

Dubai's new law regulating Conciliation Activities

Mohamed Gaber Abdelsabour - Senior Counsel - Litigation

m.abdelsabour@tamimi.com - Sharjah

Sara Omer Ali - Associate - Litigation

- Sharjah

Dubai takes steps to enhance the legal framework for the settlement of disputes

On the 14th September 2021 – and in line with the vision of the Dubai Government – H.E Sheikh Mohamed Bin Rashid, the Ruler of Dubai, issued Law No 18 of 2021, on the regulation of conciliation activities in the Emirate of Dubai (the “Law”). In this article, we will address the main features of the Law and its impact on the dispute resolution regime in the UAE.

Main Features of the Law

Scope of application of the Law

The Law applies to disputes in the Emirate of Dubai only. (Federal Law No 5 of 2021 concerning the Establishment of Settlement and Conciliation in Civil and Commercial Disputes applies to disputes in other Emirates.)

The Law provides that the Centre for Amicable Settlement of Disputes (the “Centre”), which was established under Law No. (16) of 2009, has the capacity to settle certain civil and commercial disputes.

Article 5 of the Law grants the Chief Justice of the Centre the power to issue resolutions to determine such claims that fall within the jurisdiction of the Centre. Additionally, the Centre can hear claims which parties agree may be heard by the Centre, as long as the dispute falls within the jurisdiction of the Dubai Courts. Finally, the Dubai courts can refer a dispute to the Centre should the parties to the dispute agree.

However, Article 5 expressly excludes several categories of disputes. These include, but are not limited to, summary orders, urgent lawsuits, disputes to which the government of Dubai is a party, disputes related to personal status and claims that do not fall under the jurisdictions of the Dubai Courts (for example, where the parties agree to arbitrate or the jurisdiction falls within the courts of another Emirate).

Engaging individual institutions and companies in the Settlement Process

The Law sets out the conditions and procedures for companies and individual institutions to participate in the settlement process. Articles 16 and 17 of the Law provide the general requirements and licensing procedures for private entities to be licensed to carry out such activity. It is notable that the Law has not made any specific provisions concerning the required expertise and capabilities of such private entities, which would qualify them to carry out conciliation work. The Law, however, empowers the Chief Justice of the Dubai Courts to issue the executive resolutions that to regulate this issue.

Enforceability of the Settlement agreement/deed and the mandatory effect of the Law

Pursuant to Article 23 of the Law, the settlement agreement/deed will be considered final and binding thus, once it is signed. The subject-matter of the dispute shall be deemed resolved and neither party shall be permitted to commence legal action pertaining thereto before the courts.

The settlement agreement is not enforceable, however, unless it meets the conditions set out under Article 27 of the Law. The Centre shall review the agreement to make sure that certain pre-requisites are satisfied. These include, for example, the signatories have the capacity to execute the agreement, the agreement does not violate public order or public morals in the state. Upon satisfying the stipulated requirements, the Centre will refer the matter to the supervising Judge to affix the executory form.

If the court accepts the settlement deed and affixes the executory form it then leads us to ask whether the settlement agreement with the executory form has the effect of res judicata.

Procedures set out in the Law are mandatory

Pursuant to Article 28 of the Law, the disputing parties are obliged to follow the procedures set out therein. Article 28 provides that if the jurisdiction of the dispute is the Centre, the Dubai court cannot hear the dispute. Additionally, should the dispute not be settled before the Centre then the dispute should be referred to the relevant court. The decision of the Centre can be appealed by way of a grievance to the relevant court within fifteen (15) days from the date of the decision. The grievance shall be decided by the issuance of a final judgment that ends the litigation and shall not be subject to appeal. Therefore, such procedures are not optional, rather they are compulsory, and parties to a conciliation must comply with them.

Al Tamimi & Company's Litigation team regularly advise on civil procedures. For further information please contact [Mohamed Abdelsabour](#) or [Sara Omer Ali](#).