

# Solving Dubai's Tenancy Disputes: the new tenancy disputes settlement centre

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On 18 September 2013, His Highness Sheikh Mohammed Bin Rashid Al Maktoum, Vice-President and Prime Minister of the United Arab Emirates and Ruler of Dubai, issued 'Decree No. 26 of 2013 concerning tenancy disputes settlement centre in the Emirate of Dubai, establishing the Tenancy Disputes Settlement Centre (the "New Decree").

The New Decree does the following:

1. substitutes Decree No. 2 of 1993 which established a special judicial committee called the Rent Committee to settle disputes of any nature between landlords and tenants;
2. substitutes Law No. 15 of 2009 pertaining to the hearing of rent disputes inside the free zones; and
3. repeals any other legislative provisions that contradicts the provisions in the New Decree.

The New Decree has been published in the Official Gazette as at 18 September 2013. According to Article 31 of the New Decree, it shall come into force 60 days after it is published in the Official Gazette. This provides a two month transition period for the New Decree to be implemented from 18 September 2013. This means that the current regime remains in place pending the New Decree is implemented.

## The Current Regime

Under the current regime disputes arising between landlords and tenants are referred to the Special Judicial Committee for Dispute Settlement between Landlords and Tenants, better known as the Rent Committee. The Rent Committee has exclusive authority under Decree No. 2 of 1993 to consider and decide all tenancy disputes. Such authority was extended by Law No. 15 of 2009 to include the determination of rental disputes arising within the free zones, except for rental disputes:

1. to which any free zone authorities in the Emirate of Dubai is a party; and
2. arising within the free zones which have their own special judicial committees or special courts (for example the Dubai International Financial Centre).

The Rent Committee comprises of various sub-committees. Although it is a judicial committee, the members are not judges.

If either a landlord or tenant files a claim with the Rent Committee, before the dispute can be heard the Rent Committee is required to first serve a notice to the other party (and to publish another notice in a newspaper if the party fails to attend the hearing on the first notice). Once adequate notices are served and published, the hearing will usually take place after a period of one to two weeks. The Rent Committee's decisions must be passed by a majority resolution and such decisions are final and non-appealable.

Despite the completion of the final hearing and a decision being passed, a written judgment will not usually be made available to the landlord and tenant until after a lengthy period of time. This

means that the enforcement of a judgment by the Rent Committee and by the Execution Division of the Dubai Court is usually delayed.

## **The New Decree**

The New Decree aims to establish a judicial system and develop a quick and simple adjudication procedure for all tenancy disputes (article 3). When the New Decree comes into force it will abolish the Rent Committee and replace it with the Tenancy Disputes Settlement Centre, which some may refer to as a Rent Disputes Settlement Centre, (the 'Centre'). The Centre will be based in the Dubai Land Department and it is consisting of a judicial section and an administrative section. It will be headed by a judge (of the Appeal Court level) to be appointed by a decree to be issued in due course.

According to article 6 of the New Decree, the Centre shall settle all:

1. tenancy disputes in the Emirate of Dubai except for tenancy disputes in relation to finance lease contracts (Ijara) and long term lease contracts; and
2. rental disputes inside the free zones except if the free zones are under the jurisdiction of special judicial committees or courts, such as the Dubai International Financial Centre.

The judicial section of the Centre will consist of four departments. A summary of each of the four departments and their respective structures and functions is set out below.

[image src="http://www.tamimi.com/en/media/get/20131022\_Property-Rent-Disputes-Settlement-Center-Alex-Foo-3.jpg" class="\_\_image\_\_" imageld="2506"]

As for the fees payable to the Centre, this will be determined and set by the Chairman of the Executive Council of the Emirate. Prior to such determination, the fees structure for the Rent Committee under Local Order No. 1 of 2004 remains applicable.

## **Current Regime vs The New Decree – A Comparative Study**

The differences between the current regime and the New Decree are emphasised by its objectives set out in Article 3. The New Decree emphasises the need for:

1. a fast and simple mechanism;
2. judicial involvement; and
3. an adjudication procedure, to resolve tenancy disputes between landlords and tenants.

### **Fast and simple mechanism**

As explained earlier, the Centre will be established to expedite tenancy disputes settlement. As opposed to the situation under the current regime, a time frame is provided under the New Decree where the Centre is required to facilitate amicable settlement between landlords and tenants or to issue a judgment within a time frame set out in Article 10 and Article 16 respectively.

### **Judicial involvement**

Unlike the current practice where members of the Rent Committee are not judges, the New Decree expressly emphasises the need for:

1. a judge at the Appeal Court level to be the Head of the Centre;
2. supervision of tenancy disputes settlement by a judge at the Reconciliation Department;
3. a judge in each committee of the First Instance Department and two judges in each committee of the Appeal Department; and
4. a judge to chair the committee for each tenancy dispute at the First Instance Department and

Appeal Department.

### **Adjudication procedure for appeal**

Also unlike the current regime where the Rent Committee's decisions cannot be appealed, the New Decree allows appeals. According to Articles 17 and 18, a judgment issued by the First Instance Department may be appealed within 15 days from the date of issuance of the judgment provided that the tenancy disputes are for a value of AED 100,000 or more. Any tenancy disputes for a value less than the required monetary threshold can only be appealed if the judgment issued:

1. involves an eviction judgment;
2. is in violation of the jurisdiction rules;
3. involves something not requested by the parties, or is more than what the parties requested, or disregards some of the parties' requests;
4. is against a person who is not properly represented or where a notice is not properly served;
5. is based on forged documents discovered after the judgment or a false testimony determined after the judgment; or
6. would have been different because a party has hidden data or documents from the First Instance Department.

### **Conclusion and Future Developments**

There is no doubt that the New Decree aims to improve the current regime by introducing a quick and simple adjudication procedure for all tenancy disputes in the Emirate of Dubai. As is the case for all proposed new legislation, some aspects of the New Decree still require clarification:

1. What constitutes a long term lease such that the dispute cannot be heard by the Centre? Is it a lease for a period longer than five years in accordance with the lease (or Ejari) registration practice or between 10 years and 99 years according to Law No.14 of 2008 concerning mortgages in the Emirate of Dubai?
2. Is it compulsory for landlords and tenants to attend the amicable settlement hearing of their tenancy dispute at the Reconciliation Department before their disputes can be heard in the First Instance Department?
3. When can the Head of the Centre rely on the Execution Department of the Dubai Court to enforce the judgments issued by the Centre?
4. What are the adjudication procedures for each of the Reconciliation Department, First Instance Department and Appeal Department?
5. Should the recognition of arbitration awards be dealt with by the Centre or the Dubai Court?

Article 8 of the New Decree suggests that the Head of the Centre will propose regulations and resolutions to regulate the work of the judicial section. The implementation of such regulations and resolutions may address the questions raised above. We will report further on the implementation of the New Decree when the questions raised above are answered, the Centre has been established, the Head of the Centre is appointed and details of the Centre's methods of operating are available.