

# Service of Claim Documents: Overview (the Dubai International Financial Centre)

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A Practice Note providing an overview of the framework for service of claim documents (in relation to domestic and foreign proceedings) in the Dubai International Financial Centre (DIFC). It also explains the rules which determine how service of claim documents may be effected on a defendant domiciled in an overseas jurisdiction.

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Civil proceedings normally commence when the claim documents are filed with a court and then served on the defendant. When a dispute has an international element (usually where there are parties from different countries or where some of the events relevant to the dispute have taken place in different jurisdictions), some of the key questions to consider at the outset are:

- The rules of the jurisdiction where the claim needs to be served, particularly if they do not conform with the service rules of the jurisdiction where proceedings have been issued and are already underway.
- The permitted methods of service in one jurisdiction, and whether or not they are considered valid in the other jurisdiction.
- Whether the claim has been commenced in time, namely within the relevant limitation period, as well as dispatched in time. If there are limitation issues, not adhering to rules on service could be detrimental to the claim and could hamper the chances of recovery or relief for the claimant.

This Note summarises the procedure and practice of serving process on a defendant within the Dubai International Financial Centre (DIFC) as well as a defendant domiciled in an overseas jurisdiction. It outlines the permitted methods of service, including the rules on personal service and when and where certain categories of defendants can be served. It also describes what happens when service is not complete either because of incorrect address or the defendant refuses to accept service. In addition, it explains when a court considers service complete, whether service is allowed under a contractually agreed method, how to serve foreign companies, and what is proof of service.

This Note also provides guidance on key international instruments on service of claim documents abroad as well as the procedure to effect service in the DIFC when no international instrument applies.

For information on the key issues to consider while effecting service in cross-border litigation, as well as an overview of the procedures followed under the Hague Service Convention and the EU Service Regulation, see [Practice Note, Service of Process: Overview \(Cross-Border\)](#).

The procedures used to bring the court proceedings to the defendant's attention and create jurisdiction over the defendant are referred to as "service" in this Note. In addition, all the legal documents used in service, such as the court notice or summons and documents containing the details of the claim (also known as the particulars of claim or statement of claim, petition, or application), are referred to as "claim documents."

## How Are Civil Proceedings Commenced?

### Identifying the Competent Court to Start Civil Proceedings

The DIFC Court of First Instance has the jurisdiction to hear claims in the following cases:

- Civil or commercial cases and disputes involving the DIFC, or involving:
  - any entity or business established, licensed, registered, or authorised to carry on business or activities in the DIFC (centre establishments); or
  - any of the DIFC bodies (centre bodies).
- Civil or commercial cases and disputes arising from or related to a contract or a transaction concluded by any centre establishments or centre bodies.
- 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 DIFC or an incident that has occurred in the DIFC.
- Any application over which the DIFC court has jurisdiction in accordance with DIFC laws and regulations.

(Article 19, DIFC Law 10 of 2004.)

The DIFC Small Claims Tribunal has the jurisdiction to hear:

- Any claims under AED500,000.
- Claims up to a value of AED1 million (or up to any value, in the context of a labour claim) if all parties have chosen the jurisdiction of the DIFC Small Claims Tribunal.

(Rule 53.2, Rules of the DIFC Courts (RDC).)

### Procedural Formalities and Documents to Be Filed in the Court

Civil proceedings are commenced in the DIFC courts by issuing a claim form. Depending on the nature of the claim, the claim form may be filed under:

- Part 7 of the RDC, if the claim involves a substantial dispute of facts.
- Part 8 of the RDC if the claim does not involve a substantial dispute of facts.

The claim form should contain:

- Details of the parties (name and contact details).
- A brief description of the claim.
- The value of the claim.

- The nature of remedy sought.

The claim form may be accompanied by the particulars of claim or may contain a statement that the particulars of claim will be served if the defendant files an acknowledgement of service indicating its intention to defend the claim.

## Court Fee to Be Paid

As set out in Practice Direction 2 of 2019 on the DIFC Courts Fees Amendment, the court fee payable for a Part 7 claim is as follows:

Claim Value	Fee
Up to and including USD500,000	5% of the value of the claim or the property (or both) with a minimum of USD1,500
USD500,000 up to and including USD1 million	USD25,000 + 1% over USD500,000
USD1 million up to and including USD 5million	USD30,000 + 0.5% over USD1 million
USD5 million up to and including USD10 million	USD50,000 + 0.4% over USD5 million
USD10 million up to and including USD50 million	USD70,000 + 0.15% over USD10 million
Over USD50 million	USD130,000

The court fee for a Part 8 claim or an unquantified claim is USD5,000.

The court fee can be paid online via the DIFC court's e-payment system, by wire transfer, cash, or cheque.

## Filing Claim Documents in Paper Form or Electronically

The claim form can be filed online via *DIFC eRegistry: Forms and Guidance* and the filing fees can be paid by the above methods once the claim is filed (see *Court Fee to Be Paid*).

## Court Seised

The court is deemed to have been seised on the date the DIFC Court registry issues an electronic notice of acceptance (upon payment of relevant fees).

## Laws on Service of Claims

The relevant rules on service of the claim form and other claim documents are set out in Part 9 of the RDC. In summary, the court recognises service by way of any of the following methods:

- Courier.
- Electronic communication (subject to an agreement or consent by the defendant to do so).
- Personal service.
- Leaving the document at specified locations.
- Any other method contractually agreed by the parties.

(See *Methods of Service Within Jurisdiction*.)

## Service Within the Jurisdiction

### What Claim and Other Documents Must Be Served

If the particulars of claim are not included with the claim form, they must be served within 28 days of the defendant filing its acknowledgement of service indicating the defendant's intention to defend the claim (RDC 7.31(2)).

### Service by Court or Claimant

Generally, service is effected by the claimant or the claimant's legal representatives.

The court may effect the service of a court document following an application by a claimant to do so in exceptional circumstances.

If service is to be effected by court or other method not specified above, the claimant must make an application (which may be made without notice) supported by evidence stating both:

- The reason an order for an alternative method of service is sought.
- What steps have been taken to serve by other permitted means.

### Time Limit for Dispatching and Serving Claim Documents

The time for service of the claim form within the DIFC is four months from the date of issue of the claim form (RDC 7.20(1)).

### Methods of Service Within Jurisdiction

Service may be affected by the claimant by:

- Personal service, where a document is left with the person to be served.
- Courier (or alternative service which provides for delivery on the same or next working day).
- Leaving the document at specified locations (this includes, for example, the usual or last known residence of an individual, or the place of business of a corporate entity).
- Electronic service (where there is agreement among the parties).
- Any other method specified for service as expressly agreed by the parties by contract.

Service of the claim form cannot be effected on the legal representative of the defendant unless the legal representative specifically agrees to accept service.

### Service Using Post Services and Electronic Means of Communication (Such as Fax or Email)

Service may be effected electronically and postal services may be used if delivery is provided on the same or next working day (RDC 9.2(2)).

Where a document is to be served by electronic means:

- The party who is to be served, or that party's legal representative, must previously have expressly indicated in writing to the party serving:
  - that they are willing to accept service by electronic means; and
  - the fax number, email address, or electronic identification to which service should be sent.
- The party seeking to serve the document should first seek to clarify with the party who is to be served whether there are any limitations to the recipient's agreement to accept service by these means, including the format in which documents are to be sent and the maximum size of attachments that may be received.

(RDC 9.3.)

## Personal Service

Personal service is just one form of service which a party may use, and is not mandatory (see *Methods of Service Within Jurisdiction*).

### Personal Service on Different Categories of Defendant

Entity to Be Served	Means of Effecting Service
An individual	Leaving it with that individual.
A minor	Service on one of the minor's parents or guardians.  If there is no parent or guardian, the person with whom the minor resides or in whose care the child is.
A public officer or government/state body	There are no specific rules concerning personal service on a public officer or government body but see <a href="#">Service on a Government Body or Public Officer</a> .
A sole proprietor	Service on the sole proprietor.
A domestic partnership	<ul style="list-style-type: none"> <li>• Service on one of the partners.</li> </ul>
A domestic registered company or corporation	Service on any person holding a senior position within the company or corporation, which includes: <ul style="list-style-type: none"> <li>• A director.</li> <li>• A treasurer.</li> <li>• A secretary.</li> <li>• A chief executive.</li> <li>• A manager.</li> <li>• Other officers of the company or corporation.</li> </ul>

A domestic unregistered company	Service on any person holding a senior position within the company.
A domestic limited liability partnership	Service on either: <ul style="list-style-type: none"> <li>• A partner.</li> <li>• A person who, at the time of service, has the control or management of the partnership business at its principal place of business.</li> </ul>

### Service on a Government Body or Public Officer

The following rules apply in relation to the service of proceedings on DIFC bodies (RDC Part 41):

Centre/Body	Person(s) to Be Served	Address for Service	Manner in Which Service Is Accepted
The DIFC Authority and its entities	Legal department	Level 14, The Gate, PO Box 74777, Dubai	Courier or hand delivery
The Dubai Financial Services Authority	Legal department	Level 13, The Gate, PO Box 75850, Dubai	Courier or hand delivery
DIFC courts	Government of Dubai Legal Affairs Department	Not specified in the RDC	Not specified in the RDC
All other government departments	Attorney General	Public Prosecution Dubai, PO Box 13571, Dubai	Courier or hand delivery

### Authorised Process Servers

There are no specific rules in this regard but the court will accept such service if there is an agreement among the parties.

### Service on the Defendant's Agent or Solicitor

Service may be effected on a legal representative of the defendant if the legal representative specifically accepts service on behalf of the defendant.

However, the court's permission would be needed to serve on an agent of the defendant.

### Service Under a Contractually Agreed Method

The RDC accepts service by a contractually agreed method. A suggested clause is as follows:

[Party 2] irrevocably appoints [NAME] of [ADDRESS] [FAX NUMBER] as its agent to receive on its behalf in [COUNTRY/JURISDICTION] service of any legal proceedings to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation. Such service shall be deemed completed on delivery to such agent (whether or not it is forwarded to and received by [Party 2]) and shall be valid until such time as [Party 1] has received prior written notice that such agent has ceased to act as agent. If for any reason such agent ceases to be able to act as agent or no longer has an address in [COUNTRY/JURISDICTION], [Party 2] shall forthwith appoint a substitute acceptable to

[Party 1] and deliver to [Party 1] the new agent's name and address [and fax number] within [COUNTRY/JURISDICTION].

[Each party OR [Party 1] OR [Party 2]] irrevocably consents to any process in any legal action or proceedings arising out of or in connection with this agreement or its subject matter or formation being served on it in accordance with the provisions of this agreement relating to service of notices of claims. Nothing contained in this agreement shall affect the right to serve process in any other manner permitted by law.

## Service on Foreign Companies Within the Jurisdiction

Service on the branch would be sufficient. Further orders as to how service is to be effected may be given by the court, depending on the circumstances.

## Address for Service

### Rules on Address

A party must give an address for service. A physical address in Dubai or the UAE will not be required if an email address is given.

### Difficulties in Service

The court may dispense with service on a without notice application made by the claimant with reasons as to why the court should dispense with service or make an order for alternate service (RDC 9.34; RDC 9.35).

Under RDC 9.19, where the defendant refuses to accept service or the address is unknown, the document must be sent or transmitted to, or left at, the appropriate location, as follows:

Nature of Party to Be Served	Place of Service
Individual	Usual or last known residence.
Proprietor of a business	<ul style="list-style-type: none"> <li>Usual or last known residence; or</li> <li>Place of business or last known place of business.</li> </ul>
Individual who is suing or being sued in the name of a firm	<ul style="list-style-type: none"> <li>Usual or last known residence; or</li> <li>Principal or last known place of business of the firm.</li> </ul>
Corporation incorporated in the DIFC, other than a company	<ul style="list-style-type: none"> <li>Principal office of the corporation; or</li> <li>Any place within the DIFC or Dubai where the corporation carries on its activities and that has a real connection with the claim.</li> </ul>

Company registered in the DIFC	<ul style="list-style-type: none"> <li>Principal office of the company; or</li> <li>Any place of business of the company within the DIFC or Dubai that has a real connection with the claim.</li> </ul>
Any other company or corporation	<ul style="list-style-type: none"> <li>Any place within the DIFC or Dubai where the corporation carries on its activities; or</li> <li>Any place of business of the company within the DIFC or Dubai.</li> </ul>

## Date of Service

### Deemed Service

Deemed service depends on the method of service. A document's day of service will be considered to be as follows (RDC 9.27):

Method of Service	Considered Day of Service
Courier (or an alternative service which provides for delivery on the same or next working day).	The second business day (that is, normal working day in the DIFC) after the date it was sent.
Delivering the document to or leaving it at a permitted address (including personal service).	If it is delivered, left, or transmitted on a business day, before 4.00 pm on that day.
Fax or other electronic method.	In any other case, on the business day after the day on which it is delivered, left, or transmitted.

### Date of Service and Limitation Period for Starting Court Proceedings

Generally, the day a document is deemed served would be the relevant date for calculation of any limitations.

### Date of Service and Defendant's Response or Defence

A defendant must file an acknowledgement of service indicating their intention to defend the claim or challenge the court's jurisdiction, or indicating their acceptance of the claim, within 14 days from the date of deemed service of the claim form (RDC 11.6). This is a general rule; it may vary if the claim form is served out of the jurisdiction, or where the court orders otherwise.

The general rule is that the period for filing a defence is:

- 14 days after service of the particulars of claim.
- If the defendant files an acknowledgment of service, 28 days after service of the particulars of claim (RDC 16.9).

In the case of *Ali Mohammed Salem Abu Adas (2) Mohammed Jawdat Ayesh Mustafa Al Bargouthi v Bankmed (SAL) trading in the DIFC under the Trade Name Bankmed (Dubai) DIFC [2019] CA 001*, the court clarified that the 28 days provision under sub-rule (2) of RDC 16.9 only applies where the claim form includes the particulars of claim and the defendant has filed an acknowledgment of service. Where the claim form does not include the particulars of claim, the defence must be filed within 14 days from filing the particulars of service.

The parties may agree to extend the time for filing the defence by up to 28 days (RDC 16.11).

## Statutory Time Limit

### Time Limit to Serve Defendant Within Jurisdiction and Abroad

The time limit for service of the claim form is:

- Within the DIFC, four months from the date of issue of the claim form.
- Outside the DIFC (or Dubai), six months from the date of issue of the claim form.

(RDC 7.20.)

### Extension of Time Limit

The claimant may apply for an order extending the period within which the claim form may be served.

### Grounds for Extension

Where an application is made within the specified time limit, the court would consider practical issues affecting successful service (such as service in foreign jurisdictions in accordance with foreign laws) when making an order to extend the time period.

Where an application is made outside the time limit, the claimant must, in addition to the above grounds, also show that both:

- The claimant has taken all reasonable steps to serve the claim form but has been unable to do so.
- The claimant has acted promptly in making the application.

(RDC 7.23.)

### Proof of Service

Service is proven by filing a certificate of service (confirmed by a statement of truth) with the court, confirming the method of service.

## Service of Domestic Proceedings Abroad

### Service Without the Permission of the Court

Given that much of the business in the DIFC is of an international nature, permission to serve process outside the DIFC is not required. However, it is the responsibility of the party serving process to ensure it complies with the rules of the place where it is seeking to effect service.

## Service of Foreign Proceedings

### International Instruments on Service of Claims

The DIFC is **not** party to:

- The EU Service Regulation (1393/2007).
- The Hague Service Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the Hague Service Convention).
- Other international instruments on service. Instruments on service which the UAE is party to will apply in the DIFC (which does not include the above).

### Where No International Instrument Applies

The DIFC Court Registrar may effect service of foreign proceedings in the DIFC through the bailiff if the Registrar receives a written request for service from either:

- A consular or other authority.
- The Governor of the DIFC, with a recommendation that service should be effected.

### Time Frame to Serve Foreign Proceedings

Given the ease of service of foreign proceedings via the DIFC Court Registrar as described in *Where No International Instrument Applies*, it would be faster to serve by this method without relying on international instruments.

Service could be effected within the DIFC in three to four weeks of the application being made.

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