
DIFC COURT LAW

DIFC LAW No.10 of 2004

CONTENTS

Contents.....	1
PART 1: GENERAL.....	1
1. Title	1
2. Legislative authority	1
3. Date of enactment	1
4. Commencement.....	1
5. Interpretation	1
PART 2: PURPOSE.....	1
6. Purpose of the Law	1
PART 3: CONSTITUTION OF THE DIFC COURT.....	2
7. The DIFC Court.....	2
8. Judges of the DIFC Court	2
9. Appointment of Judges.....	2
10. Removal of Judges of the DIFC Court.....	3
11. Resignation of Judges of the DIFC Court.....	3
12. Remuneration of Judges.....	3
13. Court Proceedings.....	3
PART 4: MANAGEMENT OF THE DIFC COURT.....	4
14. Administrative Procedures	4
15. Seal of Court.....	4
16. The Registrar and Deputy Registrars of the DIFC Court	4
17. Powers and duties of the Registrar and Deputy Registrars of the DIFC Court.....	4
18. Appointment of Assessors	6
PART 5: JURISDICTION OF THE DIFC COURT.....	7
CHAPTER 1 –JURISDICTION OF THE COURT OF FIRST INSTANCE	7
19. Jurisdiction	7
20. Making of Orders and issuing of Writs	7
21. Restitution, disgorgement and damages	8
22. Judicial Review and Injunctions.....	8
23. Decisions relating to fines.....	8
24. Ratification of Judgments	8
25. Receivers and Provisional Liquidators	9
CHAPTER 2 –JURISDICTION OF THE COURT OF APPEAL.....	9
26. Appeals.....	9
27. References.....	10
CHAPTER 3 – ADMINISTRATIVE APPEALS	10
28. Appeals from DIFC Tribunals.....	10
CHAPTER 4 – COMPOSITION OF THE DIFC COURT	10
29. Composition of the DIFC Court for any matter	10

PART 6: MATTERS RELATING TO JURISDICTION	12
CHAPTER 1 – APPLICATION OF DIFC LAW	12
30. Governing Law.....	12
PART 7 - GENERAL	13
CHAPTER 1 - PRACTICE AND PROCEDURE	13
31. The Rules of Court.....	13
32. Powers	13
33. Stay of proceedings and suspension of orders	14
34. Witnesses and documents.....	14
35. Orders for the examination of witnesses.....	14
36. Change of venue	14
37. Judgments.....	15
38. Limitation on proceedings.....	15
39. Interest on judgment	15
40. Recovery of monies	15
41. Issue of orders and processes	15
42. Enforcement of DIFC Court Orders.....	15
43. Contempt of Court.....	15
44. Technical Defects	16
45. Costs	16
46. Security of Costs.....	16
47. Undertakings	16
48. Oaths and affirmations.....	17
49. Swearing of DIFC Court documents.....	17
CHAPTER 2 - EVIDENCE	17
50. Application of Evidence.....	17
51. Oral, video link, telephone and affidavit evidence.....	17
52. Evidence on appeal	18
53. Prohibition of publication of evidence	18
PART 8: ARBITRATION	19
54. Referral to an Arbitrator	19
55. Registration of Awards.....	19
PART 9: FUNDING AND REPORTS.....	20
56. Funding and Fees.....	20
57. The annual funding of the DIFC Court	20
58. Accounts.....	20
59. Annual report.....	20
PART 10: MISCELLANEOUS.....	22
60. Official Language.....	22
61. Immunity	22
SCHEDULE	23

PART 1: GENERAL

1. Title

This Law may be cited as the “DIFC Court Law 2004”.

2. Legislative authority

This Law is made by the Ruler of Dubai.

3. Date of enactment

This Law is enacted on the date specified in the Enactment Notice in respect of this Law.

4. Commencement

This Law comes into force on the date specified in the Enactment Notice in respect of this Law.

5. Interpretation

(1) The Schedule contains:

- (a) interpretative provisions which apply to the Law; and
- (b) a list of defined terms used in the Law.

PART 2: PURPOSE

6. Purpose of the Law

The purpose of this Law is to provide for the independent administration of justice in the DIFC in accordance with Dubai Law No.9 of 2004 and the Judicial Authority Law.

PART 3: CONSTITUTION OF THE DIFC COURT

7. The DIFC Court

The courts established in the DIFC pursuant to the Judicial Authority Law, that is the Court of First Instance and the Court of Appeal, are to be known as the DIFC Court.

8. Judges of the DIFC Court

- (1) The DIFC Court shall consist of at least four judges, one of whom shall be the Chief Justice.
- (2) The powers of the DIFC Court are vested in the Judges referred to in Article 9(1).

9. Appointment of Judges

- (1) The Judges appointed under Article 3(4) of the Judicial Authority Law, shall be appointed for a specified period not exceeding three years, and may be re-appointed, provided that such period may not extend beyond the day when the Judge turns 75 years of age.
- (2) Notwithstanding the fact a Judge has turned 75 years or the period of appointment has concluded, a Judge holding office may continue in office for so long as may be necessary to deliver judgment or to perform any other actions as may be necessary, in relation to the proceedings that were commenced before the Judge turns 75 years or before the conclusion of the appointment.
- (3) A person is qualified to be appointed as a Judge if:
 - (a) the person is or has been the holder of high judicial office in any jurisdiction recognised by the Government of the United Arab Emirates; and
 - (b) the person has significant experience as a qualified lawyer or judge in the common law system.
- (4) A Judge is not eligible for appointment if the Judge has any commercial association that may give rise to a conflict of interest with:
 - (a) any Centre Body or any subsidiary of a Centre Body other than the DIFC Judicial Authority;
 - (b) any licensed Centre Establishment or other institution which is part of or which is licensed to carry on any business in the DIFC; or
 - (c) any person employed by any Centre Body or any subsidiary of a Centre Body other than the DIFC Judicial Authority or any person referred to in (b).
- (5) A Judge shall take an oath of office before the Ruler or his delegate before commencing duties.

10. Removal of Judges of the DIFC Court

A Judge may be removed from office by a decree issued by the Ruler for reasons of inability, incapacity or misbehaviour that is found to have taken place by an independent inquiry established by the Ruler, and whose findings have been published.

11. Resignation of Judges of the DIFC Court

A Judge may at any time resign as a Judge of the DIFC Court by notice in writing addressed to the Ruler.

12. Remuneration of Judges

(1) The Judges shall receive remuneration determined by the Ruler on the recommendation of the Chief Justice.

(2) The rate of remuneration of a Judge shall not be diminished while the Judge is in office.

13. Court Proceedings

All proceedings before the Courts shall be:

(1) conducted in the English language; and

(2) open to the public unless otherwise conducted by the presiding Judge in the interest of justice.

PART 4: MANAGEMENT OF THE DIFC COURT

14. Administrative Procedures

- (1) The Chief Justice is responsible for managing the administrative affairs of the DIFC Court. The DIFC Court will receive funding for this purpose from the Government of Dubai in accordance with Article 8(5) of Dubai Law No.9.
 - (a) set up circuits and divisions of the DIFC Court;
 - (b) appoint and dismiss staff of the DIFC Court;
 - (c) appoint judicial officers of the DIFC Court but not Judges; and
 - (d) appoint judicial officers as members of Tribunals of the DIFC Court.
- (3) The Chief Justice may, where he considers it appropriate, set up and administer Tribunals of the DIFC Court and authorise rules for their administration, which shall be set out in the Rules of Court.
- (4) The Chief Justice may, in writing, delegate all or any of the administrative powers of the Chief Justice under this Part to one or more of the Judges or to the Registrar.

15. Seal of Court

- (1) The DIFC Court shall have a seal, the design of which shall be determined by the Chief Justice.
- (2) The seal of the DIFC Court shall be kept in the custody of the Registry as the Chief Justice directs.

16. The Registrar and Deputy Registrars of the DIFC Court

- (1) The Chief Justice shall appoint and shall have the right to dismiss a Registrar of the DIFC Court.
- (2) Subject to this Law, the Registrar holds office on the terms and conditions determined by the Chief Justice.
- (3) The Chief Justice may also appoint and shall have the right to dismiss Deputy Registrars and other officers necessary to fulfil the duties of the DIFC Court.
- (4) Appointments made under Articles 16(1) and (3) shall be for a specified period not exceeding three years. The appointment may not extend beyond the day when the Registrar, Deputy Registrar or other officer turns 75 years old.
- (5) Any person appointed under this Part shall take an oath or affirmation of office, as set out in the Rules of Court, before a Judge before discharging the duties of the office.

17. Powers and duties of the Registrar and Deputy Registrars of the DIFC Court

- (1) The Registrar shall establish a Registry of the DIFC Court.

- (2) The Registrar shall have power to do all things necessary or convenient for the purpose of assisting the Judges of the DIFC Court in the exercise of their powers or duties as imposed on them by or under:
 - (a) the Judicial Authority Law;
 - (b) this Law;
 - (c) the Rules of Court; and
 - (d) by or under any DIFC Law or other law applicable in the DIFC.
- (3) The Registrar shall have such other powers and duties as may be conferred, or expressed to be conferred, upon the Registrar by or under:
 - (a) this Law;
 - (b) any other law made by the Ruler; or
 - (c) a delegation from the Chief Justice.
- (4) Subject to the Rules of Court, the Deputy Registrars and officers may exercise the powers and duties of the Registrar.
- (5) The Chief Justice may give the Registrar directions regarding the exercise of the Registrar's powers under this Part.
- (6) The Registrar, Deputy Registrars and other officers shall as soon as becoming aware give written notice to the Chief Justice of all direct or indirect interests or any conflict of interest that may interfere with the exercise of their duties.

18. Appointment of Assessors

- (1) For the purposes of any case pending before the DIFC Court, a Judge may appoint one or more Assessors who shall be independent and an expert in their field, to assist the DIFC Court in the determination of any of the issues arising in a proceeding before the DIFC Court.
- (2) If an Assessor appointed under paragraph (1) of this Article provides advice to the DIFC Court, the parties to the proceedings shall be given an opportunity to make submissions on the Assessor's advice.
- (3) If in giving judgment on any contested proceeding, a Judge of the DIFC Court relies to any substantial extent on the expert advice of the Assessor, the judgment shall mention the issues on which and the extent to which advice was relied upon by the Judge.
- (4) The Registrar shall pay to any Assessor appointed under this Article a fee as set out in the Rules of Court for carrying out his duties and shall reimburse him for any expenses reasonably incurred.
- (5) Prior to commencing duties an Assessor shall take an oath or affirmation of office in accordance with the Rules of Court.
- (6) An Assessor who has or may have a conflict concerning the subject matter of the proceedings shall disclose the matters giving rise to that conflict to the Judge and the parties to the proceeding.
- (7) For the purposes of this Article, an Assessor has a conflict of interest in relation to proceedings if the Assessor has any interest, pecuniary or otherwise, that could conflict with the proper performance of the Assessor's functions in relation to the proceedings.

PART 5: JURISDICTION OF THE DIFC COURT

CHAPTER 1 –JURISDICTION OF THE COURT OF FIRST INSTANCE

19. Jurisdiction

- (1) The DIFC Court of First Instance has original jurisdiction pursuant to Article 5(A) of the Judicial Authority Law to hear any of the following:
 - (a) civil or commercial cases and disputes involving the Centre or any of the Centre's Bodies or any of the Centre's Establishments;
 - (b) civil or commercial cases and disputes arising from or related to a contract concluded or a transaction concluded by any of the Centre's Establishments or the Centre's Bodies;
 - (c) civil or commercial cases and disputes arising from or related to a contract that has been executed or a transaction that has been concluded, in whole or in part, in the Centre or an incident that has occurred in the Centre; and
 - (d) any application over which the DIFC Court has jurisdiction in accordance with DIFC Laws and Regulations;
- (2) The jurisdiction of the Court of First Instance shall be exercised by a single Judge sitting in open court or in chambers.
- (3) The chambers jurisdiction of the Court of First Instance may be exercised by a Judge in relation to any:
 - (a) application relating to the conduct of a proceeding;
 - (b) application for orders or directions as to any matter which, by this Law, is made subject to the direction of a Judge sitting in chambers; and
 - (c) other application permitted under the Rules of Court.
- (4) A Judge may order that a proceeding in chambers be adjourned to open court.
- (5) Unless DIFC Law specifically provides to the contrary, no appeal shall lie from a decision of the Court of First Instance in relation to an appeal from a tribunal.

20. Making of Orders and issuing of Writs

- (1) The Court of First Instance has the power, in matters over which it has jurisdiction to make any orders, including interlocutory orders, and to issue or direct the issue of any writs it considers appropriate.
- (2) The Court of First Instance has jurisdiction to waive any procedural requirements if the Court of First Instance is satisfied that the applicant is unable to meet the procedural requirements; and
- (3) An order of a Tribunal established under Article 14(3) has the same effect as if it were an order of the Court of First Instance.

21. Restitution, disgorgement and damages

Without limiting the generality of Article 20, in the course of or at the conclusion of any proceedings heard by the Court of First Instance under this Chapter, the Court of First Instance may make any orders it considers appropriate or just, including orders relating to:

- (a) restitution;
- (b) disgorgement;
- (c) compensation;
- (d) damages; or
- (e) damages in substitution for an injunction.

22. Judicial Review and Injunctions

- (1) The Court of First Instance may hear and determine applications for judicial review of statutory decisions as provided for in DIFC Law or in the Rules of Court.
- (2) The Court of First Instance may order an injunction restraining a person from engaging in conduct or requiring a person to do an act or thing or other order the Court considers appropriate.

23. Decisions relating to fines

- (1) Where, by or under any DIFC Law, a person may be liable to pay a fine or penalty of any description, the question of liability, and the amount of any fine to be paid, will be determined by the Court of First Instance.
- (2) Article 23(1) does not apply where the authority to determine liability and impose fines and penalties has been given to another person or body under DIFC Law.
- (3) Penalties or fines are debts due and payable to the DIFC Court.

24. Ratification of Judgments

- (1) Pursuant to Article 7(4) of the Judicial Authority Law, the Court of First Instance has jurisdiction to ratify any judgment, order or award of any recognised:
 - (a) Foreign court;
 - (b) Courts of Dubai or the United Arab Emirates;
 - (c) Arbitral Award;
 - (d) Foreign Arbitral Award; or
 - (e) orders for the purposes of any subsequent application for enforcement in the courts of Dubai;

- (2) Where the UAE has entered into an applicable treaty for the mutual enforcement of judgments, orders or awards, the Court of First Instance shall comply with the terms of such treaty.

25. Receivers and Provisional Liquidators

- (1) The Court of First Instance may, by interlocutory order and at any stage of a proceeding, appoint a receiver or provisional liquidator; and
- (2) The Court of First Instance may attach any terms and conditions to the appointment the Court of First Instance considers appropriate and may provide the receiver and provisional liquidator with any powers the Court of First Instance considers necessary.

CHAPTER 2 – JURISDICTION OF THE COURT OF APPEAL

26. Appeals

- (1) The Court of Appeal has jurisdiction, pursuant to Article 5(B) of the Judicial Authority Law, to hear and determine appeals filed against judgments and awards made by the Court of First Instance.
- (2) The Court of Appeal may in exercising its appellate jurisdiction under Article 26(1):
 - (a) make or give any order that could have been made or given by the Court of First Instance or Tribunal appealed from;
 - (b) attach terms or conditions to an order it makes;
 - (c) annul or set aside a decision;
 - (d) require or prohibit the taking of a specific action or of action of a specified class;
 - (e) make a declaration of facts; or
 - (f) make any other order that the Court of Appeal considers appropriate or just.
- (3) A single Judge may exercise the appellate jurisdiction of the Court of Appeal concerning matters arising under this Part relating to an application for:
 - (a) leave to appeal to the Court of Appeal;
 - (b) an extension of time within which to institute an appeal to the Court of Appeal;
 - (c) leave to amend the grounds of an appeal to the Court of Appeal; or
 - (d) a stay.
- (4) The Rules of Court may prescribe the time period during which an appeal may be commenced and the manner in which an appeal is commenced and conducted.
- (5) The Rules of Court may permit applications to be made under Article 26(3) without an oral hearing.

(6) No appeal shall lie from a decision of the Court of Appeal under this Article.

27. References

The Court of Appeal has jurisdiction, pursuant to Article 5(B) of the Judicial Authority Law, to determine the interpretation of any article of the Centre's Laws referred to it by:

- (a) the Court of First Instance concerning any matter before it;
- (b) any of the Centre's Bodies; or
- (c) any of the Centre's Establishments with leave of the Court of Appeal.

CHAPTER 3 – ADMINISTRATIVE APPEALS

28. Appeals from DIFC Tribunals

(1) The Court of First Instance has jurisdiction pursuant to Article 5(A) of the Judicial Authority Law to hear and determine an appeal of a decision of a tribunal provided for in the Law, DIFC Law or Rules of Court where the appeal relates to:

- (a) a question of law;
- (b) an allegation of a miscarriage of justice;
- (c) an issue of procedural fairness; or
- (d) a matter provided for in or under DIFC Law.

(2) The Court of First Instance may, in the exercise of its appellate jurisdiction:

- (a) affirm, reverse or vary the decision appealed;
- (b) set aside the decision appealed, in whole or in part;
- (c) make any other order it considers appropriate;
- (d) remit proceedings to the tribunal from which the appeal was brought, subject to any directions the Court of First Instance considers appropriate; or
- (e) make any order or direction that is in the interests of justice.

(3) No appeal shall lie from a decision of the Court of First Instance under this Article.

(4) Nothing in this Article confers any right of appeal to the Court of First Instance from a decision of the Regulatory Appeals Committee.

CHAPTER 4 – COMPOSITION OF THE DIFC COURT

29. Composition of the DIFC Court for any matter

(1) The Chief Justice shall make arrangements for the disposal of any proceeding before the DIFC Court and may direct that the proceeding shall be heard and determined:

- (a) by a single Judge in the Court of First Instance;
 - (b) by at least three Judges in the Court of Appeal, with the Chief Justice or the next most senior Judge presiding; and
 - (c) within a specified amount of time.
- (2) Subject to Article 29(3), the Court of Appeal constituted to hear an appeal under Article 26(1) shall consist of at least three Judges, none of whom may have heard the matter in the Court of First Instance.
- (3) The appellate jurisdiction of the Court of Appeal in matters under Article 26(3) and Chapter 3 of this Part may be exercised by a single Judge.

PART 6: MATTERS RELATING TO JURISDICTION

CHAPTER 1 – APPLICATION OF DIFC LAW

30. Governing Law

- (1) In exercising its powers and functions, the DIFC Court shall apply:
 - (a) the Judicial Authority Law;
 - (b) DIFC Law or any legislation made under it;
 - (c) the Rules of Court; or
 - (d) such law as is agreed by the parties.
- (2) The DIFC Court may, in determining a matter or proceeding, consider decisions made in other jurisdictions for the purpose of making its decision.

PART 7 - GENERAL

CHAPTER 1 - PRACTICE AND PROCEDURE

31. The Rules of Court

- (1) The Chief Justice shall recommend for enactment by the President rules of procedure to be known as the Rules of Court in relation to any proceedings before the DIFC Court or a tribunal of the DIFC Court.
- (2) The Chief Justice shall publish draft Rules of Court by means of a notice under Article 31(3).
- (3) The notice of draft Rules of Court must include the following:
 - (a) the draft text of the Rules of Court;
 - (b) a statement of the substance and purpose of the material provisions of the draft Rules of Court; and
 - (c) a summary of the draft Rules of Court.
- (4) Upon publication of a notice under Article 31(3), the Chief Justice shall invite interested persons to make representations with respect to the draft Rules of Court within a period of at least 30 days after the publication, or within such period as the Chief Justice may otherwise determine.
- (5) Articles 31(2), (3) and (4) shall not apply if the Chief Justice concludes that any delay likely to arise under such Articles is prejudicial to the interests of the DIFC or prejudicial to the interests of justice.
- (6) Any period of time during which the Chief Justice invites interested persons to make representations with respect to draft Rules of Court prior to Article 31 coming into effect shall be deemed to count as part or all of the period referred to in Article 31(4).
- (7) The Registrar shall publish the Rules of Court made by the President under this Article.

32. Powers

The DIFC Court has the power to make orders and give directions as to the conduct of any proceedings before the DIFC Court that it considers appropriate, including:

- (a) orders prescribed by any legislation under DIFC Law;
- (b) injunctions, including requiring an act to be done;
- (c) interim or interlocutory orders;
- (d) orders made without notice to any other party and the circumstances in which such orders are appropriate;
- (e) contempt orders;

- (f) orders made in the interests of justice; or
- (g) referral of matters to the Attorney General of Dubai.

33. Stay of proceedings and suspension of orders

The DIFC Court may, if it considers it appropriate:

- (a) stay any decision, order or proceeding;
- (b) join any party to an action or proceeding;
- (c) suspend the operation of an injunction or other order; or
- (d) make any other order.

34. Witnesses and documents

The DIFC Court may, on the application of a party or on the DIFC Court's own motion, require the attendance of any person as a witness, and the production of any documents.

35. Orders for the examination of witnesses

- (1) The DIFC Court may order a person to attend before the DIFC Court and give evidence under oath in relation to any proceedings before it.
- (2) Without limiting the generality of Article 34 the DIFC Court may:
 - (a) provide directions to a person ordered to attend under Article 34 concerning the time, place and manner of the examination;
 - (b) permit any party to the proceeding to give evidence or testimony in a manner or on terms as the DIFC Court directs; and
 - (c) order the payment of a penalty on a person who fails to comply with an order made this Article.

36. Change of venue

The DIFC Court may, with the consent of the parties, at any stage of a proceeding in the DIFC Court:

- (a) direct that the proceeding or a part of the proceeding be conducted or continued at a place specified in the order, subject to such conditions as the DIFC Court may impose;
- (b) direct that DIFC Law shall continue to apply to the proceedings in that venue; and
- (c) direct that the Rules of Court shall continue to apply.

37. Judgments

After a proceeding has been heard by more than one Judge, it shall not be necessary for all the Judges to be present together in court to deliver their judgment. The judgments of all them shall be reduced to writing and shall be made public.

38. Limitation on proceedings

Subject to any other DIFC Law, a proceeding must not be commenced more than 6 years after the date of the events that give rise to the proceedings.

39. Interest on judgment

- (1) A proceeding in relation to damages under a judgment of the DIFC Court carries interest from the date the judgment is entered.
- (2) Interest is payable:
 - (a) at such rate as is fixed by the Rules of Court; or
 - (b) at such lower rate as the DIFC Court determines is just in the circumstances.

40. Recovery of monies

Where the DIFC Court has ordered the payment of damages, interest, costs or fines, or any order made involving financial amounts, the amount may be recoverable as a debt due and payable.

41. Issue of orders and processes

All orders and process issued from the DIFC Court shall be:

- (a) under the seal of the DIFC Court; and
- (b) signed by a Judge or the Registrar, or an officer acting with the authority of the Registrar.

42. Enforcement of DIFC Court Orders

- (1) Judgments, orders and awards issued or ratified by the DIFC Court may be enforced within the DIFC in the manner prescribed in the Rules of Court.
- (2) Judgments, orders and awards issued or ratified by the DIFC Court may be enforced outside the DIFC in accordance with the Judicial Authority Law.

43. Contempt of Court

- (1) The DIFC Court has jurisdiction, on application or on its own motion, to deal with matters relating to contempt.
- (2) The DIFC Court may in exercise of such jurisdiction:
 - (a) make any order it considers necessary in the interests of justice;
 - (b) impose fines; or

- (c) refer the matter to the Attorney General of Dubai.

44. Technical Defects

- (1) No proceedings in the DIFC Court are invalidated by a technical defect or an irregularity, unless the DIFC Court orders otherwise.
- (2) The DIFC Court may, on conditions the DIFC Court considers appropriate, make an order declaring that a proceeding is not invalid by reason of a defect or irregularity.

45. Costs

- (1) Except as provided by any other Law, the DIFC Court may award costs in any proceedings before the DIFC Court including proceedings dismissed for want of jurisdiction.
- (2) Subject to Article 45(3), parties to proceedings before the DIFC Court are required to pay costs and court fees as set out in the Rules of Court.
- (3) The DFSA is not required to pay any court fees for proceedings initiated under the Regulatory Law, or DIFC Law administered by the DFSA or in the course of carrying out its regulatory functions under any other DIFC Law. The DIFC Court has the discretion to award costs against the DFSA in proceedings in which the DFSA loses.
- (4) The Registrar of Companies is not required to pay any court fees for proceedings initiated under the Companies Law or the Insolvency Law. The DIFC Court has the discretion to award costs against the Registrar of Companies in proceedings in which the Registrar of Companies loses.
- (5) Except as provided for by any other law, the award of costs is at the discretion of the DIFC Court and may be waived in the interests of justice.
- (6) Costs may be awarded as appropriate by a Judge or Registrar in accordance with the Rules of Court.

46. Security of Costs

- (1) The DIFC Court has discretion to require a party to provide security of costs on terms and conditions it considers appropriate.
- (2) The DIFC Court shall not require the DFSA or the Registrar of Companies to give security costs in proceedings initiated by the DFSA or the Registrar of Companies under DIFC Law.

47. Undertakings

- (1) The DIFC Court shall not require the DFSA or the Registrar of Companies to give an undertaking as to damages as a condition for granting an injunction or any order made under DIFC Law.
- (2) The DIFC Court in granting an injunction or any other order shall not take into account, in determining the merits of an application for an injunction, that the DFSA or the Registrar of Companies has not given an undertaking as to damages.

48. Oaths and affirmations

A Judge, the Registrar or a person authorised by a Judge may administer all necessary oaths and affirmations for the purposes of the DIFC Court.

49. Swearing of DIFC Court documents

- (1) Sworn written evidence to be used in a proceeding in the DIFC Court may be sworn before:
- (a) a Judge or the Registrar;
 - (b) a qualified lawyer;
 - (c) any person authorised to administer oaths in the United Arab Emirates; or
 - (d) any other person authorised to administer an oath in the jurisdiction in which the affidavit is sworn.

CHAPTER 2 - EVIDENCE

50. Application of Evidence

Where proceedings are instituted in the DIFC Court, the rules of evidence to be applied in the proceeding will be the rules that:

- (a) are prescribed in DIFC Law; or
- (b) are applied in the courts of England and Wales; or
- (c) the DIFC Court considers appropriate to be applied in the circumstances.

51. Oral, video link, telephone and affidavit evidence

- (1) In any proceeding, evidence shall be given orally or by affidavit or as otherwise directed or allowed by the DIFC Court.

The DIFC Court may, for the purposes of any proceeding, direct or allow testimony to be given by video link, telephone, electronic device or other appropriate means. The testimony shall be given on oath or affirmation unless:

- (a) the person giving the testimony is in a foreign country;
- (b) either:
 - (i) the law in force in that country does not permit the person to give testimony on oath or affirmation for the purposes of the proceeding; or
 - (ii) the law in force in that country would make it inconvenient for the person to give testimony on oath or affirmation for the purposes of the proceeding; and

- (c) the DIFC Court is satisfied that it is appropriate for the testimony to be given otherwise than on oath or affirmation.
- (2) If the testimony is given otherwise than on oath or affirmation, the DIFC Court shall give such testimony the weight it considers appropriate in the circumstances.

52. Evidence on appeal

The Court of Appeal may:

- (a) consider the evidence given in the proceedings out of which the appeal arose; and
- (b) draw inferences of fact and receive further evidence, including:
 - (i) oral testimony before the Court of First Instance ;
 - (ii) unsworn and sworn written evidence;
 - (iii) evidence by video link, telephone or other means in accordance with what is appropriate in the circumstances; or
 - (iv) evidence given in accordance with Articles 49 and 50.

53. Prohibition of publication of evidence

The DIFC Court may, at any time during or after the hearing of a proceeding, make an order forbidding or restricting the publication of evidence if it is necessary in the interests of justice.

PART 8: ARBITRATION

54. Referral to an Arbitrator

The DIFC Court, on application by the parties to a proceeding before the DIFC Court, may refer any matter relating to the proceedings to an arbitrator.

55. Registration of Awards

The Rules of Court may provide for the registration of an Arbitration Award or an order made under Article 54.

PART 9: FUNDING AND REPORTS

56. Funding and Fees

- (1) The Chief Justice may recommend for enactment by the President and publish regulations prescribing the fees payable to the DIFC Court or Tribunal of the DIFC Court, in connection with the performance of its functions and exercise of its powers.
- (2) In respect of each financial year of the DIFC Court, the Government of Dubai shall provide financial resources to the DIFC Court, including any Tribunal established by the DIFC Court, so that it is able adequately to perform its functions and exercise its powers.

57. The annual funding of the DIFC Court

- (1) The DIFC Court shall submit to the Government of Dubai for approval estimates of the annual income and expenditure of the DIFC Court for the next financial year.
- (2) Such estimates shall include figures relating to levels of remuneration and entitlement to expenses of Judges of the DIFC Court, registrars, officers, employees and agents of the DIFC Court.
- (3) The DIFC Court shall submit such estimates to the Government of Dubai for approval not later than the end of the financial year.
- (4) The Government of Dubai may reject such estimates within 45 days of receiving them, such rejection to be addressed in writing with reasons to the Chief Justice.
- (5) Unless the estimates have been approved by the Government of Dubai under Article 57(3) or rejected under Article 57(4), they shall be deemed to have been approved on expiry of 45 days.

58. Accounts

- (1) The DIFC Court, including the Tribunals of the Court, shall keep proper accounts of its financial activities.
- (2) The DIFC Court shall, before the end of the first quarter of the financial year, prepare financial statements for the Previous Financial Year in accordance with accepted accounting standards.
- (3) Such financial statements shall give a true and fair view of the financial activities of the DIFC Court, including the Tribunals of the Court, as at the end of the relevant Previous Financial Year and of the results of its operations and cash flows in the relevant financial year.

59. Annual report

- (1) As soon as practicable after 1 January in each year, the Chief Justice shall deliver to the Government of Dubai, a report on the management of the administrative affairs of the DIFC Court including the Tribunals of the Court, for the previous year.

- (2) The report shall include:
 - (a) a financial statement of the management of the DIFC Court, including the Tribunals of the Court; and
 - (b) an audit report on the financial statements.
- (3) Such report shall give a true and fair view of the state of the operations, cash flows and financial activities of the DIFC Court including the Tribunals of the Court, as at the end of the relevant financial year.

PART 10: MISCELLANEOUS

60. Official Language

English is the official language of the DIFC Court, including the Tribunals of the Court.

61. Immunity

- (1) Neither the DIFC Court, including the Tribunals of the Court, nor any Judge, officer, employee or agent of the DIFC Court, can be held liable for anything done or omitted to be done in the performance or purported performance of the functions or in the exercise or purported exercise of any powers under this Law or legislation made under it.
- (2) Article 61(1) does not apply if the act or omission is shown to have been in bad faith.

SCHEDULE

INTERPRETATION

1. Rules of interpretation

- (1) In the Law, a reference to:
 - (a) a statutory provision includes a reference to the statutory provision as amended or re-enacted from time to time;
 - (b) a person includes any natural person, body corporate or body unincorporate, including a company, partnership, unincorporated association, government or state;
 - (c) an obligation to publish or cause to be published a particular document shall, unless expressly provided otherwise in the Law, include publishing or causing to be published in printed or electronic form;
 - (d) a day shall refer to a business day, being a normal working day in the DIFC;
 - (e) a calendar year shall mean a year of the Gregorian calendar; and
 - (f) a reference to the masculine gender includes the feminine.
- (2) The headings in the Law shall not affect its interpretation.

2. Legislation in the DIFC

References to legislation in the Law shall be construed in accordance with the following provisions:

- (a) Federal Law is law made by the federal government of the United Arab Emirates;
- (b) Dubai Law is law made by the Ruler, as applicable in the Emirate of Dubai;
- (c) DIFC Law is law made by the Ruler (including, by way of example, the Law), as applicable in the DIFC;
- (d) the Law is the DIFC Court Law, DIFC Law No.10 of 2004 made by the Ruler; and
- (e) the Rules of Court are made by the President on the recommendation of the Chief Justice.

3. Defined Terms

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings.

Terms	Definitions
Arbitral Award	an award made in Arbitration proceedings under the Arbitration Law No.8 of 2004, DIFC Dispute Resolution Scheme, foreign awards, or any awards recognised by this Law.
Assessor	a person appointed under Article 18 of this Law.
Centre Bodies	has the meaning given in The Law of the Dubai International Financial Centre No.9 for 2004.
Centre Establishments	has the meaning given in The Law of the Dubai International Financial Centre No.9 for 2004.
Chief Justice	The person appointed by the Ruler as Chief Justice of the DIFC Court.
DIFC Court	the Court of First Instance and the Court of Appeal.
Deputy Registrar	Deputy Registrar appointed under Article 16 of this Law.
DFSA	the Dubai Financial Services Authority.
DIFC	the Dubai International Financial Centre.
DIFC Law	has the meaning given in Article 2 of the Schedule to the Law.
Dubai Law	has the meaning given in Article 2 of the Schedule to the Law.
Dubai Law No.9	Dubai Law No.9 of 2004 in respect of the Dubai International Financial Centre.
Judge or Judges	Chief Justice and any Judges appointed under Article 10 of this Law.
Judicial Authority Law	Law No.[] of 2004 in respect of the Judicial Authority at Dubai International Financial Centre.
Law	the DIFC Court Law No.10 of 2004.
legislation	includes rules or regulations made under legislation.
Judge of the DIFC Court	Chief Justice or any other Judge.

Terms	Definitions
Previous Financial Year	does not include any financial year ending before the end of 2003.
Registrar	a person appointed under Article 16 of this Law.
Ruler	the Ruler of the Emirate of Dubai.
Rules of Court	has the meaning given in Article 2 of the Schedule to the Law.
Schedule	a schedule to the Law.
Tribunal	a Tribunal established by the Chief Justice of the DIFC Court under Article 14(3) of the Law.