

# The Centre for Amicable Resolution of Disputes in Dubai

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February 2013

His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President and Prime Minister of the UAE and Ruler of Dubai, created the Centre for Amicable Settlement of Disputes in Dubai (the "Centre") under Dubai law Number 16 of 2009.

The inauguration of the Centre for Amicable Resolution of Disputes in April 2012 has proven to be a great success so far. The Centre was launched by the Department of Economic Development in co-operation with the Dubai Courts to provide a mediation alternative to the judicial process. The Centre aims to facilitate the amicable and affordable settlement of disputes via mediation within a period of one month before referring the matters to the courts to proceed via the usual court process.

Mediation is a voluntary process. It is therefore not possible without full participation and commitment from all parties. All parties must therefore agree to enter into the process with the right mindset, although in some jurisdictions this may only be after judicial recommendation with associated risks of costs sanctions against the party who refused to mediate.

The opening of the Centre demonstrates the government's commitment to encourage and increase the use of mediation in Dubai, by making it available a part of the court process. The Centre is currently able to consider the following disputes:

1. Commonly-owned property;
2. Debt of a maximum value of AED 50,000;
3. Disputes agreed to be settled before the centre by virtue of an agreement entered into between the parties

All disputes of this nature must now be reviewed by members of the Centre before they may be filed as law suits before the relevant Dubai courts. If the dispute is referred to the Centre then the facts of the dispute will be reviewed and handled by a number of mediators under the direct supervision of the concerned judge.

It is important to mention that all limitation periods and prescription periods for the claim will be put on hold until the Centre issues its verdict to transfer the claim to the relevant court. This provides an invaluable incentive for those who may be worried about impending time bars, due to the expiration of limitation periods, to explore mediation before instigating legal proceedings.

The Centre provides an alternative avenue for the resolution of disputes which will save time and costs. It also shows judicial pioneering and an innovative attitude in light of global developments. In recent years, the use of mediation has increased exponentially in common law jurisdictions and the inauguration of the Centre shows an important development within the civil law jurisdiction.

The Centre presently has limited application and the following disputes are excluded from the Centre's jurisdiction:

1. Urgent claims;
2. Claims where the Government is one of the parties;

3. Claims which are not subject to the jurisdiction of the courts;
4. Claims which were registered in the courts before this law came into force;
5. Labour disputes;
6. Family disputes.

The benefits of the work carried out by the Centre are significant. Disputes which are referred for amicable settlement are usually mediated and settled within a maximum period of one month from the date when the parties first appear before the Centre, opposed to the 3 staged Dubai Court system which can see disputes in the courts for 18 to 24 months. Mediation is a process which allows the parties to focus on the commercial aspects of their dispute rather than the legal issues which can sometimes take the parties focus away from the real cause of the dispute.

The one month resolution period for the centre may be extended for a further month by court order if required but if settlement is reached a settlement agreement will be prepared by the Centre signed by the parties. This signed settlement agreement will be attested by a Dubai Court judge and can be enforced immediately. The Centre provides a very quick route to obtain an enforceable judgment in the UAE.

If settlement is achieved, 50% of the paid court fees will be returned to the parties. If settlement is not achieved however, the dispute will be referred to the relevant court and will proceed as a normal court case.

The terms of any settlement achieved during the mediation process are confidential, however the parties are free to agree to an alternative agreement if they so wish. Mediation aims to resolve a dispute by maximizing all parties' interests and achieving a "win-win" outcome so that the parties do not feel compromised. It aims to resolve a dispute swiftly so that parties can move on from the dispute and preserve commercial relationships which the court process so often destroys. The parties get to agree the terms of the settlement themselves and hence the results achieved are such that they may never be considered or imposed by a court. The mediation process enables the parties to agree their own terms of settlement and this allows for ingenuity and extra legal solutions.

### **Registering a dispute at the Centre**

1. The claimant must submit two copies of a request in writing to the court including, names of claimant and defendant, email addresses for all parties, postal address and subject of the claim. The requesting party must pay all registration fees.
2. The court will refer the request to the Centre. The dispute will be reviewed and considered by the Centre. Once completed, the Centre will either issue a decision of approval to mediate or refer the matter to the relevant court.
3. A hearing session will be scheduled for first deliberation of the claim and the claimant will be notified of the date and time for attendance.
4. The defendant will be notified of the first hearing session via the usual court notification procedures.
5. Parties may attend by themselves or they may send a representative duly authorised by Power of Attorney.

### **Collaboration with the Royal Institute of Chartered Surveyors ("RICS") Mediation Panel**

Since its official UAE launch in October 2012, the RICS Mediation Panel has been collaborating with the Dubai Courts and the Dubai Land Department in order to promote further public understanding of the advantages of the mediation process as alternative dispute resolution.

The meeting of minds by these highly respected government departments and the globally respected RICS has enabled many experienced parties to work together and discuss the evolution of mediation and the Centre for Amicable Resolution of Disputes in the region. The Centre has

already demonstrated an unrivalled success in achieving settlement of a large percentage of disputes that have been referred to it so far by the Dubai Court.

The Centre is currently working with the RICS to implement further training from the RICS Mediation Panel in order that the already experienced mediators from the Centre may benefit from training in the standard model of mediation which is so regularly used in the global arena.