

DIFC Courts’ Order No. 4 of 2019
Mandatory Code of Conduct for Legal Practitioners in the DIFC Courts

I, Zaki Bin Azmi, Chief Justice of the DIFC Courts

After having reviewed:

- Dubai Law No. 9 of 2004, as amended in respect of the establishment of the DIFC;
- Dubai Law No. 12 of 2004, as amended in respect of the DIFC Courts;
- DIFC Law No. 10 of 2004 (the “**DIFC Court Law**”);
- Article 3 of Dubai Law No. 7 of 2014, amending Law No. 9 of 2004, (Dubai Law No. 7 of 2014) establishing the DIFC Dispute Resolution Authority;
- DRA Order No. 2 of 2015 in respect of the DRA Academy;

Hereby, pursuant to the powers vested in me by Article 8(5)(b) of Dubai Law No. 7 of 2014, amending Dubai Law No. 9 of 2004 and according to Resolution No. (1) of 2019 In Respect of the Dispute Resolution Authority Academy, issue the following Order:

- This Order may be cited as DIFC Courts’ Order No. 4 of 2019 in respect of the Mandatory Code of Conduct for Legal Practitioners in the DIFC Courts (‘the **Code**’).
- The revised Code shall come into effect from 5 March 2019.
- This Code repeals and replaces the Mandatory and Supplementary Code of Conduct as was revised and issued by DRA Order No. 1 of 2017 on 29 October 2017.
- The Supplementary Code of Conduct will no longer be read as a separate document and is now consolidated with this Code.

Part A - Governing Principles

The DIFC Courts (“**the Court**”) were established to uphold the laws of the DIFC and to advance the rule of law by ensuring the just and effective resolution of disputes within the Court’s jurisdiction. By registering with the DIFC Courts to practise in the Court, each individual registered legal practitioner (“**Practitioner**”) undertakes to act with integrity and independence in support of the Court and the wider community that it serves.

The right of any Practitioner to practise in the Court is conditional upon:

1. Observance of this Code issued periodically by the Chief Justice.
2. Recognition of the Court’s power to refuse to permit a specific Practitioner to represent a party (or continue to represent a party) where, in the opinion of the judge hearing the matter, the integrity of the process would be threatened by that Practitioner’s representation of the party or the fair administration of justice in accordance with the Overriding Objective in Part 1.6 of the Rules of the DIFC Courts (“**the Rules**”) would be put in peril;
3. Recognition of the Court’s power to suspend, terminate or place conditions on a Practitioner’s registration in the circumstances set out at Part G below;
4. Recognition of the Court’s power to sanction any breach of the Code as provided for at Part F below; and
5. For the purposes of the Code, practice in the Court includes the issue and conduct of proceedings as well as advocacy.

Part B - Duties Owed to the Court

6. Practitioners shall deal with the Court and its staff honestly, co-operatively, with integrity and with civility.
7. Practitioners shall ensure that they are familiar with the Rules and in particular with the provisions of the Overriding Objective.
8. Practitioners shall ensure that they are familiar with such DIFC laws and Dubai laws establishing the DIFC as may be relevant to the matter before the Court.
9. (A) Practitioners shall never knowingly or recklessly make any incorrect or misleading statement of fact or law to the Court and shall correct any material incorrect or misleading statement of fact or law at the earliest opportunity.

(B) A Practitioner who knows of facts which would assist his opponent is not under any duty to voluntarily inform his opponent or the Court of this to the detriment of his own client.

10. (A) Practitioners shall inform the Court of all relevant decisions and legislative provisions of which they are aware, regardless of whether the effect is favourable or unfavourable to the contention for which they argue.

(B) The Court must be informed of all relevant decided cases (“**Decisions**”) and legislative provisions of which the Practitioners appearing in the matter are aware. If one of them omits a relevant Decision or provision or makes an incorrect reference to a Decision or provision, it is the duty of the other to draw attention to it even if it assists his opponent's case.

(C) Where, after a hearing, judgment is reserved and a relevant point of law is subsequently discovered, a Practitioner who intends to bring it to the judge's attention should inform his opponent. The other Practitioner should not oppose the introduction of a new decision which affects the authority of any decision previously cited by either party, but will be entitled to object to the introduction of any point of law that has not previously been pleaded or argued. This Rule does not apply to hearings held to consider applications properly made without notice.

11. (A) Practitioners shall not appear as advocate or otherwise conduct proceedings before the Court in any matter in which they have reason to believe they may be a witness, save where any evidence they may give is likely to be purely formal or uncontroversial.

(B) A Practitioner who, after being engaged by a client, realises that he¹ is or will be in breach of Part B-11 and/or Part C-12, Part C-14, Part C-20 or any other provision of the Code if he continues to act for that client, shall discharge himself from the representation of that client without prejudice to the representation being taken over by another member of his firm to whom Part B-11 is inapplicable. In discharging himself, the Practitioner shall take all reasonable steps to ensure that his client's interests are not in any way jeopardised.

¹ All references to the masculine gender in the Code shall be read as including the feminine gender.

Part C – Duties Owed to Clients

12. (A) Practitioners shall fearlessly advance, defend and protect the interests of their client before the Court without regard to any consequences to themselves or any other person.

(B) It is an implied term of each Practitioner's retainer that he is free to present his client's case at the trial or hearing in such a way as he considers appropriate. If the client's express instructions do not permit a Practitioner to present the case in what the Practitioner considers to be the most appropriate manner, he may withdraw from the case after seeking the approval of the Court, but without disclosing matters which are protected by the client's privilege of confidentiality.

(C) In general, there is no duty upon a Practitioner to enquire in every case where he is instructed as to whether the client is telling the truth. However, where the client's instructions are such (whether because of their inherent implausibility or of other information coming to the Practitioner's knowledge) as should put a Practitioner on enquiry, the Practitioner must, where practicable, check the truth of what the client tells him to the extent that such statements will be relied on before the Court or in pleadings or affidavits.

(D) If, either before or during the course of proceedings, the client makes statements to the Practitioner representing him which are inconsistent, this is not of itself a ground for the Practitioner to refuse to act further on behalf of the client. Only where it is clear that the client is attempting to put forward false evidence to the Court should the Practitioner cease to act. In other circumstances, it would be for the Court, and not the Practitioner, to assess the veracity of the client's statement.

(E) For the avoidance of doubt, the Practitioner shall not be swayed from his or her duties to the client by any conflicts between the instructions or interests of the client and the instructions or interests of any involved Funder (as defined in Practice Direction No. 2 of 2017 on Third Party Funding in the DIFC), unless the client has authorized the Practitioners in writing to take instructions from the Funder rather than the client.

13. (A) Practitioners shall not agree to act for a client in any matter before the Court if the Practitioner owes a separate duty to act in the best interests of another client and (1) those clients are competing with each other for the same objective and (2) the Practitioner does not have the written consent of each client to act for the other client.

a. Before a Practitioner obtains the written consent of each client to act for the other client he must:

- i. satisfy himself that it is reasonable for him to act for all the clients and that it is in the best interests of each of the clients;
- ii. satisfy himself that the benefits to the clients of him doing so outweigh the risks, and
- iii. satisfy himself that, after he has explained the relevant issues and risks to the clients, those clients have a reasonable belief that they understand those issues and risks.

- (B) Practitioners shall not agree to act for a client in any matter before the Court if the Practitioner's duty to act in the best interests of a client conflicts, or there is a significant risk that it may conflict, with the Practitioner's or the law firm's own interests in the same or related asset, liability or matter.
- (C) Part C-13 shall also apply to any law firm to which the Practitioner belongs.
14. (A) Practitioners shall only agree to act in proceedings before the Court if they can handle them promptly, with competence and without undue interference from the pressure of other work.
- (B) A Practitioner shall not be precluded from agreeing to act in proceedings before the Court merely because to represent his client competently he will have to undertake study and research in a given field or associate himself with another Practitioner of established competence in that field. However, if the Practitioner cannot undertake the necessary study and research without undue delay and cost to the client, the Practitioner shall inform the client of the likely delay and cost in acquiring the requisite knowledge and skill and thereafter obtain the client's voluntary consent to his acting in the matter.
15. Practitioners shall not seek to provoke or prolong Court proceedings unnecessarily, nor shall they undertake work in a manner which improperly increases the fees payable to them.
16. Practitioners shall at the earliest opportunity advise their client of any appropriate alternative means of dispute resolution.
17. (A) Practitioners shall at the time of their engagement advise their client of the Court's discretion as to costs and in particular the general rule at Part 38.7(1) of the Rules that the unsuccessful party will be ordered to pay the reasonable legal costs and expenses of the successful party.
- (B) Where a client proposes to enter into a litigation funding agreement (as defined in Practice Direction No. 2 of 2017 on Third Party Funding in the DIFC), or is already a party to such agreement, Practitioners shall advise the client as to the effect of such agreement, if any, on the client's potential responsibility to pay legal costs and expenses as described in Part C-17(A) which will remain the clients' responsibility unless otherwise agreed between the client and the Third Party Funder.
18. (A) Practitioners shall at the time of their engagement enter into a clear and transparent fee agreement with their client and thereafter ensure that sufficient records are kept of work done to enable the Court to properly assess any legal costs and expenses claimed during, or at the conclusion of, proceedings.
- (B) When entering into a fee agreement with a client, a Practitioner must explain to the client that (1) the client shall be personally responsible for payment of the Practitioner's legal fees and expenses in full, regardless of any order for costs made against the opposing party, and (2) that even if the client wins, the opposing party may not be ordered to pay the full amount of the client's own legal fees and expenses, and may not be capable of paying what has been ordered.
- (C) When entering into a fee agreement with a client, a Practitioner must inform the client in writing of the basis upon which fees for his professional services will be charged and

the manner in which it is expected that those fees and disbursements, if any, shall be paid by the client.

(D) As part of a clear and transparent fee agreement, Practitioners must not collect or receive any referral fee or benefit in kind from a Third Party Funder arising from the referral of a client to that Third Party Funder, without disclosing the collection of the benefit to the client in writing. Clients must be fully informed of any financial or other interest which the Practitioner or the law firm to which the Practitioner belongs has in referring the client to any specific third party. Furthermore, where a Practitioner decides to recommend the use of a specific third party to a client, such recommendation must be deemed by the Practitioner to be in the best interest of the client.

19. Practitioners shall keep information communicated to them by their client confidential unless such disclosure is authorised by the client, ordered by the Court or required by law. This duty continues even after the Practitioner has ceased to act for the client.

20. (A) Practitioners that have acted for a client in a matter shall not thereafter act against the client (or against persons who were involved in or associated with the client in that matter) in the same or any related matter before the Court.

(B) Any knowledge acquired by a Practitioner whilst acting for a former client is confidential and cannot be disclosed without that client's consent. However, a Practitioner is under a duty to his present client to inform him of all matters which are material to his case. Consequently, a Practitioner in possession of knowledge concerning his former client which is, or might be relevant, is put in an impossible position and so cannot act against that client.

Part D – Duties Owed to Other Practitioners

21. Practitioners shall deal with each other honestly, co-operatively and with civility.

Part E – General Duties

22. (A) Practitioners shall not engage in conduct that undermines the Overriding Objective or which may otherwise result in procedural unfairness.

(B) Except when making a formal application to the Court, a Practitioner must not discuss a case with a judge save in the presence of the Practitioner for the other party.

(C) If a written communication is to be made to the judge at any time, the Practitioner should at the same time deliver a copy of it to the opposing Practitioner or to the opposing party if it is not legally represented.

(D) A Practitioner must not make or offer to make payments to a witness which are contingent upon the nature of the evidence given or upon the outcome of a case. However:

- a. payment of reasonable expenses and reasonable compensation for loss of time attending Court may be paid to witnesses. In the case of an expert witness, there is an implied obligation to pay a reasonable fee;
- b. a Practitioner, on his client's instructions, may insert advertisements for witnesses to come forward to testify as to a particular occurrence.

(E) A Practitioner shall not interview or discuss with a witness, whom the Practitioner has called, his evidence or the evidence of the other witnesses while such witness is under cross-examination. This shall not prevent the Practitioner from communicating with his client or principal client representative (while the latter is giving evidence) for any purpose necessary for the proper management of the matter.

(F) A Practitioner may interview and take statements from any witness or prospective witness at any stage in the proceedings, whether or not that witness has been interviewed or called as a witness by another party to the proceedings except that, if the Practitioner is aware that the witness has been called or issued a subpoena to appear in Court by the other party to the proceedings, he shall inform the Practitioner of the other party of his intention to interview or take statements from the witness. If such awareness only occurs during the witness interview, the Practitioner shall immediately after such interview inform the Practitioner for the other party of such interview.

(G) A Practitioner who gives a statement to the press must ensure that he does not become in contempt of Court by publishing any statement which is calculated to interfere with a fair trial of a case which has not been concluded.

(H) A Practitioner shall not call a witness whose evidence he knows to be untrue.

(I) A practitioner must, in any proceedings before the Court, conduct the case in a manner which maintains the fairness, integrity, efficiency and orderly conduct of those proceedings.

(J) A Practitioner shall not engage in conduct involving dishonesty, fraud, deceit, or deliberate misrepresentation.

(K) A Practitioner shall not knowingly assist his client to disobey an order or direction of the Court.

(L) A Practitioner must comply with any order of the Court requiring him to do or refrain from doing something; equally, a Practitioner is bound to honour his undertakings given to the Court.

(M) When conducting proceedings in the Court a Practitioner:

- a. shall be personally responsible for the conduct and presentation of his case and shall exercise personal judgment upon the substance and purpose of statements made and questions asked;
- b. shall not express his personal opinion of his client's rights or liabilities or allow his personal feelings to affect his professional assessment of the facts or the law or to affect his duty to the Court;
- c. shall bring any procedural irregularity to the attention of the Court during the hearing and not reserve such matter to be raised on appeal or in setting aside proceedings; or
- d. shall not suggest that a witness or other person is guilty of any crime, fraud or misconduct or attribute to another person the conduct of which his client is

accused unless such allegations go to a matter in issue (including the credibility of the witness) which is material to his client's case and which appear to him to be supported by reasonable grounds.

(N) A Practitioner shall not contrive facts which will assist his client's case or draft any originating process, pleading, affidavit, witness statement or notice or grounds of appeal containing:

- a. any statement of fact or contention (as the case may be) which is not supported by his client's instructions or by other reasonably credible material;
- b. any allegation of fraud or criminal behavior unless he has clear instructions to make such allegation and has before him reasonably credible material which as it stands establishes a *prima facie* case of fraud or criminal behaviour; or
- c. in the case of an affidavit or witness statement, any statement of fact other than the evidence which (in substance according to his instructions) the Practitioner reasonably believes the witness would give if the evidence contained in the affidavit or witness statement were being given orally.

(O) When conducting proceedings in the Court, a Practitioner shall not by assertion in a speech make an allegation against a witness whom he had an opportunity to cross-examine unless in cross-examination he has given the witness an opportunity to answer the allegation. However, a Practitioner may make a submission concerning (1) a witness' credibility based on observations of the witness' conduct and demeanour in court as well as (2) contradictions between testimony given and/or documents authored by the witness without having put such observations to the witness for comment.

23. (A) Practitioners shall not act in any matter before the Court unless satisfied of their continuing adherence to the DIFC Court's registration criteria as set out in DIFC Courts Order No. 1 of 2019 in Respect of Issuing and Conducting Proceedings, Rights of Audience and Registration in Part I and Part II of the DIFC Court.

(B) By acting in any matter before the Court, a Practitioner represents that to the best of his knowledge none of the matters identified at Part G-40(A) apply to them. Part G-(A)d shall not prevent a Part II registered Practitioner from undertaking advocacy so long as he does not also have charge of his client's moneys.

24. Practitioners shall abstain from any behaviour which may tend to discredit the Court and the reputation of its Practitioners.

25. Practitioners shall never withdraw from any matter before the Court in order to confer a tactical advantage upon a party.

26. Practitioners instructed in respect of a matter before the Court shall not initiate any communication about that matter directly with a party who is known to have retained another Practitioner to represent them in the matter. The only exceptions to this duty arise where (1) the Practitioner has obtained the consent of the other Practitioner (2) the relevant communication is a notice which by law or contract must be personally served on the other Practitioner's client or (3) the interests of the party with which it is intended to communicate will be prejudiced if the communication is delayed. In the latter case the other Practitioner must be informed as soon as possible.

27. Practitioners shall not agree to act in any matter before the Court other than at the direct request of the client party concerned, or their clearly authorised agent. For the purposes of this Code an insurer acting in the name of an insured shall be deemed a client party.
28. (A) Subject to any relevant provisions of the Rules, Practitioners shall not disclose to the Court prior to judgment, the content of any settlement offers or settlement negotiations, regardless of whether these have expressly been stated to be “Without Prejudice”, unless the communication containing the settlement offer or negotiations has been expressly marked or otherwise identified as sent on an open basis.
- (B) Where it is disputed that a settlement has been concluded, the content of any settlement offers or negotiations shall be disclosed to the Court prior to judgment only with the leave of the Court.
- (C) **Note:** Practitioners are reminded that the label “Without Prejudice” attached to a communication does not necessarily confer privilege on that communication unless that communication may reasonably be considered to be a settlement offer or a step in the negotiations process.

Part F – Sanctions for Breach of the Code

29. Any complaint by any person or body (“**the Complainant**”) that a Practitioner has acted in breach of the Code shall be made in writing to a Registrar of the DIFC Courts² (‘Complaints Committee’).
30. Where the facts and circumstances of the complaint involve any Registrar to any significant degree, it shall be allocated to another Registrar. Where the facts and circumstances of the complaint involve all of the Registrars, the Chief Justice may nominate any other officer of the Court to discharge any of the Registrar’s duties under Part F.
31. (A) Where there is inappropriate conduct in Court not amounting to a breach of the Code, the Registrar may reach out to the concerned Practitioner for the purposes of giving him /her the feedback, and/or requiring that Practitioner to consider training or counselling by a Senior Lawyer, and reminding that practitioner of his or her duties to the Court.
- (B) Where a Practitioner agrees or disagrees to and attend the relevant training or counselling, the Registrar may consider and decide to proceed with a formal complaint under Part F-32 of the Code if not satisfied with the steps taken by the Practitioner to address the issue.
32. A complaint under this part may be made by the Court itself. Where the Court is the Complainant, the complaint shall be made by the Court acting through a Registrar or any other officer of the Court as the Chief Justice may appoint for that purpose.
33. The complaint must be investigated and processed within a maximum period of 4 months from the date that the Assessors³ have been appointed (if applicable) and the complete documents have been submitted by parties. The Chief Justice may, upon written application

² Registrar appointed under Article 16 of the DIFC Court Law (DIFC Law No. 10 of 2004) and includes, where the context requires, Senior Registrar(s), Deputy Registrar(s), Assistant Registrar(s), and whichever other Registrars the Chief Justice may deem appropriate to appoint in future.

³ As described in paragraph 36 of this Code

- by the Complaints Committee, extend the period within which the complaint must be processed.
34. No complaint received by a Registrar more than 12 months after the facts complained of shall be accepted, unless the Registrar is satisfied that the Complainant suffered from an impediment that prevented him making the Complaint within that time. Where the Registrar is satisfied that the Complainant suffered from an impediment, the complaint will not be accepted if received more than 12 months after the removal of such impediment.
 35. Unless the allocated Registrar decides on reasonable grounds that the complaint is frivolous or vexatious he shall:
 - a. Forward a copy of the complaint to the Practitioner;
 - b. Require from the Practitioner a written response to the complaint;
 - c. Make any further investigation he deems appropriate;
 - d. Issue a reasoned written decision on the complaint.
 36. Subject to Part F-30, a Practitioner against whom a complaint is made, may require that it is investigated and decided upon jointly by a Registrar and two independent Assessors chosen by the Registrar from the Register of Practitioners. The Registrar shall be responsible for drawing up and issuing the decision, which decision shall be that of the majority. Should either side wish to lodge an objection as regards the suitability of an Assessor who has been chosen for this purpose by the Registrar, they may do so in writing to the Chief Justice within 5 working days of the publication of the identity of the Assessor in question. The Chief Justice's decision in this connection will be final.
 37. Assessors shall participate in the investigation of the complaint on a Pro Bono basis.
 38. (A) The Court, acting through a Registrar, the Chief Justice or any nominee of the Chief Justice, may impose the following sanctions upon any Practitioner found on a balance of probabilities to have committed a breach of the Code.
 - a. Private Admonition;
 - b. Public Admonition;
 - c. Fine not exceeding US\$15,000 in the case of an individual Practitioner and US\$50,000 in the case of a firm;
 - d. Suspension from the Register of Practitioners for a period of time not exceeding 3 years;
 - e. Removal from the Register of Practitioners.
- (B) The Court may impose a combination of sanctions. Any sanction other than a Private Admonition shall be published together with a summary of the complaint and the names of the Complainant and the Practitioner.
- (C) When imposing any sanction other than a Private Admonition, the Court may notify the fact to any Bar Association or similar body responsible for the supervision or regulation of the Practitioner concerned.
- (D) Save where the Court of Appeal orders otherwise, the Court may stay the implementation of any sanction and/or direct that its decision shall be kept confidential, for a period not exceeding 60 clear days from the date it was issued.

(E) The Court reserves the discretion to publish redacted versions of decisions where Private Admonition has been imposed or where no breach of the Code has been found, if considered beneficial to the legal community.

39. (A) A decision may be reviewed, or at its discretion a complaint re-heard, by the Court of Appeal on the application of the Practitioner or the Complainant.

(B) An application to the Court of Appeal shall be made using the procedure set out at Part 8 of the Rules. Save where the application to the Court of Appeal is made by the Complainant, no permission to appeal shall be required.

(C) Save with the permission of a judge of the Court or the permission of the Court of Appeal, any application to the Court of Appeal shall be made no more than 30 clear days after the reasoned decision of the Registrar is issued.

(D) The Part 8 claim form shall identify the defendant as “The Registrar of the DIFC Courts” and state that it is an application made pursuant to Part F-39 of the Code to appeal a decision issued pursuant to Part F-38(A) of the Code. Thereafter, the claim form shall set out the grounds of appeal relied on in accordance with Part 44 of the Rules.

(E) Where permission to appeal is required, an application for permission shall be included in the Part 8 claim form. Permission to appeal may be given in accordance with Part 44.8 of the Rules.

(F) Service of the Part 8 claim form on the defendant shall be dispensed with, as shall the need for the defendant to file an Acknowledgment of Service.

(F) Within 14 days of the issue of a Part 8 claim form, a judge of the Court shall issue directions for the management and determination of the application(s).

(G) Any decision appealed against, together with any application to the Court of Appeal made pursuant to Part F, shall be kept confidential until the appeal has been determined.

(H) An application to the Court of Appeal made pursuant to Part F shall not operate as a stay of any sanction.

(I) On hearing an appeal, the powers of the Court of Appeal shall be as provided for at Part 44.134 of the Rules. Reference to the Court of First Instance at Part 44.134(1) of the Rules shall be read as a reference to the Court acting pursuant to Part F-38(A) of the Code.

Part G – Matters Affecting Registration

40. (A) Where a Practitioner;

- a. Has been sentenced to a term of imprisonment in respect of any civil or criminal proceedings in Dubai or elsewhere;
- b. Has been convicted of an offence involving dishonesty or fraud in Dubai or elsewhere;
- c. Has been convicted of an offence in relation to his conduct in his practice of law in Dubai or elsewhere;

- d. As a result of a bankruptcy order made against him, is prohibited by the relevant bankruptcy law from having charge of clients' moneys;
- e. Has been found guilty by any Court or Tribunal outside the DIFC having jurisdiction over his conduct as a practising lawyer (whether in Dubai or elsewhere) of a violation of a code of professional ethics applicable to him;
- f. Is incapacitated by illness or accident, or by the Practitioner's physical or mental condition, to such extent as to be unable to attend to his practice;
- g. Is incapable of conducting cases in court as advocate either because of difficulties with the English language or by reason of a lack of appropriate litigation expertise;
- h. Has stolen or otherwise improperly dealt with clients' moneys:

(B) and a judge of the Court, if satisfied that any of the above conditions (Part G-40 (A) has been met, may on the application of an officer of the Registry make an order:-

- a. Suspending the Practitioner from exercising his rights as a registered Practitioner for an appropriate period; or
- b. Imposing conditions with which the Practitioner must comply on a continuing basis in order to remain enrolled on the Register of Practitioners; or
- c. Terminating the right of the Practitioner to remain enrolled on the Register of Practitioners.

(C) An application made by an officer of the Court pursuant to Part G-40 (A) and (B) shall be made using the procedure set out at Part 8 of the Rules.

(D) The Part 8 claim form shall identify the claimant as "The Registrar of the DIFC Courts" and state that it is an application for an order pursuant to Part G-40 (A) and (B) of the Code.

(E) The Part 8 claim form shall identify the specific order sought and be filed with any written evidence to be relied on.

(F) Upon the issue of a Part 8 claim form, a judge of the Court shall issue directions for the service, management and determination of the application

41. (A) An order made under Part G-40 (A) and (B) may be reviewed or the application for the order may be re-heard, by the Court of Appeal, at its discretion, on the application of the Practitioner.

(B) An application to the Court of Appeal shall be made by the filing of an appellant's notice in accordance with Parts 44.32 to 44.35 of the Rules. Permission to appeal shall not be required. Service of the appellant's notice on the respondent shall be dispensed with.

(C) Save with the permission of a judge of the Court or the permission of the Court of Appeal, any application to the Court of Appeal shall be made no more than 30 clear days after the order appealed against was issued.

(D) Within 14 days of the filing of an appellant's notice a judge of the Court shall issue directions for the management and determination of the application, including any directions for the filing of a respondent's notice.

(E) An application to the Court of Appeal made pursuant to Part G shall not operate as a stay of any order appealed against.

(F) On hearing an appeal, the powers of the Court of Appeal shall be as provided for at Part 44.134 of the Rules. Reference to the Court of First Instance at Part 44.134(1) of the Rules shall be read as a reference to the Court acting pursuant to Part G-40 (A) and (B) of the Code.

(G) Save where the Court of Appeal orders otherwise, the Court may stay the implementation of its order and/or direct that its order shall be kept confidential, for a period not exceeding 60 clear days from the date it was issued.

Part H – Saving Clause

42. Except where otherwise provided in this Code, anything done or omitted to be done pursuant to or for the purposes of the previous Code is deemed to be done or omitted to be done pursuant to or for the purposes of this Code.

43. Such repeal and replacement shall not affect:

- a. any right, privilege, remedy, obligation or liability accrued to or incurred by any person or legal practitioner; or
- b. any investigation or legal or administrative proceedings commenced, or to be commenced, in respect of any such right, remedy, privilege, obligation or liability, under this Code, and any such investigation or legal or administrative proceedings may be instituted, continued or enforced, including any penalty, fine or forfeiture, under this Code.

Zaki Bin Azmi
Chief Justice of the DIFC Courts
Issued: 18 September 2019