the power may be exercised and any subordinate legislation, appointment, form or thing made, issued, prescribed or done under the power may be made, issued, prescribed or done so as to take effect at any time after the passing of the enactment so far as may be necessary or expedient for the purpose of -

- (a) bringing the enactment or that part into operation; or
- (b) giving full effect to the enactment or that part on or after the day on which it comes into operation.

25. Commencement of subordinate legislation

- (1) Subordinate legislation made under the ADGM Founding Law or under any enactment or other lawful authority shall -
 - (a) be published; and
 - (b) unless it is otherwise provided in the subordinate legislation, take effect and come into operation on the date of its publication.
- (2) Any such subordinate legislation may be made to operate retrospectively to any date not being a date earlier than the commencement of the enactment or the establishment of the authority by or under which the subordinate legislation is made.

26. Judicial notice of subordinate legislation

Judicial notice shall be taken of all subordinate legislation made or purporting to be made under the ADGM Founding Law or under any enactment or other lawful authority.

27. Construction of amending subordinate legislation

Where subordinate legislation amends other subordinate legislation, the amending subordinate legislation shall, so far as is consistent with the tenor thereof and unless the contrary intention appears, be construed as one with the amended subordinate legislation.

28. Acts done under subordinate legislation to be deemed to be done under enactment

An act shall be deemed to be done under any enactment or by virtue of the powers conferred by any enactment or in pursuance or execution of the powers of, or under the authority of any enactment, if it is done under, or by virtue of, or in pursuance of, subordinate legislation made under any power contained in the enactment.

29. Reference to enactment to include subordinate legislation

Unless the contrary intention appears, a reference in any enactment to any other enactment is to be construed so as to include a reference to any subordinate legislation made under that enactment.

PART 4

POWERS AND APPOINTMENTS

30. Construction of provisions as to exercise of powers and duties

- (1) Where an enactment confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.
- (2) Where an enactment confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being or by a person duly appointed to act for him.
- (3) Where an enactment confers a power to make subordinate legislation, to issue any order or to do any act, the power shall, unless the contrary intention appears, be construed as including the power exercisable in like manner and subject to the like consent and conditions, if any, to amend, vary, rescind, revoke or suspend the subordinate legislation made or order issued or any part thereof or to abstain from doing the act.

31. Power to appoint includes power to dismiss

- (1) Where an enactment confers upon any person or authority a power to make appointments to any office or place, the power shall, unless the contrary intention appears, be construed as including a power to dismiss or suspend any person appointed and to appoint another person temporarily in the place of any person so suspended or in place of any sick or absent holder of the office or place.
- (2) Where the power of the person or authority to make appointments is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, the power of dismissal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.

32. Construction of enabling words

- (1) Where an enactment confers powers on any person to do or enforce the doing of any act or thing, such powers shall be understood to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.
- (2) Without prejudice to the generality of subsection (1) -
 - (a) a power to prohibit or to control or to regulate any matter includes power to provide for the same by the licensing thereof and power to prohibit acts whereby the prohibitions, control or regulations affecting the matter might be evaded;
 - (b) a power to grant a licence, permit, authority, approval or exemption includes power to impose reasonable conditions subject to which the licence, permit, authority, approval or exemption may be granted.

33. Appointment of officers by name or office

- (1) Where, by or under any enactment, a public officer or body is empowered to appoint or name a person to have and exercise any powers or perform any duties, the public officer or body may either appoint a person by name or direct the person for the time being

holding the office designated by the public officer or body to have and exercise those powers and perform those duties.

- (2) Thereupon, or from the date specified by the public officer or body, the person appointed by name or the person holding the office as mentioned in subsection (1), shall have and may exercise those powers or perform those duties accordingly.
- (3) Any such appointment may be made with retrospective effect to any date not being a date earlier than the commencement of the enactment under which the appointment is made.

34. Official designation to include officer executing duties

When reference is made in any enactment, instrument, warrant or process of any kind made or issued by any public officer or body or person having authority under any enactment to make or to issue the same to any public officer by the term designating his office, such public officer shall include the officer for the time being executing the duties of that office or any portion of those duties.

35. Appointments having retrospective effect

Any appointment may be declared to have effect as from the date upon which the appointee commenced to exercise the powers and discharge the duties of his appointment, not being a date earlier than the date of the commencement of the enactment under which the appointment is made.

PART 5

MISCELLANEOUS

36. Service of documents

- (1) Where an enactment authorises or requires a document to be served on a person, whether the expression "serve", "give" or "send" or any other expression is used, then, unless the contrary intention appears or unless contrary provision is made by the enactment, the document may be served -
 - (a) in the case of an individual -
 - (i) by delivering it to the individual personally; or
 - (ii) by leaving it at, or by sending it by pre-paid post to, the usual or last known address of the place of residence or business of the individual;
 - (b) in the case of a partnership -
 - (i) by delivering it to the secretary or other like officer of the partnership; or
 - (ii) by leaving it at, or by sending it by pre-paid post to, the principal or last known place of business of the partnership in the Abu Dhabi Global Market;
 - (c) in the case of a body corporate -

- (i) by delivering it to the secretary or other like officer of the body corporate; or
- (ii) by leaving it at, or by sending it by pre-paid post to, the registered office or a principal office of the body corporate in the Abu Dhabi Global Market.

(2) Nothing in subsection (1) -

- (a) affects the operation of any enactment that authorises the service of a document otherwise than as provided in that subsection; or
- (b) affects the power of a court to authorise service of a document otherwise than as provided in that subsection.

37. Measurement of distance

In the measurement of any distance for the purposes of any enactment, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

38. Computation of time

In computing time for the purposes of any enactment, unless the contrary intention appears -

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;
- (b) if the last day of the period is a Friday, Saturday or a public holiday (which days are referred to in this section as excluded days) the period shall include the next following day not being an excluded day;
- (c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;
- (d) when any act or proceeding is directed or allowed to be done or taken within any time not exceeding 6 days, excluded days shall not be reckoned in the computation of the time.

39. Standard time

- (1) Where any expression of time occurs in any enactment or in any instrument whatsoever and whenever the doing or not doing anything at a certain time of the day or night or during a certain part of the day or night has an effect in law, that time shall, unless it is otherwise specifically stated, be held to be standard time as declared by this section.
- (2) "Standard time" means standard time as used in Abu Dhabi, namely 4 hours in advance of Coordinated Universal Time.

40. Provision when no time prescribed

Where no time is prescribed or allowed within which anything shall be done, that thing shall be done with all convenient speed and as often as the prescribed occasion arises.

41. Construction of power of extending time

Where in any written law a time is prescribed for doing any act or taking any proceeding and power is given to a court or other authority to extend the time, unless the contrary intention appears, the power may be exercised by the court or other authority although the application for the extension is not made until after the expiration of the time prescribed.

42. Short title, extent and commencement

- (1) These Regulations may be cited as the Interpretation Regulations 2015.
- (2) These Regulations shall apply in the Abu Dhabi Global Market.
- (3) These Regulations come into force on the date of their publication.