

Amendments to the UAE Civil Procedures Law

Taiba Alsafar - Partner - Litigation / Private Notary
t.alsafar@tamimi.com - Dubai International Financial Centre

Marwa El Mahdy
m.elmahdy@tamimi.com

December 2014 – January 2015

The New Law was issued in the Federal Gazette (No. 572 dated 30 November 2014). The New Law comes into effect on 1st March 2015.

This article provides an overview of the key amendments enacted by the New Law, most of which have strengthened and streamlined aspects of civil procedure in the country.

Service and Notification

1. The New Law has introduced additional procedures aimed at facilitating and expediting the process of notification and service: The references to the Court's Registry in the Civil Procedures Law are changed to "Case Management Office" (see Article 1 of the New Law). This is for reasons that are explained further below.
2. The references to "notification server" are changed to "Process Service" (see Article 1 of the New Law). This allows for the inclusion of service processor offices which are licensed by the regulating authority to carry out the service of court documents.
3. Article 5 of the Civil Procedures Law gets a sub-article 2 which empowers the court to authorize a plaintiff or their attorney to carry out the service process.
4. The statutory time within which the service processor can serve court documents is extended to take place between 7 am and 8 pm (see Article 6(1) of the New Law; originally the time ended at 6pm).
5. Article 7(b) and (c) of the Civil Procedures Law has been amended to state that the information to be included in the notification document may include the counter party's domicile of choice.
6. Article 8 of the Civil Procedures Law has been substantially amended so that in cases where it is difficult to notify the opposing party (whether through deliberate avoidance or otherwise), under subsection 1 it is now possible to use modern alternatives. Those alternatives include the use of an email address or other modern methods of communication which are to be identified at a later stage by the Minister of Justice.
7. Article 8(2) of the Civil Procedures Law is greatly expanded to allow service of documents not just on the opposing party, but also any of that party's employees (which could, for example, include secretarial or even cleaning staff, such as the maid).
8. In connection with merchant ships, Article 9(6) of the Civil Procedures Law now permits the service to be effected of the ship's crew and, in cases where the ship has already sailed, the shipping agent.
9. Article 9(7) now permits that, in cases where one of the parties is domiciled overseas, service of papers can be effected through the means agreed upon by the parties rather than having to go through diplomatic channels as was previously the case.
10. Article 10 of the Civil Procedures Law concerns the deemed notification date of service, and is changed as follows:
 - The article is now split into four subsections.
 - Subsection 2 states that in cases where the party is to be notified is overseas, it is now deemed that the

person has received notification from the date of correspondence is received from the Ministry of Foreign Affairs of the Diplomatic Mission which confirms the receipt of the party to be notified.

- Subsection 3 states that in cases where the service process is by registered mail, fax or email, service is deemed effective from the date of receipt of the registered mail, the fax or the email.

Amendments to Article 8 of the Civil Procedures Law are extremely important because many subsequent articles in the law that deal with the limitation period for taking certain procedural steps start ticking from the date of service. This can have severe consequences in cases of appeals to the Cassation Court because, for example, the notification of the decision which is being appealed can be made by sending an SMS to the person affected and it is deemed to be sufficient even though the mobile phone may be switched off. It is clear that in these circumstances there will be future regulations or directives to prevent potential abuse of the very wide provisions of Article 8.

Jurisdiction:

Article 25 of the Civil Procedures Law clarifies the jurisdiction of the Federal Court and expressly gives it jurisdiction over all disputes that are of a federal nature.

Article 30 of the Civil Procedures Law now gives the small claims court jurisdiction over all claims below AED 500,000, raising the previous threshold of AED 100,000.

Commencement and lodging of claim and appeals:

Article 42 of the Civil Procedures Law now allows for the commencement of claims electronically in addition to the delivery of the statement of claim to the Case Management Office. Further, Article 162 permits the same in relation to the lodging of an appeal; however in case where an appeal is being lodged to the Court of Cassation it must be done with the Case Management Office of the court of jurisdiction by reason of Article 177.

Article 45 now requires, by reason of subsection 1, the lodging with the Case Management Office of the claim submitted electronically. Subsection 2 obliges the defendant to submit its defence within a limited period without identifying what that period is. We presume that at a later stage, there will be directives or regulations to identify what the relevant limitation periods should be.

Attachment Orders:

The new amendment makes important changes to the procedures relating to attachment orders.

Article 252(2) of the Civil Procedures Law now regulates the previous practice of landlords entering premises to seize movables belonging to the tenant as well as the subtenant in the event of default and expressly permits for the seizure of movables belonging to the tenant.

Article 253 now adds that in cases where movables are to be seized, the person applying for the attachment order is required to provide a comprehensive and detailed description of the item he wishes to seize.

However, it is not clear how a landlord exercising his right to an attachment order would have available to him the detailed description of the movables before he enters the premises.

Article 3 of the New Law amends Article 42 of the Civil Procedures Law which establishes the Court Management Office and sets out its function and composition.

Article 4 of the New Law cancelled Articles 12 and 47 of the Civil Procedure law for reasons of convenience and practicality.

Conclusion

The changes made to the UAE Civil Procedures Law by the New Law are significant and welcome, particularly those that relate to service. The changes will make service quicker and easier, but further regulations will be needed to clarify the full extent of the changes.