

# NEW DIFC COURTS LAW

## What's new and what remains to be determined?

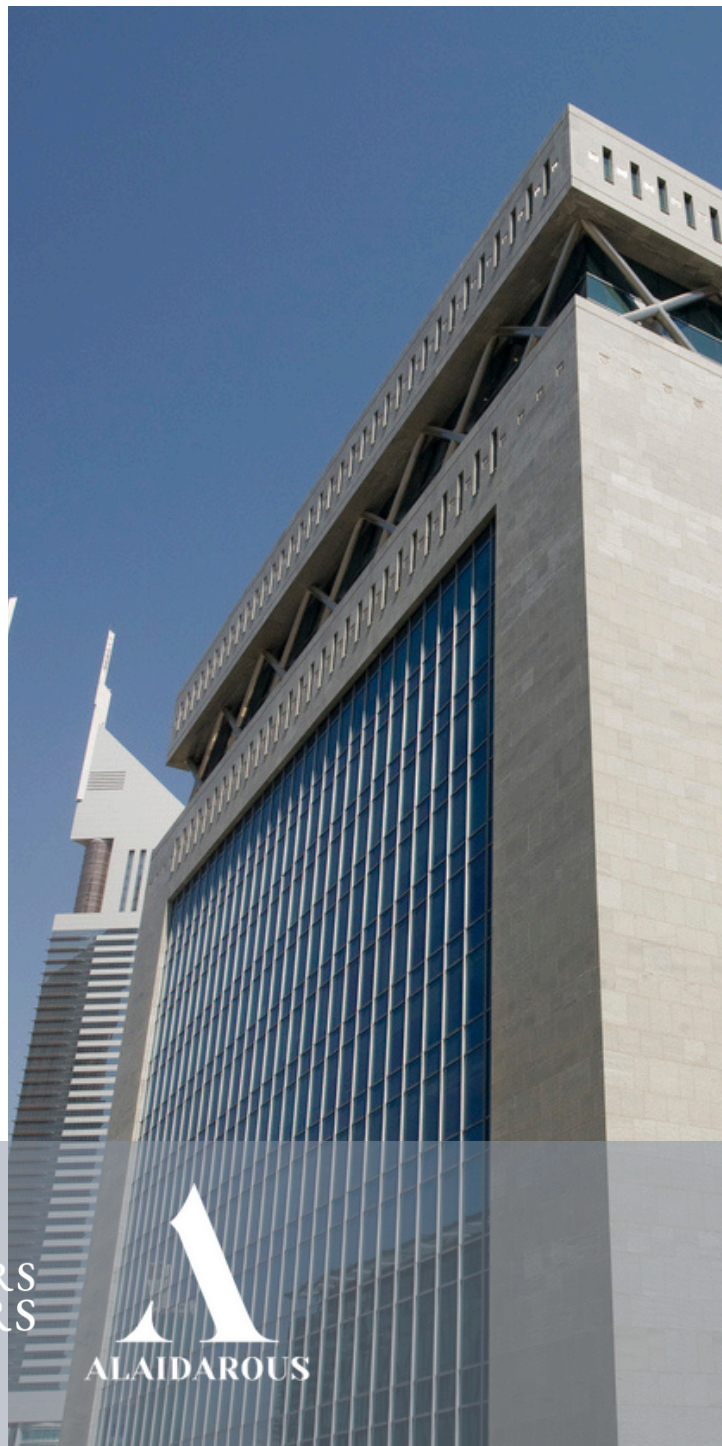
Sadique, Mohd (Al Aidarous) and Sajid Suleman (No5 Chambers) look at the new legal framework for the DIFC Courts

## INTRODUCTION

The DIFC Courts now have a new legal framework. Dubai Law No. (2) of 2025 (the '2025 Law') came into force on 14 March 2025. It supersedes DIFC Law No. (10) of 2004 (the 'Courts Law') and Dubai Law No. (12) of 2004 (the Judicial Authority Law ('JAL'), which continue in force to the extent that they do not contradict provisions of the new law.

The new law clarifies the jurisdiction of the DIFC Courts, provides for new evidence-gathering and enforcement powers, establishes a stricter contempt of court regime, creates a new mediation centre, and makes minor changes to the Court of Appeal.

Notably, the 2025 Law reorganises the jurisdiction provisions that were formerly housed in Article 5 of the JAL into a clearer, expanded structure under Articles 14 and 15, while also codifying certain areas (e.g., employment, trusts, non-Muslim Wills) that were previously implicit or scattered across DIFC regulations.





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# JURISDICTION

Articles 14 and 15 of the 2025 Law now provide the gateways for jurisdiction in general cases and applications for interim measures respectively.

## Jurisdictional gateways

Article 14 is similar to Article 5 of the JAL, with three important additions:

(1) Article 14 (A)(4) establishes a new gateway to jurisdiction over claims related to trusts 'established or registered in the DIFC and non-Muslim Wills which are registered with the DIFC Courts'.

Under the old law, trusts and non-Muslim Wills were not expressly included in the JAL's main jurisdictional list. The explicit inclusion of these matters in the 2025 Law provides greater clarity for estate, succession, and trust-related disputes.

(2) Articles 14 (A)(5) and (6) introduce an express gateway for jurisdiction over claims relating to the ratification and recognition of arbitration awards, as well as jurisdiction over claims and applications relating to arbitration procedures which take place in the DIFC or in which the parties agree to the DIFC Courts' jurisdiction in disputes. This is in addition to arbitration procedures where the seat is the DIFC as under the previous law.

Unlike Article 5 of the JAL, the 2025 Law now explicitly covers all arbitration-related matters, including recognition, enforcement, and interim relief in support of arbitral proceedings, further enhancing the DIFC Courts' role as an arbitration-friendly forum.

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(3) Article 14 (A)(7) introduces jurisdiction for “claims and applications over which the DIFC Court have jurisdiction under... any international treaty and Convention to which the United Arab Emirates has acceded or is a party to.” It is also worth noting that, in contrast to Article 5 of the JAL, the provisions of Article 14 expressly apply to employment claims.

Previously, employment disputes were often treated under “civil or commercial” claims. Now, the 2025 Law makes them an explicit category, removing ambiguity and ensuring that all employment disputes connected to the DIFC fall within the Court’s exclusive jurisdiction.

The 2025 Law also maintains the principle of “opting in” by mutual agreement in writing and, conversely, now allows the Court to decline jurisdiction if the parties have agreed in writing to a different court.

Overall, the new Article 14 is more structured than the old Article 5, enumerating distinct categories (e.g., civil, commercial, employment, trusts, Wills, arbitration) rather than relying on broad references. This expansion aligns with international best practices and clarifies the Court’s authority in each area.

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### Interim and precautionary remedies

Article 15 provides the Court jurisdiction to determine applications for interim and precautionary measures. Article 15 (4) establishes what appears to be the ‘freestanding’ jurisdiction of the DIFC Courts to issue ‘precautionary measures’ in relation to foreign arbitral proceedings even where there is no connection to the DIFC. This appears to go beyond the position set out in *Carmon Reestrutura-engenharia E Serviços Técnicos Especiais, (Su) LDA v Antonio Joao Catete Lopes Cuenda* [2024] DIFC CA 003 (“Carmon”) which only concerned the freezing of assets as an interim measure pending the conclusion of foreign court proceedings.

Article 15(4) in its application to foreign arbitral proceedings does not address the question of seat. It is presently not clear if the DIFC Courts will find that they have jurisdiction to grant interim remedies even when the DIFC is not the seat and the other jurisdictional gateways in Article 14 are not satisfied. Article 15(4) also does not specify what constitutes “suitable precautionary measures within the DIFC” – it is not clear if this is limited to measures within the DIFC, such as the freezing of assets located in the DIFC. It also remains to be seen whether the DIFC Courts will now find that they have the jurisdiction to grant anti-suit injunctions on wider grounds than those set out by Mr Justice Michael Black in *Ledger v Leeor* ARB 016/2022 (at paragraph 49) which was upheld on appeal ([2022] DIFC CA 013). Finally, it is notable that the expansive jurisdiction contained in Article 15(4) only relates to interim measures, and not final remedies.

Under the old JAL, interim/precautionary measures were not specified in the main jurisdiction article (Article 5). The new law dedicates an entire provision (Article 15) to these measures, clearly enumerating the types of relief available, such as identifying a potential defendant, disclosing assets, or supporting arbitration (even if seated elsewhere). This codification strengthens the Court’s ability to preserve evidence, safeguard assets, and intervene swiftly in urgent matters.

In addition, the 2025 law confirms that these interim powers extend to both domestic and foreign disputes, provided the Court deems the relief “suitable” - a broader discretionary power than was explicitly acknowledged in the prior legislative regime.

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# POWERS OF THE COURT

Articles 24 and 30-32 of the 2025 Law provide the Court with powers related to legal proceedings and judgment enforcement.

In addition to the interim measures discussed above, Article 24 also provides that the Court can appoint Assessors (Article 24 (1)(A)) and Receivers and Provisional Liquidators (Article 24 (1)(B)). Assessors are essentially Court-appointed expert witnesses whose role is to advise the Court on specialist matters. They are appointed by the Judge and are under a duty to disclose potential conflicts. Receivers and Provisional Liquidators may be provided “with any powers... necessary” in the eyes of the Court.

Articles 30-32 provides for compulsory enforcement of DIFC judgments, ratified arbitral awards, settlement agreements approved by the new DIFC Mediation Centre and other documents to which an enforcement status applies. The ‘Enforcement Judge’ cannot review the merits of enforcement writs issued outside of the DIFC which apply to entities therein and is under a duty to seek assistance from the Dubai Courts’ Enforcement Judge in respect of enforcements on objects outside of DIFC. Under Article 33, the above do not prejudice the application of international treaties and conventions to which the UAE is a signatory or acceding party.

# CONTEMPT OF COURT

Article 35 of the 2025 Law introduces penalty fines for contempt of court before the DIFC Courts. These fines are incurred by wilfully insulting members of the Court, wilfully interrupting or 'otherwise misbehaving' during Court proceedings, wilfully submitting fraudulent evidence, damaging DIFC Court property, failing to comply with a Court judgment or order, and insulting or defaming DIFC Court staff on social and traditional media. These provisions have a wide scope and should be kept in mind in dealings with DIFC Courts and relevant judgments, as the threshold for some of these provisions is not particularly stringent.

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# DIFC MEDIATION CENTRE

Article 13 of the 2025 Law establishes a mediation centre at the DIFC Courts to consider and resolve disputes 'amicably'. Responsibility for determining its procedure and jurisdiction falls on the President of the DIFC. Article 30(B)(4) provides that settlement agreements approved by the mediation centre will be subject to compulsory enforcement as and when they appear. This is a welcome development and one which is consistent with the pro-mediation approach of other common law courts.

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# COURT OF APPEAL CHANGES

The 2025 Law introduces two minor changes to the Court of Appeal. First, Article 17(A) provides that five judges may sit on the Court of Appeal in 'an exceptional case' based on the decision of the Chief Justice. Second, Article 17(D) allows dissenting judges to issue dissenting opinions. These provisions allow for a richer development of the jurisprudence of the DIFC Courts in line with other common law jurisdictions.

# CONCLUSION

The 2025 Law provides welcome clarity on the powers of the DIFC Courts and positive movement in favour of mediation. The most notable change in the 2025 Law is, however, the expansion of the DIFC Courts' jurisdiction at Articles 14 and 15. In concert with Articles 24 (C) and (D) of the 2025 Law, which grant the DIFC Court the "power to issue any interim orders it considers just or appropriate", the new law provides future claimants with a powerful arsenal of interim measures in respect of domestic and foreign proceedings.

The 2025 Law does not, however, repeal the previous case law of the DIFC Courts which provides helpful guidelines on the Courts' exercise of jurisdiction over disputes which have no nexus to the DIFC. The Courts' freestanding jurisdiction to grant interim relief in respect of foreign proceedings is a significant development for parties, who are now likely to be able to access the DIFC Courts' broad range of interim measures in support of foreign proceedings, provided the measures are 'suitable'. The 2025 Law, however, only provides a broad framework and the detail remains to be developed in the jurisprudence of the DIFC Courts.



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