PART 45 General Rules About Enforcement Of Judgments And Orders

PART 45

Scope of this Part and interpretation

45.1

This Part contains general Rules about enforcement of judgments and orders.

45.2

In this Part and in Parts 46 to 50:

(1) 'judgment creditor' means a person who has obtained or is entitled to enforce a judgment or order ;

(2) 'judgment debtor' means a person against whom a judgment or order was given or made;

(3) 'judgment or order' includes an award which the Court has:

(a) ratified for enforcement;

(b) ordered to be enforced; or

(c) given permission to enforce;

as if it were a judgment or order of the Court ; and

(4) 'judgment or order for the payment of money' includes a judgment or order for the payment of costs, but does not include a judgment or order for the payment of money into Court .

Methods of enforcing judgments or orders

45.3

A judgment creditor may enforce a judgment or order for the payment of money by any of the following methods:

(1) a charge over property (a charging order);

(2) attachment of assets (whether present or future);

(3) execution against assets;

(4) the appointment of a receiver.

45.4

In addition the Court may make an order of committal for contempt of Court against a judgment debtor but only if permitted by a Rule.

45.5

The enforcement of a judgment or order may be affected by the Laws and Regulations relating to insolvency.

45.6

A judgment creditor may, except where an enactment, Rule or Practice Direction provides otherwise:

(1) use any method of enforcement which is available; and

(2) use more than one method of enforcement, either at the same time or one after another.

Enforcement of judgment or order by or against a non-party

45.7

If a judgment or order is given or made in favour of or against a person who is not a party to proceedings, it may be enforced by or against that person by the same methods as if he were a party.

Enforcement of awards of Bodies other than the Court

45.8

Rules 45.10 to 45.17 apply, subject to Rule 45.9, if:

(1) an award of a sum of money or other decision is made by any court, tribunal , body or person other than the Court ; and

(2) an enactment provides that the award may be enforced as if payable under a Court order, or that the decision may be enforced as if it were a Court order.

45.9

Rules 45.10 to 45.17 do not apply to arbitration awards.

45.10

If the enactment provides that an award of a sum of money is enforceable if a Court so orders, an application for such an order must be made in accordance with Rules 45.11 to 45.15.

45.11

An application for an order that an award may be enforced as if payable under a Court order may be made without notice.

45.12

The application notice must be made by filing an application notice in Form P45/01.

45.13

The application notice must state:

(1) the name and address of the person against whom it is sought to enforce the award; and

(2) how much of the award remains unpaid.

45.14

A copy of the award must be filed with the application notice .

45.15

The application may be dealt with by the Registrar without a hearing.

45.16

If an enactment provides that an award or decision may be enforced in the same manner as an order of the Court if it is registered, any application to the Court must be made in writing to the Registrar .

45.17

The application must:

(1) specify the statutory provision under which the application is made;

(2) state the name and address of the person against whom it is sought to enforce the decision;

(3) if the decision requires that person to pay a sum of money, state the amount which remains unpaid.

Enforcement outside the DIFC of DIFC Courts judgments, decisions, orders and awards ratified by the Courts

45.18

Rules 45.19 to 45.21 apply where a party seeks to enforce a DIFC Courts judgment, decision or order, or ratified arbitral award outside the DIFC in accordance with Article 7(2) and / or 7(3) of the Judicial Authority Law.

45.19

An application must be made by filing an application notice in Form P45/01.

45.20

Where a party seeks to enforce a DIFC Courts judgment, decision, order, or ratified arbitral award outside of the DIFC, they must file an application notice in Form P45/01 requesting the Court to affix the executory formula on the judgment, decision, order or ratified arbitral award in the following form:

“Authorities must take the initiative to enforce this document and assist in implementing it even forcibly whenever requested to do so.”

45.21

Where the party intends to seek enforcement in Dubai outside the DIFC, the application should also request that the Court issue an execution letter pursuant to Article 7(3)(a) of the Judicial Authority Law addressed to the Chief Justice of the Court of First Instance of the Dubai Courts stating the procedure to be carried out.

45.22

The Court will only affix the executory formula to a judgment, decision, order or ratified arbitral award when the following criteria are met:

(1) The judgment, decision, order or ratified arbitral award to be executed is final and executory; and

(2) The judgment, decision, order or ratified arbitral award is translated into the official language of the entity through which execution is carried out;

45.23

The Court will only issue an execution letter in respect of a judgment, decision, order or ratified arbitral award to which it has affixed the executory formula.

45.24

An application under [RDC 45.20] should be accompanied by the following:

(1) A copy of the judgment, decision, order or ratified arbitral award which the applicant seeks to enforce;

(2) Where the applicant seeks to enforce an arbitral award, a copy of any order of the DIFC Courts ratifying or recognising the award;

(3) A draft of any execution letter which is sought;

(4) Translations of the documents referred to at sub-paragraphs (1) to (3) above into the official language of theentity through which enforcement is to be carried out; and

(5) A statement that the judgment, decision, order or arbitral award is final and executory and the grounds on which that is said to be the case.

Effect of setting aside judgment or order

45.25

If a judgment or order is set aside , any enforcement of the judgment or order shall cease to have effect unless the Court otherwise orders.

Interest on judgment debts

45.26

If a judgment creditor is claiming interest on a judgment debt, he must include in his application or request to issue enforcement proceedings in relation to that judgment details of:

(1) the amount of interest claimed and the sum on which it is claimed;

(2) the dates from and to which interest has accrued; and

(3) the rate of interest which has been applied and, where more than one rate of interest has been applied, the relevant dates and rates.

Enforcing a judgment or order against a partnership

45.27

A judgment or order made against a partnership may be enforced against any property of the partnership within the DIFC .

45.28

Subject to Rule 45.29, a judgment or order made against a partnership may be enforced against any person who is not a limited partner and who:

(1) acknowledged service of the claim form as a partner;

(2) having been served as a partner with the claim form, failed to acknowledge service of it;

(3) admitted in his statement of case that he is or was a partner at a material time; or

(4) was found by the Court to have been a partner at a material time.

45.29

A judgment or order made against a partnership may not be enforced against a limited partner or a member of the partnership who was ordinarily resident outside the DIFC and Dubai when the claim form was issued unless he:

(1) acknowledged service of the claim form as a partner;

(2) was served within the DIFC or Dubai with the claim form as a partner; or

(3) was served out of the DIFC and Dubai with the claim form, as a partner, in accordance with the provisions of Section III of Part 9.

45.30

A judgment creditor wishing to enforce a judgment or order against a person in circumstances not set out in Rules 45.28 or 45.29 must apply to the Court for permission to enforce the judgment or order .

Payment of debt after issue of enforcement proceedings

45.31

If a judgment debt or part of it is paid:

(1) after the judgment creditor has issued any application or request to enforce it; but

(2) before:

(a) any writ or warrant has been executed; or

(b) in any other case, the date fixed for the hearing of the application;

the judgment creditor must immediately notify the Court in writing.