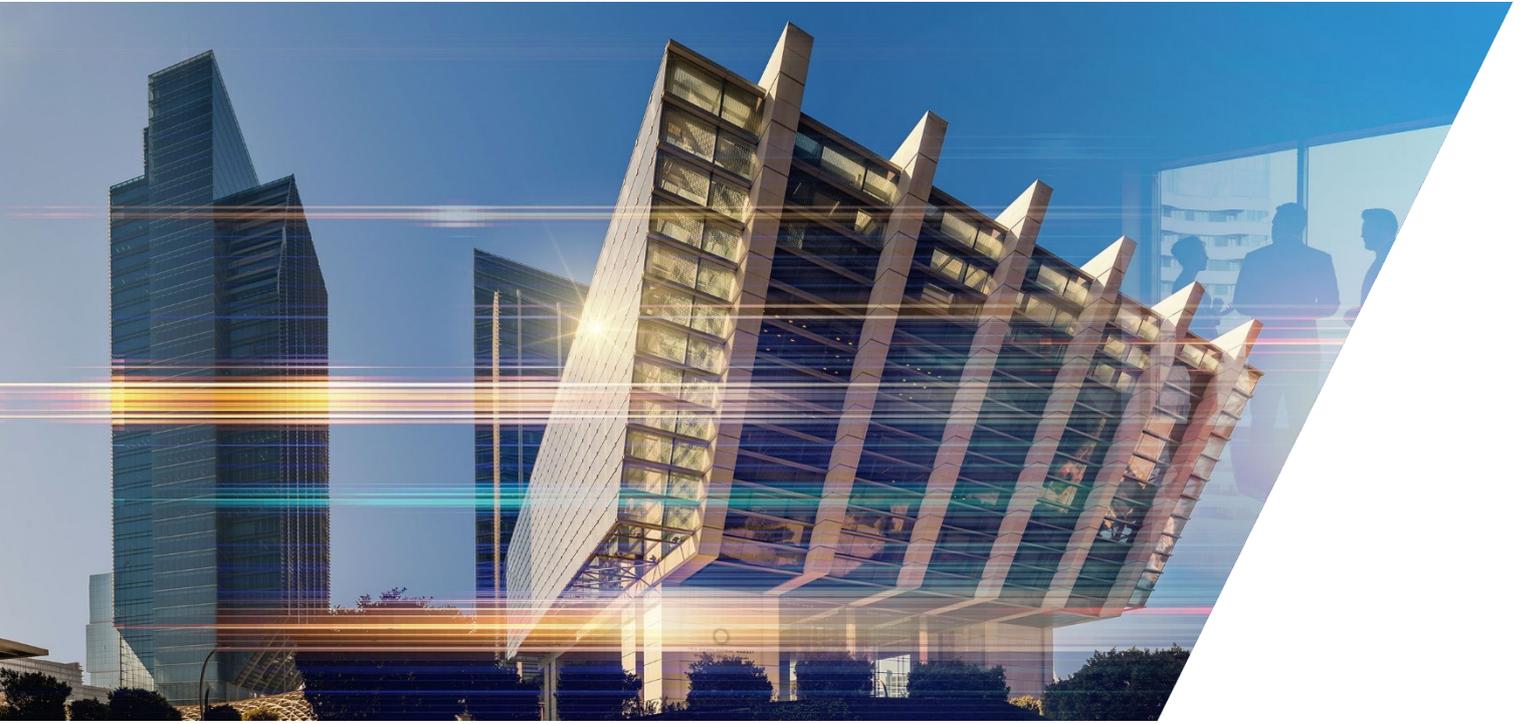




ADGM COURTS  
محاكم سوق أبوظبي العالمي



**ADGM COURTS**  
**PRACTICE DIRECTION 4**  
**EMPLOYMENT CLAIMS**

## PRACTICE DIRECTION 4

### EMPLOYMENT CLAIMS

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## PRACTICE DIRECTION 4

### EMPLOYMENT CLAIMS

Date re-issued: 9 July 2020

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

#### APPLICATION

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

- **Practice Direction 1 – General**
- **Practice Direction 6 – Service of Documents**
- **Practice Direction 7 – Applications**
- **Practice Direction 9 – Costs**
- **Practice Direction 10 – Offers to Settle**
- **Practice Direction 13 – Court-annexed Mediation**

To the extent to which the provisions of this Practice Direction differ from or are inconsistent with provisions of other Practice Directions, the provisions of this Practice Direction prevail in relation to all employment claims commenced in the Employment Division.

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

#### A. EMPLOYMENT CLAIMS

4.1. An “employment claim” is a claim or dispute:

- (a) brought pursuant to or in connection with the ADGM Employment Regulations 2019;  
or
- (b) relating to any other employment matter to which sub-paragraph (a) does not apply.

##### ***Making a claim [r.27]***

4.2. A claim form which commences proceedings in the Employment Division shall be in accordance with **Form CFI 3**.

- 4.3. The claim form must:
- (a) state what final orders the claimant seeks;
  - (b) include particulars of the claimant's case in numbered paragraphs within the form, which shall include:
    - (i) particulars of the factual matters relevant to the claim;
    - (ii) any relevant calculations for the amount or amounts claimed;
    - (iii) particulars of any sum sought by way of interest from a date earlier than the date of judgment;
    - (iv) the propositions of law which entitles the claimant to the final orders sought;
  - (c) include the details of, and attach, all documents which record any of the terms of employment between the claimant and the defendant, including letters of offer and acceptance of employment, contracts or agreements for employment and any variations to the terms during the period of employment and any other documents that the claimant seeks to rely on;
  - (d) state the claimant's rate of remuneration prior to the commencement of the claim; and
  - (e) state whether the claimant sues in person, by authorised officer or, if represented by a lawyer, the name, address and email address of that lawyer.
- 4.4. As a general rule, a claim form should not exceed 15 pages (excluding attachments). If the claim is of such complexity that it is necessary to exceed this page limit, the claimant must include an index of topics within the particulars of claim.
- 4.5. Part 4 of the CPR prescribe how a claim form may be served.

***Service out [r.24, r.25 and r.28]***

- 4.6. A claimant who serves a claim form on a defendant out of the jurisdiction must first file and serve with the claim form a copy of a notice containing a statement of the grounds on which the claimant is entitled to serve the claim form out of the jurisdiction.
- 4.7. The notice shall be in accordance with **Form CFI 32**.

***Answering a claim [r.35, r.36, r.37, r.42, r.43 and r.44]***

- 4.8. The Rules require that a defendant must file and serve an acknowledgement of service within 14 days after service of the claim form.
- 4.9. An acknowledgment of service shall be in accordance with **Form CFI 7**.
- 4.10. The defendant may file and serve an admission in accordance with Rule 42, together with any request for time to pay in accordance with Rule 43, in accordance with **Form CFI 34**.
- 4.11. The Rules also require that a defendant who wishes to defend all or part of a claim must file and serve a defence within 28 days after service of the claim form.

- 4.12. The defence must set out the defendant's answer to the particulars of the claim, including any calculations, and the propositions of law advanced by the claimant.
- 4.13. The defence must attach a copy of any document referred to therein unless that document has been previously uploaded to the eCourts Platform.
- 4.14. A defence shall be in accordance with **Form CFI 8**.

***Making a counterclaim [r.50]***

- 4.15. A defendant who wishes to make a counterclaim must:
- (a) state what final orders the defendant seeks by counterclaim;
  - (b) include particulars of the counterclaim in numbered paragraphs within the form, which shall include:
    - (i) particulars of the factual matters relevant to the counterclaim;
    - (ii) any relevant calculations for the amount or amounts claimed; and
    - (iii) particulars of any sum sought by way of interest from a date earlier than the date of judgment;
    - (iv) the propositions of law advanced by the defendant; and
  - (c) state whether the defendant sues in person, by authorised officer or, if represented by a lawyer, the name, address and email address of that lawyer.
- 4.16. The counterclaim must attach a copy of any document referred to therein unless that document has previously been uploaded to the eCourts Platform.
- 4.17. As a general rule, a counterclaim should not exceed 15 pages (excluding attachments). If the counterclaim is of such complexity that it is necessary to exceed this page limit, the claimant must include an index of topics within the particulars of claim.
- 4.18. A counterclaim shall be in accordance with **Form CFI 9**.

***Reply to a defence [r.45]***

- 4.19. A claimant, if invited by the Court to do so, may file and serve a reply to the defence.
- 4.20. The reply must attach a copy of any document referred to therein unless that document has previously been uploaded to the eCourts Platform.
- 4.21. A reply shall be in accordance with **Form CFI 10**.

***Defence to any counterclaim and any subsequent reply [r.44 and r.45]***

- 4.22. A party who wishes to defend all or part of any counterclaim must file and serve a defence to counterclaim within 28 days after service of the counterclaim.
- 4.23. The defence to counterclaim must attach a copy of any document referred to therein unless that document has previously been uploaded to the eCourts Platform.

- 4.24. A defence to counterclaim shall be in accordance with **Form CFI 8**.
- 4.25. A party, if invited by the Court to do so, may file and serve a reply to a defence to counterclaim. Such reply shall be in accordance with **Form CFI 10** and must attach a copy of any document referred to therein unless that document has previously been uploaded to the eCourts Platform.

#### ***Timetables***

- 4.26. If or when the Court sets a timetable for the taking of procedural steps in a case, the parties must comply with it.
- 4.27. If the parties agree that the timetable should be adjusted, the claimant (unless otherwise agreed by the parties) must file a written consent to the adjusted timetable using **Form CFI 22**.
- 4.28. If the parties cannot agree to make an adjustment which is sought by either party, and the adjustment sought will not affect or have a consequential impact on the dates fixed for a hearing or a trial, the party seeking the adjustment should file and serve a statement using **Form CFI 36** setting out its justification for the adjustment it seeks. The other party or parties shall file and serve any response using **Form CFI 36** within 4 days of receipt of such statement. The Court will ordinarily resolve that dispute on the papers.
- 4.29. If the parties cannot agree to make an adjustment which is sought by either party, and the adjustment as sought will affect or have a consequential impact on the dates fixed for a hearing or a trial, the party seeking the adjustment must make an application in accordance with Practice Direction 7 using **Forms CFI 12** and **CFI 15**.

#### ***Order for specific disclosure [r.86]***

- 4.30. Where a party has good reason to believe that documents held by the other party would likely support their case or adversely affect the other party's case, they may seek an order from the Court for the specific disclosure of such documents, and the Court may make an order for specific disclosure of those documents if it is satisfied that disclosure is necessary in order to dispose fairly of the claim or to save costs. An application for specific disclosure must be made by application notice in accordance with Practice Direction 7 using **Forms CFI 12** and **CFI 15**.

#### ***Order for disclosure against non-party***

- 4.31. Any application made to the Court for disclosure by a person who is not a party to the proceedings must be made in accordance with paragraphs 2.93 - 2.98 of Practice Direction 2.

#### ***Case Management***

- 4.32. The Court will convene an initial case management conference within 14 days of the close of pleadings (which in normal course will be after the filing of a defence). Case management conferences will ordinarily be conducted by video or telephone conference as arranged by the Court.
- 4.33. At the initial case management conference, the parties' legal representatives (or any party appearing in person) should be in a position to inform the Court of the following:
- (a) the issues likely to arise in the proceedings;
  - (b) the number of witnesses, if any, and the provision of witness statements;

- (c) the directions which each party seeks in relation to the pre-hearing steps and any other relevant matters, including any agreement reached between the parties in regard to those directions; and
  - (d) any other matter which the parties may wish to bring to the Court's attention to achieve the efficient management of the case to hearing.
- 4.34. At the initial case management conference, the Court will:
- (a) decide a timetable for the pre-hearing steps necessary to be taken; and
  - (b) fix a hearing date or a provisional hearing date.
- 4.35. The Court may make any order, give any direction or take any step it considers appropriate for the purpose of managing the proceedings.

***Court-ordered mediation [r.306]***

- 4.36. The Court may, of its own initiative or upon the request of any party, make an order referring the dispute or any part of the dispute to court-annexed mediation, where in the opinion of the Court such order appears appropriate.

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

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

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

- 4.38. The Court may adopt any method of proceedings at a hearing that it considers to be fair.
- 4.39. The Court may, if all parties agree, deal with the claim without a hearing.

***Non-attendance of parties at hearing [r.174]***

- 4.40. If a party who does not attend a hearing:
- (a) has given written notice to the Court and the other party at least 7 days before the hearing date that the party will not attend; and
  - (b) has, in a written notice, requested the Court to decide the claim in that party's absence,
- the Court will take into account that party's statement of case and any other documents that party has filed and served when it decides the claim.
- 4.41. If a claimant neither attends the hearing nor gives notice under paragraph 4.40 of this Practice Direction, the Court may strike out the claim.
- 4.42. If a defendant neither attends the hearing nor gives notice under paragraph 4.40 of this Practice Direction, but the claimant either attends the hearing or gives notice under paragraph 4.40, the Court may strike out the defence or counterclaim or both and decide the claim on the basis of the evidence of the claimant alone.

- 4.43. If neither party attends or gives notice under paragraph 4.40 of this Practice Direction, the Court may strike out the claim and any defence and counterclaim.

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

- 4.44. Where interest is payable on a judgment debt and there is no agreed rate, it shall be at the rate of 9 per cent from the date that judgment is given until payment.
- 4.45. Subject to any ADGM enactment, where interest is payable on all of any part of a debt or damages in relation to a period prior to, or as at, the date of judgment and there is no agreed rate, it shall be at the rate of 9 per cent.

***Setting aside judgment and re-hearing [r.174(3)]***

- 4.46. A party who was not present at the hearing of the claim may apply for an order that a judgment be set aside and the claim re-heard.
- 4.47. A party who applies for an order that a judgment be set aside must file an application notice in accordance with Practice Direction 7 not more than 7 days after the day on which notice of the judgment was served on him.
- 4.48. The Court may grant such application only if the applicant:
- (a) had a good reason for not attending the hearing; and
  - (b) has a real prospect of success at the hearing.
- 4.49. If a judgment is set aside:
- (a) the Court will fix a new hearing date for the claim;
  - (b) the hearing may take place immediately after the hearing of the application to set aside the judgment; or
  - (c) the Court may make directions in regard to a new hearing.
- 4.50. A party may not apply to set aside a judgment:
- (a) if the Court dealt with the claim without a hearing under paragraph 4.39 of this Practice Direction; or
  - (b) if a party provided written notice under paragraph 4.40 of this Practice Direction.