

## **PART 9 Service**

### **PART 9**

#### **Part 9 Rules about service apply generally 9.1**

##### **9.1**

The Rules in this Section of this Part apply to the service of documents in the DIFC and Dubai, except where:

- (1) any other enactment, a Rule in another Part, or a Practice Direction makes a different provision; or
- (2) the Court orders otherwise.

#### **Methods of service — General 9.2 - 9.4**

##### **9.2**

A document may be served by any of the following methods:

- (1) personal service , in accordance with Rules 9.8 to 9.13;
- (2) courier (or an alternative service which provides for delivery on the same or next working day);
- (3) leaving the document at a place specified in Rules 9.15 to 9.21;
- (4) by means of electronic communication.

##### **9.3**

Where a document is to be served by electronic means:

- (1) the party who is to be served or his legal representative must previously have expressly indicated in writing to the party serving:
  - (a) that he is willing to accept service by electronic means; and
  - (b) the fax number, e-mail address or electronic identification to which it should be sent;
- (2) the following shall be taken as sufficient written indication for the purposes of sub-paragraph (1)

above:

- (a) a fax number set out on the writing paper of the legal representative of the party who is to be served; or
- (b) a fax number, e-mail address or electronic identification set out on a statement of case or a response to a claim filed with the Court ;
- (3) 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 such means including the format in which documents are to be sent and the maximum size of attachments that may be received;
- (4) the address for service given by a party must be within the DIFC or Dubai and any fax number must be at the address for service . Where an e-mail address or electronic identification is given in conjunction with an address for service , the e-mail address or electronic identification will be considered to be at the address for service ;
- (5) the party serving the document need not in addition send a hard copy by mail.

#### **9.4**

A company may be served by any method permitted under this Part as an alternative to:

- (1) service by leaving a document at or mailing it to the registered office of a company (Article 20(3) of the Companies Law (Amended and Restated), Law 3 of 2006);
- (2) service upon a **Recognised Company** by a person appointed to accept service on the behalf of that Company pursuant to Article 116(1) of the Companies Law (Amended and Restated), Law 3 of 2006.

### **Who is to serve 9.5 - 9.7**

#### **9.5**

The party on whose behalf a document is to be served shall serve a document which it has issued or prepared except where:

- (1) a Rule or Practice Direction provides that the Court must serve the document in question;
- (2) the Court orders otherwise; or
- (3) the Court has failed to serve and has sent a notice of non-service to the party on whose behalf the document is to be served in accordance with Rule 9.37.

**9.6**

Where the Court is to serve a document, it is for the Court to decide which of the methods of service specified in Rule 9.2 is to be used.

**9.7**

Where a party prepares a document which is to be served by the Court, that party must file a copy for the Court, and for each party to be served.

**Personal service 9.8 - 9.13****9.8**

A document to be served may be served personally, except as provided in Rules 9.9 and 9.10.

**9.9**

Where a legal representative :

(1) is authorised to accept service on behalf of a party; and

(2) has notified the party serving the document in writing that he is so authorised;

a document must be served on the legal representative, unless personal service is required by an enactment, Rule, Practice Direction or Court order.

**9.10**

In civil proceedings brought before the Court to which the Centre, any of the Centre's Bodies or the Government is a party, documents required to be served before the Court may not be served personally.

**9.11**

A document is served personally on an individual by leaving it with that individual.

**9.12**

A document is served personally on a company or other corporation by leaving it with a person holding a senior position within the company or corporation. Each of the following persons is a person holding a senior position:

(1) in respect of a registered company or corporation, a director, the treasurer, secretary, chief

executive, manager or other officer of the company or corporation, and

(2) in respect of a corporation which is not a registered company, in addition to those persons set out in sub-paragraph (1), the mayor, chairman, president, town clerk or similar officer of the corporation.

### **9.13**

A document is served personally on a partnership where partners are being sued in the name of their firm by leaving it with:

(1) a partner; or

(2) a person who, at the time of service, has the control or management of the partnership business at its principal place of business.

## **Address for service 9.14 - 9.21**

### **9.14**

Except as provided by Section III of this Part, a document must be served within the DIFC or Dubai.

### **9.15**

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

### **9.16**

Where a party:

(1) does not give the business address of his legal representative as his address for service; and

(2) resides or carries on business within the DIFC or Dubai;

he must give his residence or place of business as his address for service.

### **9.17**

Any document to be served:

(1) by courier (or an alternative service which provides for delivery on the same or next working day);

(2) by leaving it at the place of service ; or

(3) by means of electronic communication;

must be sent or transmitted to, or left at, the address for service given by the party to be served.

### 9.18

Where:

(1) a legal representative is acting for the party to be served; and

(2) the document to be served is not the claim form;

the party's address for service is the business address of his legal representative .

### 9.19

Where:

(1) no legal representative is acting for the party to be served; and

(2) the party has not given an address for service ,

the document must be sent or transmitted to, or left at, the place shown in the following table.

<b>Nature of party to be served</b>	<b>Place of service</b>
Individual	Usual or last known residence.
Proprietor of a business	Usual or last known residence; or Place of business or last known place of business.
Individual who is suing or being sued in the name of a firm	Usual or last known residence; or Principal or last known place of business of the firm.
Corporation incorporated in the DIFC other than a company	Principal office of the corporation; or Any place within the DIFC or Dubai where the corporation carries on its activities and which has a real connection with the claim.
Company registered in the DIFC	Principal office of the company; or Any place of business of the company within the DIFC or Dubai which has a real connection with the claim.
Any other company or corporation	Any place within the DIFC or Dubai where the corporation carries on its activities; or Any place of business of the company within the DIFC or Dubai.

### 9.20

Rules 9.14 to 9.19 do not apply where an order made by the Court under Rule 9.31 (service by an

alternative method) specifies where the document in question may be served.

### 9.21

A party or his legal representative who changes his address for service shall give notice in writing of the change as soon as it has taken place to the Court and every other party.

## **Service of documents brought before the Court to which the Centre or any of the Centre's Bodies or the Government is a party 9.22**

### 9.22

In proceedings brought before the Court to which the Centre, or any of the Centre's Bodies or the Government is a party, service must be effected in accordance with Part 41.

## **Service of documents on children and patients 9.23 - 9.28**

### 9.23

The following table shows the person on whom a document must be served if it is a document which would otherwise be served on a child or a patient—

<b>Type of document</b>	<b>Nature of party</b>	<b>Person to be served</b>
Claim form	Child who is not also a patient	One of the child's parents or guardians; or If there is no parent or guardian, the person with whom the child resides or in whose care the child is.
Claim form	Patient	The person authorised to conduct the proceedings in the name of the patient or on his behalf; or If there is no person so authorised, the person with whom the patient resides or in whose care the patient is.

### 9.24

The Court may make an order permitting a document to be served on the child or patient, or on some person other than the person specified in the table in Rule 9.23.

### 9.25

An application for an order under Rule 9.24 may be made without notice.

### 9.26

The Court may order that, although a document has been served on someone other than the person specified in the table in Rule 9.23, the document is to be treated as if it had been properly served. Considered date of service

**9.27**

A document which is served in accordance with these Rules or any relevant Practice Direction shall be considered to be served on the day shown in the following table

<b>Method of service</b>	<b>Considered day of service</b>
Courier (or an alternative service which provides for delivery on the same or next working day)	The second <b>business day</b> after the date it was sent.
Delivering the document to or leaving it at a permitted address	<ul style="list-style-type: none"> <li>• If it is delivered, left or transmitted on a business day before 4pm., on that day; or</li> <li>• In any other case, on the business day after the day on which it is delivered, left or transmitted.</li> </ul>
Fax	
Other electronic method	

**9.28**

If a document is served personally:

- (1) after 4 p.m., on a business day ; or
- (2) at any time on a day which is not a business day ;

it will be treated as being served on the next business day .

**Translation of claim form 9.29 - 9.30****9.29**

Where the claim form is to be served in the United Arab Emirates outside the DIFC , it must be accompanied by a certified Arabic translation of the claim form.

**9.30**

Every translation to be served under Rule 9.29 must be accompanied by a statement by the person making it that it is a correct translation, and the statement must include:

- (1) the name of the person making the translation;
- (2) his address; and
- (3) his qualifications for making a translation.

**Service by an alternative method 9.31 - 9.33**

**9.31**

Where it appears to the Court that there is a good reason to authorise service by a method not permitted by these Rules , the Court may make an order permitting service by an alternative method.

**9.32**

An application for an order permitting service by an alternative method—

(1) must be supported by evidence stating

(a) the reason an order for an alternative method of service is sought; and

(b) what steps have been taken to serve by other permitted means; and

(2) may be made without notice.

**9.33**

An order permitting service by an alternative method must specify:

(1) the method of service ; and

(2) the date when the document will be considered to be served.

**Power of Court to dispense with service 9.34 - 9.35****9.34**

The Court may dispense with service of a document.

**9.35**

An application for an order to dispense with service may be made without notice.

**Certificate of service 9.36****9.36**

Where a Rule, Practice Direction or Court order requires a certificate of service , the certificate must state the details set out in the following table:

<b>Method of service</b>	<b>Details to be certified</b>
Courier	Date of delivery
Personal	Date and time of personal service
Delivery of document to or leaving it at a permitted place	Date and time when the document was delivered to or left at the permitted place
Fax	Date and time of transmission
Other electronic means	Date and time of transmission and the means used
Alternative method permitted by the Court	As required by the Court

## **Notification of outcome of service by courier by the Court 9.37**

### **9.37**

Where

(1) a document to be served by the Court is served by courier; and

(2) such document is returned to the Court ,

the Court must send notification to the party who requested service stating that the document has been returned.

## **Notice of non-service by Court Bailiff 9.38**

### **9.38**

Where:

(1) the Court Bailiff is to serve a document; and

(2) the Court Bailiff is unable to serve it;

the Court must send notification to the party who requested service .

## **General Rules about service subject to special Rules about service of claim form 9.39**

### **9.39**

The general rules about service are subject to the special rules about service contained in Rules 9.40 to 9.50.

## **Service of claim form by the Court - Defendant's address for service 9.40 - 9.41**

### **9.40**

Where a claim form is to be served by the Court , the claim form must include the defendant's address for service .

### **9.41**

For the purposes of Rule 9.40, the defendant's address for service may be the business address of the defendant's legal representative if he is authorised to accept service on the defendant's behalf but not otherwise.

## **Certificate of service relating to the claim form 9.42 - 9.43**

### **9.42**

Where a claim form is served by the Court , the Court must send the claimant a notice which will include the date when the claim form is considered to be served under Rule 9.27.

### **9.43**

Where the claim form is served by the claimant :

(1) he must file a certificate of service not later than 7 days after the date for the filing by the defendant of the acknowledgment of service , unless by that date the acknowledgment of service has been filed; and

(2) he may not obtain judgment in default under Part 13 unless he has filed the certificate of service .

## **Service of claim form by contractually agreed method 9.44 - 9.45**

### **9.44**

Where:

(1) a contract contains a term providing that, in the event of a claim being issued in relation to the contract, the claim form may be served by a method specified in the contract; and

(2) a claim form containing only a claim in respect of that contract is issued;

the claim form shall be considered to be served on the defendant if it is served by a method specified

in the contract.

#### **9.45**

Should parties wish to agree in writing on an alternative address for service, such as a chosen domicile service (CDS) provider, at which to serve their claim form in the event of any future dispute, as well as any further documents in the course of the proceedings, they may do so. The chosen address for service may be located in the DIFC, Dubai or another location, provided that the parties' intention to opt for such an agreed method for service is evident in the applicable contract, or subsequent written agreement. This in no way limits parties' prerogative to nominate a lawyer to accept service of court documents on their behalf (see in this regard Rules 9.9, 9.16 and 9.18 above).

### **Service of claim form on agent of principal who is outside the DIFC 9.46 - 9.51**

#### **9.46**

Where:

- (1) the defendant is outside the DIFC or Dubai; and
- (2) the conditions specified in Rule 9.47 are satisfied;

the Court may, on an application only, permit a claim form relating to a contract to be served on a defendant's agent.

#### **9.47**

The Court may not make an order under the preceding Rule unless it is satisfied that:

- (1) the contract to which the claim relates was entered into within the DIFC or Dubai with or through the defendant's agent; and
- (2) at the time of the application either the agent's authority has not been terminated or he is still in business relations with his principal.

#### **9.48**

An application under Rule 9.46:

- (1) must be supported by evidence setting out:
  - (a) full details of the contract and that it was entered into within the DIFC or Dubai with or through

an agent who is either an individual residing or carrying on business within the DIFC or Dubai, or a registered company or corporation having a registered office or a place of business within the DIFC or Dubai;

(b) that the principal for whom the agent is acting was, at the time the contract was entered into and is at the time of making the application, neither an individual, registered company or corporation as described in sub-paragraph (a) above; and

(c) why service out of the DIFC or Dubai cannot be effected; and

(2) may be made without notice.

#### **9.49**

An order under Rule 9.47 must state a period within which the defendant must respond to the claim.

#### **9.50**

The power conferred by this rule is additional to the power conferred by Rule 9.31 (service by an alternative method).

#### **9.51**

Where the Court makes an order under this rule, the claimant must send to the defendant copies of:

(1) the order; and

(2) the claim form.

### **Scope of this section 9.52**

#### **9.52**

This Section contains rules about—

(1) service out of the DIFC or Dubai; and

(2) the procedure for serving out of the DIFC or Dubai.

### **Service out of the DIFC or Dubai 9.53 - 9.56**

#### **9.53**

Given the international nature of the DIFC , permission to serve process outside the DIFC is not

required, but it is the responsibility of the party serving process to ensure he complies with the rules regarding service of the place where he is seeking to effect service .

#### 9.54

Where a claim form is to be served out of the DIFC or Dubai, it may be served by any method permitted by the law of the place in which it is to be served.

#### 9.55

Nothing in these Rules or in any Court order shall authorise or require any person to do anything in the place where the claim form is to be served which is against the law of that place.

#### 9.56

A defendant who wishes to dispute the Court's jurisdiction may make an application to have service set aside under Part 12.

### **Period for acknowledging service or admitting the claim where the claim form is served out of the DIFC or Dubai 9.57**

#### 9.57

The period for filing an acknowledgment of service or filing or serving an admission where a claim form has been served out of the DIFC or Dubai is 28 days after the service of the claim form.

### **Period for filing a defence where the claim form is served out of the DIFC or Dubai 9.58**

#### 9.58

The period for filing a defence where a claim form has been served out of the DIFC or Dubai is:

(1) Where particulars of claim were included in or accompanied the claim form the period for serving and filing a defence is 45 days; or

(2) Where particulars of claim were not included in and did not accompany the claim form, the period for serving and filing a defence is 28 days from service of the particulars of claim.

### **Translation of claim form 9.59 - 9.62**

**9.59**

Except where Rule 9.62 applies, every copy of the claim form to be served out of the DIFC or Dubai must be accompanied by a translation of the claim form.

**9.60**

The translation must be:

- (1) in the official language of the place in which it is to be served; or
- (2) if there is more than one official language of that place, in any official language which is appropriate to the place where the claim form is to be served.

**9.61**

Every translation to be served under Rule 9.59 must be accompanied by a statement by the person making it that it is a correct translation, and the statement must include:

- (1) the name of the person making the translation;
- (2) his address; and
- (3) his qualifications for making a translation.

**9.62**

The claimant is not required to provide a translation of a claim form under Rule 9.59 where the claim form is to be served:

- (1) in a place where English is an official language; or
- (2) on a State where English is an official language of the State where the claim form is to be served.

**Undertaking to be responsible for expenses of the Registrar 9.63****9.63**

Every request for service out of the DIFC and Dubai through the Registrar must contain an undertaking by the person making the request:

- (1) to be responsible for all expenses incurred by the Registrar or foreign judicial authority; and
- (2) to pay those expenses to the Registrar or foreign judicial authority on being informed of the amount.

## **Service of documents other than the claim form 9.64**

### **9.64**

Where an application notice is to be served out of the DIFC and Dubai under this Section of this Part:

- (1) Rules 9.57 and 9.58 do not apply; and
- (2) where the person on whom the application notice has been served is not a party to proceedings, that person may make an application to the Court under Rule 12.1 as if he were a defendant and Rule 12.2 does not apply.

## **Proof of service 9.65**

### **9.65**

Where:

- (1) a hearing is fixed when the claim is issued;
- (2) the claim form is served on a defendant out of the DIFC and Dubai; and
- (3) that defendant does not appear at the hearing;

the claimant may take no further steps against that defendant until the claimant files written evidence showing that the claim form has been duly served.

## **Scope and definitions 9.66**

### **9.66**

This Section of this Part applies to the service in the DIFC of any court process in connection with civil or commercial proceedings in another court or tribunal .

## **Request for service 9.67**

### **9.67**

Process will be served where the Registrar receives:

- (1) a written request for service :

- (a) from a consular or other authority; or
  - (b) from the Governor with a recommendation that service should be effected;
- (2) a translation of that request into English;
- (3) two copies of the process to be served; and
- (4) unless the other court or tribunal certifies that the person to be served understands the language of the process, two copies of a translation of it into English.

## **Method of service 9.68**

### **9.68**

The process will be served by the Court Bailiff unless the Registrar otherwise directs.

## **After service 9.69 - 9.70**

### **9.69**

The Court Bailiff must:

- (1) send the Registrar a copy of the process, and:
  - (a) proof of service ; or
  - (b) a statement why the process could not be served; and
  - (c) if the Registrar directs, specify the costs incurred in serving or attempting to serve the process.

### **9.70**

The Registrar will send the following documents to the person who requested service :

- (1) a certificate, sealed with the seal of the Court , stating:
  - (a) when and how the process was served or the reason why it has not been served; and
  - (b) where appropriate, an amount certified to be the costs of serving or attempting to serve the process; and
  - (c) a copy of the process.

## Procedure 9.71

### 9.71

The procedure is as follows:

(1) The claim form must be signed by the legal representative acting on behalf of the claimant , and must not require the permission of the Court for its issue (unless such permission has already been given)

(2) The legal representative causing the claim form to be issued (“the issuing legal representative”) must

(a) endorse on the claim form the endorsement shown below and sign that endorsement;

(b) send a copy of the claim form so endorsed to the Registry by email for issue under this Section; and

(c) complete and sign the certificate shown below.

(3) When the Registry is next open to the public after the issue of a claim form in accordance with this procedure, the issuing legal representative or his agent shall attend and deliver to the Registry the document which was transmitted by email (including the endorsement and the certificate), or if that document has been served, a true and certified copy of it, together with as many copies as the Registry shall require and pay any required Court fees.

(4) When the proper officer at the Registry has checked and is satisfied that the document delivered under sub-paragraph (3) fully accords with the document received under sub-paragraph (2), and that all proper fees for issue have been paid, he shall allocate a number to the case, and seal , mark as “original” and date the claim form with the date on which it was issued (being, as indicated below, the date when the email is recorded at the Registry as having been received).

(5) As soon as practicable thereafter, the issuing legal representative shall inform any person served with the unsealed claim form of the case number, and (on request) shall serve any such person with a copy of the claim form sealed and dated under sub-paragraph (4) above and the person may, without paying a fee, inspect and take copies of the documents lodged at the Registry under sub-paragraphs (2) and (3) above.

## Effect of issue following request by email 9.72

### 9.72

The issue of a claim form in accordance with this procedure takes place when the email is recorded at the Registry as having been received, and the claim form bearing the endorsement shall have the same effect for all purposes as a claim form issued under RDC Part 7 or 8, as the case may be. Unless otherwise ordered the sealed version of the claim form retained by the Registry shall be

conclusive proof that the claim form was issued at the time and on the date stated. If the procedure set out in this Section is not complied with, the Court may declare (on its own initiative or on application) that the claim form shall be treated as not having been issued.

## **Endorsement 9.73**

### **9.73**

A claim form issued pursuant to a request by email must be endorsed as follows:

1. This claim form is issued under RDC Rule 9.71 and may be served notwithstanding that it does not bear the seal of the Court .
2. A true copy of this claim form and endorsement has been transmitted to the Registry, DIFC Courts, Level 4, The Gate, Dubai, UAE at the time and date certified below by the undersigned legal representative.
3. It is the duty of the undersigned legal representative or his agent to attend at the Registry when it is next open to the public for the claim form to be sealed.
4. Any person upon whom this unsealed claim form is served will be notified by the undersigned legal representative of the number of the case and may require the undersigned legal representative to serve a copy of the sealed claim form and may inspect without charge the documents which have been lodged at the Registry by the undersigned legal representative .
5. I, the undersigned legal representative , undertake to the Court , to the defendants named in this claim form, and to any other person upon whom this claim form may be served:
  - (i) that the statement in paragraph 2 above is correct;
  - (ii) that the time and date given in the certificate at the foot of this endorsement are correct;
  - (iii) that this claim form is a claim form which may be issued under RDC Rule 9.71;
  - (iv) that I will comply in all respects with the requirements of RDC Rule 9.71;
  - (v) that I will indemnify any person served with the claim form before it is sealed against any loss suffered as a result of the claim form being or becoming invalid in accordance with RDC Rule 9.71.

(Signed)

Legal Representative for the claimant” [Note: the endorsement may be signed in the name of the firm rather than an individual legal representative , or by agents in their capacity as agents acting on behalf of their professional clients.]

## Certificate 9.74

### 9.74

A legal representative who causes a claim form to be issued pursuant to a request sent by email must sign a certificate in the following form:

I, the undersigned legal representative, certify that I have sent a copy of this claim form to the Registry by email on [enter the time and date when the email was sent].

Dated

(Signed)

Legal Representative for the claimant.

[Note: the certificate may be signed in the name of the firm rather than an individual legal representative, or by agents in their capacity as agents acting on behalf of their professional clients]