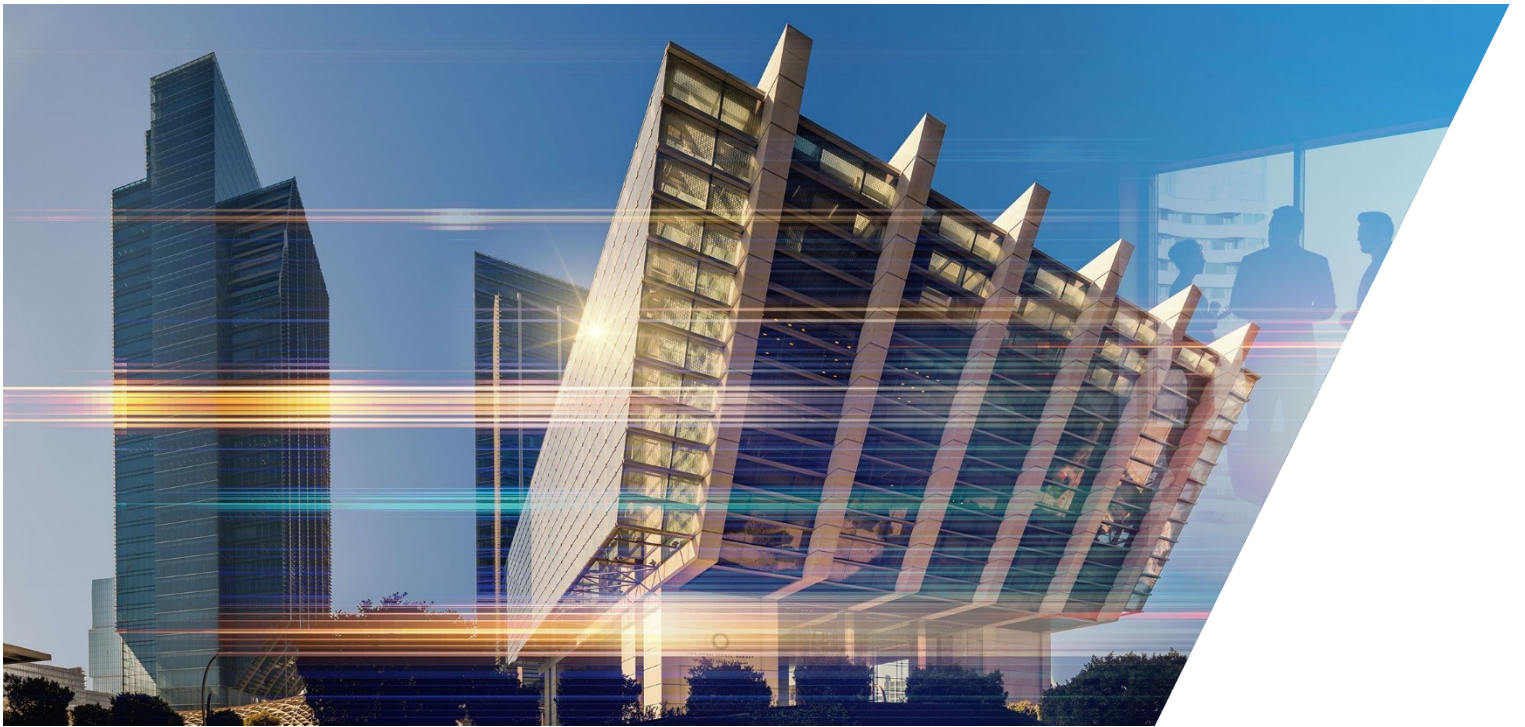




ADGM COURTS
محاكم سوق أبوظبي العالمي



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PRACTICE DIRECTION 6
SERVICE OF DOCUMENTS

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PRACTICE DIRECTION 6

SERVICE OF DOCUMENTS

Date first issued: 2 November 2020

This Practice Direction is to be read with, and subject to, the ADGM Court Procedure Rules 2016 (“CPR”). 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 2 – Commercial and Civil Claims**
- **Practice Direction 4 – Employment Claims**
- **Practice Direction 5 – Particular Claims**
- **Practice Direction 7 – Applications**
- **Practice Direction 8 – Evidence**
- **Practice Direction 9 – Costs**
- **Practice Direction 11 – Appeals**

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 the service of a claim form. Service of a claim form in the Small Claims Division is dealt with in Part 37 of the CPR and Practice Direction 3.

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

A. INTRODUCTION

6.1 Subject to Rule 15(1), in relation to documents other than a claim form:

- (a) where a person to be served has access to the eCourts Platform (including through a legal representative), all documents shall be served on that person through the eCourts Platform; and
- (b) where a person to be served does not have access to the eCourts Platform (including through a legal representative), a document may be served on that person under Part 4 of the CPR as if the document were a claim form.

6.2 The provisions which follow in this Practice Direction relate to the service of a claim form (also known as “service of process”).

6.3 Service of process is the method by which a party formally is notified that an action against him is pending before the Court. Part 4 of the CPR and this Practice Direction have been developed to provide that, as far as is reasonably possible, a party is notified of the proceedings against him whilst adopting a pragmatic and proportionate approach to service of process. This includes the use of technology to effect service of process.

- 6.4 For the purpose of Part 4 and this Practice Direction, a party to the proceedings may use a legal representative or a third party to effect service in lieu of that party effecting service in person, including by means of engaging a courier, process server or like provider.
- 6.5 A claimant should avoid serving a claim form on a Friday if the party to be served would likely to take offence. Nothing in this paragraph modifies the time limits within which a party is required to serve a claim form under any rule, practice direction, ADGM enactment or Court order.

B. PERSONAL SERVICE ON AN INDIVIDUAL [Rule 16]

- 6.6 Rules 16(2)(a) and 16(4)(a) provide that if the individual to be served refuses to receive the claim form and the individual is informed of the nature of the document by the server, then the claim form is deemed to have been served on the individual at the time of such refusal if the document is left in his presence. For the purpose of satisfying this requirement, it is sufficient for the individual to be served to be told that the document comprises a claim filed against him in the Court.
- 6.7 If the claimant elects to leave the claim form with a person for the purpose of Rule 16(2)(b), then the claimant must include the following in any certificate of service filed pursuant to Rule 21:
- (a) the name of the person who received the document;
 - (b) a statement:
 - (i) that the person who received the document was, or appeared to be, over the age of 18;
 - (ii) that the nature of the document was described to the person;
 - (iii) that the person agreed to pass the document onto the individual to be served; and
 - (iv) details of the follow up email, text message (or like message) that was sent for the purpose of Rule 16(3).
- 6.8 For the purpose of sub-paragraph 6.7(ii), it shall be sufficient for the person to be told that the document comprises a claim filed against the individual to be served in the Court.
- 6.9 For the purpose of sub-paragraph 6.7(iii), the claimant is encouraged to obtain the agreement in writing, and any such agreement shall be appended to the certificate of service.
- 6.10 If the claimant elects to affix the claim form on the door or gate of the residence for the purpose of Rule 16(2)(c), then the claimant must include in, or append to, any certificate of service filed pursuant to Rule 21:
- (a) the reason why the claimant elected to affix the claim form on the door or gate;
 - (b) the evidence relied on to show that the individual to be served with the document still resides at the place of residence at the time the document was affixed on the door or gate;
 - (c) photographic evidence which shows the claim form affixed on the door or gate; and

- (d) details of the follow up email, text message (or like message) that was sent for the purpose of Rule 16(3).
- 6.11 If the claimant elects to leave the claim form with a member of management or a co-worker for the purpose of Rule 16(4)(b), then the claimant must include the following in any certificate of service filed pursuant to Rule 21:
- (a) the name and address of the company, business or other place of work where the document was left, the name of the person who received the document and their position in the company, business or other place of work;
 - (b) a statement:
 - (i) that the person who received the document was, or appeared to be, over the age of 18;
 - (ii) that the nature of the document was described to the person who received the document;
 - (iii) that the person agreed to pass the document onto the individual to be served; and
 - (iv) details of the follow up email, text message (or like message) that was sent for the purpose of Rule 16(5).
- 6.12 For the purpose of sub-paragraph 16(b)(ii), it shall be sufficient for the person who received the document to be told that the document comprises a claim against the individual to be served in the Court.
- 6.13 For the purpose of sub-paragraph 16(b)(iii), the claimant is encouraged to obtain the agreement in writing and any such agreement shall be appended to the certificate of service.
- 6.14 If the claimant elects to affix the claim form on the door or gate of the individual's workplace for the purpose of Rule 16(4)(c), then the claimant must include in, or append to, any certificate of service filed pursuant to Rule 21:
- (a) the reason why the claimant elected to affix the claim form on the door or gate of the workplace;
 - (b) the evidence relied on to show that the individual to be served with the document still worked at the workplace at the time the document was affixed on the door or gate;
 - (c) photographic evidence that the claim form was affixed on the door or gate of the workplace; and
 - (d) details of the follow up email, text message (or like message) that was sent for the purpose of Rule 16(5).
- 6.15 For the purpose of Rules 16(2)(c) and 16(4)(c):
- (a) where the claimant elects to affix the claim form to the door or gate of a place of residence or workplace, affix is to include attach, stick, fasten, bind, fix, post, secure, join, connect and couple. If these actions are not reasonably possible, the claimant may place the claim form against the base of the door or gate and secure it by means of a dense object;

- (b) the door or gate of a place of residence may include the front or back door or gate; and
- (c) the door or gate of a workplace is a reference to the main door or gate of the workplace unless, in all the circumstances, it is reasonably necessary to affix the claim form to another door or gate.

6.16 It is the responsibility of the claimant to take due care when affixing a claim form to a door or a gate. For the avoidance of doubt, the claimant is not authorised or permitted under Part 4 or this Practice Direction to cause damage to a door or a gate when affixing a claim form.

C. SERVICE ON A COMPANY, PARTNERSHIP OR ANY OTHER ENTITY [Rule 16A]

6.17 For the purpose of Rule 16A, a claimant who leaves a claim form or sends it by post is encouraged to place it in a sealed envelope marked to the attention of one of the following:

- (a) in respect of a company, a director, the treasurer, secretary, chief executive, manager or other officer of the company;
- (b) in respect of a partnership, a member of the partnership or other officer of the partnership; or
- (c) in respect of any other entity, in addition to those persons set out in sub-paragraphs (a) and (b), the chairman, president or other officer of the entity.

6.18 For the purpose of Rule 16A, post shall include registered post.

6.19 Any certificate of service filed must adequately address the matters set out in paragraph 6.17 above.

D. EMAIL OR OTHER MEANS OF ELECTRONIC COMMUNICATION [Rule 16B]

6.20 This section applies to Rule 16B. For the avoidance of doubt, this section does not apply to Rules 16(3) and 16(5) save that the reference to “like messaging” in those rules shall have the same meaning as in paragraph 6.27(a).

Email

6.21 Rule 16(B)(3)(a) provides that service of a claim form by email is only permitted if it can be shown that the email account to which the document is sent belongs to the person to be served and is still accessed by that person. Depending on the circumstances, this may be demonstrated by one of, or a combination of, the following:

- (a) an agreement from the person to be served that the email account is to be used for the purpose of receiving the document;
- (b) an acknowledgment from the person to be served that they have received the document;
- (c) a course of conduct between the parties which shows the person to be served regularly uses the email account;

- (d) an internet, website or social media search which shows that the person to be served holds out the email account as belonging to them;
 - (e) any government or official record which shows that the email account belongs to the person to be served;
 - (f) any other document which shows that the person to be served holds out the email account as belonging to them;
 - (g) a “delivery receipt” or “read receipt” notification in relation to the email sent; and
 - (h) any other means which reasonably shows that the email account belongs to the person to be served and is still accessed by that person.
- 6.22 For the purpose of service on a company, partnership or other entity, the person to be served must fall within the description in paragraph 6.17.
- 6.23 Any certificate of service filed must adequately address the matters set out in paragraph 6.21 and shall attach any relevant supporting documents.
- 6.24 If the claimant receives a failed delivery notification or an out of message notification in relation to the email sent, service of the document is deemed to have not been effected.

Mobile SMS or like messaging

- 6.25 Rule 16(B)(3)(b) provides that service of a claim form by mobile text message (SMS) (or like messaging) is only permitted if it can be shown that the mobile number to which the document, or notice of the document, is sent belongs to the person to be served and is still accessed by that person. Depending on the circumstances, this may be demonstrated by one of, or a combination of, the following:
- (a) an agreement from the person to be served that the mobile number is to be used for the purpose of receiving the document or notice of the document;
 - (b) an acknowledgment from the person to be served that they have received the document or notice of the document;
 - (c) a course of conduct between the parties which shows the person to be served regularly uses the mobile number;
 - (d) an internet, website or social media search which shows that the person to be served holds out the mobile number as belonging to them;
 - (e) any government or official record which shows that the mobile number belongs to the person to be served;
 - (f) any other document which shows that the mobile number belongs to the person to be served;
 - (g) a “delivery receipt” or “read receipt” notification in relation to the document or notification sent; and
 - (h) any other means which reasonably shows that the mobile number belongs to the person to be served and is still accessed by that person.
- 6.26 For the purpose of service on a company, partnership or other entity, the person to be served must fall within the description in paragraph 6.17.

- 6.27 For the purpose of Rule 16(B)(3)(b) and paragraph 6.25:
- (a) like messaging includes notification via WhatsApp, Messenger and any such like applications;
 - (b) notice requires the recipient to be notified of the:
 - (i) ADGM Courts' case number;
 - (ii) parties to the proceeding (and that the recipient is a party to the proceeding);
 - (iii) requirement that the recipient must file an acknowledgment of service within 14 days otherwise default judgment may be entered against him; and
 - (iv) means by which the recipient can obtain a copy of the claim form.
- 6.28 Any certificate of service filed must adequately address the matters set out in paragraphs 6.25 to 6.27 and shall attach any relevant supporting documents.
- 6.29 For the purpose of Rule 16(B)(3)(c):
- (a) like messaging has the same meaning as in paragraph 6.27(a); and
 - (b) the claimant should seek to agree with the person to be served the email address, mobile number or such other contacts details of the lawyer nominated for the purpose of accepting service of the claim form.
- 6.30 If the claimant receives a failed delivery or similar notification in relation to the mobile text message or email sent, or like message sent, service of the document is deemed not to have been effected.

E. PLACE TO SERVE THE CLAIM FORM [Rule 17]

Proceedings against ADGM and Authorities

- 6.31 A document, including a claim form, must be served by email on:
- (a) ADGM, at adgm.courtsservice@adgm.com;
 - (b) ADGM Registration Authority, at ra.courtsservice@adgm.com; and
 - (c) ADGM Financial Services Regulatory Authority, at fsra.courtsservice@adgm.com.

F. SERVICE OF DOCUMENTS BY AN ALTERNATIVE METHOD OR AT AN ALTERNATIVE PLACE [Rule 19]

- 6.32 In making any application to the Court under Rule 19, the applicant is encouraged to consider alternative methods or places of service that are likely to be effective in bringing the claim form to the attention of the person to be served. In this respect, the applicant ought to consider making use of technology for alternative means of service.

- 6.33 For example, the applicant should consider whether the person has any social media accounts which are active where the claim form, or notice of the claim form, could be provided to the person. In making any such application for alternative service, the criteria set out in paragraphs 6.25 to 6.27 are likely to be equally as relevant as if they apply to social media accounts.
- 6.34 An application under Rule 19 for service by publication in any newspaper should only be considered as a last resort and should contain evidence that the person to be served is literate in the language of the newspaper in which the advertisement will be placed.
- G. SERVICE OUTSIDE THE JURISDICTION [Rules 15(4), (5), (6), (7), (8), 24 and 25]**
- 6.35 Subject to Rule 15(7) and for the avoidance of doubt, where a claimant is to effect service of a claim form outside the jurisdiction but within the United Arab Emirates, he is not required to serve the claim form through the court in the jurisdiction where he is seeking to effect service.