

PART 3 Organisation Of The Court

PART 3

Power of Judge or Registrar to perform functions of the Court 3.1

3.1

Where these Rules provide for the Court to perform any act then, except where an enactment, Rule or Practice Direction provides otherwise, that act may be performed by any Judge or Registrar.

Allocation of cases to levels of judiciary 3.2 - 3.13

3.2

Only the Registrar may make the orders specified in Rules 3.6 to 3.13. Wherever the Registrar has jurisdiction, he may refer the matter to a Judge instead of dealing with it himself.

3.3

Subject to Rules 3.6 and 3.7 search orders (Rule 25.1(8)), freezing orders (Rule 25.1(6)), an ancillary order under Rule 25.1(7) and orders authorising a person to enter land to recover, inspect or sample property (Rule 25.1(4)) may only be made by a Judge.

3.4

Where the Court has made a freezing order under Rule 25.1(6) and has ordered a person to make a witness statement or affidavit about his assets and to be cross-examined on its contents, unless the Judge directs otherwise, the cross-examination may take place before the Registrar, or if a Judge or the Registrar directs, before an examiner of the Court.

3.5

Except where paragraphs 3.6, 3.7 or 3.9 apply, injunctions and orders relating to injunctions, including orders for specific performance where these involve an injunction must be made by a Judge.

3.6

Except where paragraph 3.9 applies, the Registrar may only make an injunction

(1) in cases of urgency where no Judge can be made available within the timescale requested by the applicant and then only:

(a) if the Registrar considers it necessary in the interests of justice; and

- (b) to the extent necessary to preserve the status quo until such time as a judge can made available;
- (2) in terms agreed by the parties;
- (3) in connection with or ancillary to a charging order;
- (4) in connection with or ancillary to an order appointing a receiver by way of equitable execution.

3.7

The Registrar may make an order varying or discharging an injunction or undertaking given to the Court if all parties to the proceedings have consented to the variation or discharge.

3.8

The Registrar may not make orders or grant interim remedies:

- (1) relating to a claim for judicial review, except for interim applications;
- (2) relating to any appeal, except as provided in FRDC 44.148 / ARDC 44.123

3.9

The Registrar may, subject to any Practice Direction, try a case with the consent of the parties. Restrictions on the trial jurisdiction of the Registrar do not prevent him from hearing applications for immediate judgment or, if the parties consent, for the determination of a preliminary issue.

3.10

The Registrar may assess the damages or sum due to a party under a judgment without limit as to the amount.

3.11

With the consent of the Chief Justice, the Registrar may:

- (1) approve compromises on behalf of a person under a disability and on behalf of absent, unborn and unascertained persons;
- (2) make declarations;
- (3) make final orders under article 28(3) or article 30(6) of the Trust Law, DIFC Law 11 of 2005, except for the removal of protective trusts where the interest of the principal beneficiary has not failed or determined;
- (4) where the proceedings are brought by a Part 8 claim form, determine any question of law or as to the construction of a document which is raised by the claim form;
- (5) give permission to executors, administrators and trustees to bring or defend proceedings or to continue the prosecution or defence of proceedings, and grant an indemnity for costs out of the trust estate, in straightforward cases;

(6) grant an indemnity for costs out of the assets of a company on the application of minority shareholders bringing a derivative action, in straightforward cases.

3.12

Where a winding-up order has been made against a company, any proceedings against the company by or on behalf of debenture holders may be dealt with by the Registrar.

3.13

Subject to Rules 3.3 to 3.12 and to any other Rule or Practice Direction, the Registrar may exercise the chambers jurisdiction of the Court.

Court staff 3.14 - 3.15

3.14

Where these Rules require or permit the Court to perform an act of a formal or administrative character, that act may be performed by a Court Officer.

3.15

A requirement that a Court Officer carry out any act at the request of a party is subject to the payment of any fee required by a fees order for the carrying out of that act.

Practice directions 3.16 - 3.19

3.16

Directions as to the practice and procedure of the Court may be made by the Chief Justice.

3.17

These Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions.

3.18

The power of the Chief Justice to make directions under Rule 3.16 includes power to vary or revoke directions made by him or any other person, and to make different provision for different cases or different areas, including different provision for a specific court, circuit or tribunal, or for specific proceedings, or a specific jurisdiction, specified in the directions.

3.19

References in Rules 3.16 and 3.18 to the Chief Justice include any person authorised by him to act on his behalf.

Court documents to be sealed 3.20 - 3.22

3.20

The Court must seal the following documents on issue:

- (1) all process issued by the Court;
- (2) any order issued by the Court; and
- (3) any other document which a Rule or Practice Direction requires it to seal.

3.21

The Court may place the seal on the document:

- (1) by hand; or
- (2) by printing a facsimile of the seal on the document whether electronically or otherwise.

3.22

A document purporting to bear the Court's seal shall be admissible in evidence without further proof.

Court documents to be signed 3.23

3.23

The following documents must be signed on issue by a Judge or the Registrar or by a Court Officer acting with the authority of the Registrar:

- (1) all process issued by the Court;
- (2) any order issued by the Court; and
- (3) any other document which is required by a Rule or Practice Direction to be so signed.

Court's discretion as to where it deals with cases 3.24

3.24

The Court may, with the consent of the parties, deal with a case at any place that it considers appropriate and may at any stage of the proceedings direct that:

- (1) the proceedings or a part of the proceedings be conducted or continued at a place specified in the order, subject to such conditions as the DIFC Courts may impose;

(2) the Court Law shall continue to apply to the proceedings in that venue; and

(3) these Rules shall continue to apply.

Court Registry 3.25

3.25

The Court Registry is located at the Ground Floor, Building 4, Gate District, Dubai, UAE.

Sittings of the Court 3.26 - 3.28

3.26

Sittings of the Court will take place on dates to be published on the Court's website (www.difccourts.ae) and on such other dates as may be specified by the Chief Justice or the Registrar on his behalf.

3.27

In the interest of justice, the Court may hear an application by video link, telephone, electronic device or other appropriate means. Attention is drawn to the Video-conferencing Protocol and the guidance on telephone hearings at Schedules B and C to Part 23.

3.28

Sittings of the Court will generally take place in the courtroom located at the Ground Floor, Building 4, The Gate District, Dubai, UAE.

V COMMUNICATING WITH THE COURT BY E-MAIL 3.29

3.29

Guidance on communicating with the Court by e-mail is set out in the Schedule to this Part.

Schedule to Part 3 Communicating with the Court by E-mail