

DMCC COMPANY REGULATIONS (1/03) - AT A GLANCE

This document sets out to summarise the main Company Rules and Regulations applicable within the DMCC Free Zone. You are recommended to read the full edition of the DMCC Company Regulations which can always be obtained online at www.dmcc.ae. It is the duty of any person or entity operating within the DMCC Free Zone to check for updates to the Regulations and any notices. DMCC bears no responsibility in connection with the representations made in this summary document.

[] numbers in brackets refer to the clause number in the regulations.

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INCORPORATION OF COMPANY [2]

Forming a company [5]

- A company is formed when its name is entered on the register.[5.1]
- Companies hold legal status of Limited Liability except a branch which follows the parent company.[5.3]
- Companies types include;
 - New Company
 - Subsidiary
 - Branch (of a local, foreign or free zone company)
 - Representative Office

Registration of company [6]

- Registration will include details of Directors, Secretary.[6.2.2.]
- Memorandum and Articles of Association will set out objects of the company.[6.2.3]

- DMCC may refuse registration without providing a reason. Its decision shall not be subject to review.[6.3]

Requirements of Memorandum [7]

- Outlines name of company, limited liability of shareholders, objects of company, shareholder details (name, address, nationality), period (if limited), issued share capital, division of shares.[7.1.1-7.1.7]
- Memorandum shall be signed by each subscriber in presence of Legal Registrar.[7.2]
- Memorandum can only be changed in accordance with R&Rs.[7.3]

Prohibition of Registration of Companies with Undesirable Names [8]

- No company shall be registered with a name that the authority considers undesirable.[8.1]

Change of Name of a Company [9]

- A company, by special resolution, may apply to change its name.[9.1]

Powers and Objects of a Company - Ultra Vires [10]

- No act of a company shall be invalid by reason only that the company was without capacity or power to perform the act.[10]

Procedures for Alteration of Memorandum [11]

- A company, by special resolution, may apply amend its Memorandum, including a request to change its Financial period.

Articles of Association (AoA) [12]

- AoA regulate the administration of every company [12.1] including transfer of shares, general meetings, financial accounts, audit of accounts, secretary's duties, number of shareholders and quorum, appointment of Chairman.[12.2]
- May further regulate transfer of shares, dividend declaration & payment, duties of board of directors and other officers, appointment of alternate directors, matters relating to agents, officers, servants, date of annual meetings, calling of meetings, proxies and majorities, quorum, conduct in other particulars of company affairs.[12.3]
- A company, by special resolution, may apply amend its AoA.[12.5]

Copies of Memorandum & AoA to be given [17]

- Company must make Memorandum and AoA available to Shareholder/s.[17]

Shareholder [18]

- Subscribers to the Memorandum are deemed as shareholders.[18.1]

Form of Contracts [19]

- Contracts are binding whether in written or other form.[19.1,19.2]

Execution of Instruments [21]

A company may empower an agent to act on its behalf [21.1] which shall be binding.[21.2]

SHARE CAPITAL, SHARE TRANSFER AND DIVIDENDS [3]

Company Share Capital [23]

- Minimum share capital of 50,000 per shareholder.[23.1]

Power of Company to Alter its Share Capital [28]

- A company, by special resolution, may apply to increase its share capital.[28.1]

Issue at Premium [25] and Application of Premiums [26]

- Shares may be issued at a premium [25] and will be accounts using a 'share premium account'. [26.1]

Power to Alter Share Capital [28] and Reduction of Issued Share Capital [29]

- If AoA allow, a company may, by ordinary resolution, amend share capital [28.1] or by special resolution, reduce share capital.[29.1]

Nature and Transfer of Shares [30]

- Shares are personal estate and can be transferred per the AoA [30.1] must be registered with the authority.[30.2]
- A share pledge may be created.[30.4]

Bearer shares are prohibited [33]

Dividends and Other Distributions [34]

- Not allowed to declare or pay dividends, or distribution out of contributed surplus, if company unable to pay its liabilities as and when due or the realisable value of assets would be less than total liabilities and share capital and share premium accounts.[34.1]

MANAGEMENT AND ADMINISTRATION [4]

Registered Office [35] and Service of Documents [36]

- Must have a registered office in the Centre, and must notify of an address change within 14 days.[35.1,35.2]
- Notices served if left at registered office.[36.1]

Publication of name & Registered Office [37]

- Company must show its name and registered office on business letters, notices, publications, bills of exchange, promissory notes, invoices, order, receipts, letters of credit etc.

Restriction on Commencement of Business [38]

- Must be licensed to carry on business [38.1], otherwise fines apply.

Power of Legal Registrar to Rectify [39]

- Legal Registrar has power to rectify errors, refuse an application.[39.1-39.3]

First Directors [41]

- Persons listed in Memorandum or AoA or official application are the first Directors.[41.1]

Inaugural Meeting of Shareholders to confirm Election of Directors [42]

- Unless Memorandum or AoA says otherwise, first directors shall convene inaugural meeting (a general meeting (GM) of shareholders) to confirm identity of Directors.[42.1]
- Give five days notice of meeting (place, date, hour) [42.2] with same procedure as GM and quorum being majority present or by proxy.
- Deemed to be AGM for that year.[42.5]

General Meetings [43], Failure to Hold AGM or Elect Directors [44] & Position when Election of Directors does not take place [45]

- GM at least once every calendar year, except where one shareholder who signs resolution in place of requirement.[43.1]
- Directors may convene GM any time, called a “Special General Meeting(SGM)”[43.2]
- Notice specifies place, day and hour, and nature of business if SGM.[43.3]
- If in default, Directors to hold meeting as soon as practicable.[44.1]
- If AGM not held within 3months of required date, company may apply to Legal Registrar to sanction.[44.2]
- If in default of AMG or electing Directors, credits or shareholder may apply to wind-up [44.2b]
- If AGM or election of Directors doesn’t occur, company can continue with existing Directors in office.[45]

Convening Special General Meeting on Requisition [46]

- On requisition of at least 10% shareholders convene a SGM.[46.1]
- Must state purpose and signed by requisitioners, deposited at registered.[46.2]

Length of Notice for Calling Meetings [47]

- Notice in writing, stating place, day, time and nature if SGM
- At least 21 days notice - AGM, SGM calling for passing of special resolution
- At least 14 days notice - SGM.[47.1]
- If less has to be agreed by
 - all shareholders entitled to attend and vote (AGM),[47.2.1]
 - majority in number of shareholders entitle to attend and vote, and majority holding at least 94% nominal value of shares.[47.2.2]

Telephonic Meeting [48]

Unless AoA says otherwise, any means of remote but simultaneous and instantaneous and full participatory communication is acceptable, such as telephone, video-conf.[48]

Power of the Legal Registrar to Order Meeting [49]

- On application by Director of Shareholder, Legal Registrar may order a meeting of the company.[49.1]

Voting at Meetings [50]

- At AGM each SH (in person or by proxy) entitled to one vote for each share held.[50.1]
- Questions decided on simple majority of votes or as stated by AoA.[50.2]
- SH through show of hands shall cast a vote.[50.3]
- If Chairman declares result of a question for consideration, then book of minutes (conclusive proof) may show result as carried by majority, carried unanimously or lost.[50.4]
- A poll can be demanded by Chairman, SH holding at least 10% together.[50.5]

Resolution in Writing [51]

- Resolution in writing signed by all shareholders of the company, who would be entitled to attend and vote, holds same status as a resolution at GM.[51.1]
- Above does not apply to removal of auditor, removing Director before expiration of term.[51.4]
- Date of resolution is date of signing of last Director.[51.6]

Representation of Corporation at Meetings [52]

- Corporation (if it is a member) may authorise a person as its representative at any meeting of company.[52.1.1]
- Corporate (if a creditor) may authorise a person as its representative at a meeting of creditors.[52.1.2]

Circulation of Shareholders Resolution [53] and Conditions to be met before company bound to give notice of resolution [54]

- Company must circulate notice (by requisition) of an AGM that is being moved and statement of proposed resolution or business to be dealt with.[53.1]
- SH needed for requisition is not less than 10% of total voting rights or not less than 5 shareholders.[53.2]
- Copy of requisition must be signed by requisitioners and deposited at registered office; 21 days (requiring notice of resolution), or one week (other requisition) otherwise company is not bound.[54.1]

Minutes of Proceedings to be Kept [55] and Inspection of Minute Books [56]

- Company must keep minutes of meetings, signed by person presiding over proceedings [55.1] and kept by Secretary or Officer, otherwise fines apply.[55.2/3]

Keeping of Books of Account [57], Duty to Prepare Company Accounts [58], Financial Statements to be laid before General Meeting [59] and Right to Receive Copies of Financial Statements, Including Balance Sheet, etc. [60]

- Company must keep proper records of account, including all sums received, expended, sales, purchases, assets, liabilities.[57.1]
- Records of account kept at registered office and open to inspection by Directors at all times [57.2], otherwise authority may order inspection [57.3] and may fine.[57.4]
- Directors shall prepare each financial year a balance sheet, profit and loss, otherwise fines apply.[58.1/2]
- Directors shall lay before company in GM the:
 - financial statements (statement of Profit n Loss, Retained earnings, Balance Sheet, Changes in Financial Position, Notes),
 - auditors report,[59.1]
 - Notes include descriptions of accounting principles and should be IFRS [59.5] unless otherwise identified[59.2],
- Balance Sheet to be signed by two Directors[59.3],
- If financial statements not laid, Chairman may adjourn for ninety days or longer as agreed by SH [59.4].
- Financial Statements shall be made available to all shareholders 7 days before GM.

Appointment of Auditor [62] and Audit [64]

- At inaugural meeting SH shall appoint auditor/s (not officer or employee of company or affiliated company) til next AGM, and if not changed, first auditor shall continue.[62.1/2]
- Auditors can be removed by special resolution.[62.3]
- Remuneration shall be fixed by shareholders.[62.4]
- Auditor shall make a report to the shareholders.[63.2]

Representation of Director by another Director [65]

- One Director may appoint, in writing to the Secretary, another Director to represent him/her [65.1, 65.2.1] in general or specific matters, including voting rights.[65.2.2].

Directors Entitle to Receive Notice of Meetings [66]

- Directors may deposit a written request at the Registered office to be entitled to receive notice of and to attend and be heard at, any or all general meetings.[66.1]

Appointment of Secretary [67]

- Directors may appoint a secretary (who may also be a Director) to hold office in accordance with the AoA.

Register of Directors and Officers [68]

- Companies must keep a register of directors and officers at its offices [68.1], including name, surname, address (individuals) and company name, registered office (companies)[68.5] and keep the register open for inspection.[68.3]
- Within 14 days of any change in director/officer and/or particulars the register must be updated [68.2] and filed with DMCC.[68.6]

Removal of Directors [69]

- Subject to AoA, shareholders may remove a director by ordinary resolution at a special general meeting. Must serve 14 days notice on director and give right of hearing.[69.1]
- Another Director may be elected to replace.[69.2]

Un-discharged Bankrupt Not to Take Part in Management of Company [70]

- No un-discharged bankrupt in any country may act as a Director or Manager, except with leave of Legal Registrar.[70.1]

Prohibition of Loans to Directors without Consent of Shareholders [71]

- Company can only make a personal loan/guarantee/provide security to Director (or their spouse/children/related company) if at least 89% of shareholders (with voting rights) agree [71.1] and must have prior approval at general meeting at which purpose and amount of loan is disclosed [71.2.1], otherwise any/all of the Directors who authorised are jointly and severally liable [71.3].

Duty of Care of Officers [72]

- Every officer of a company in exercising his/her powers and discharging duties shall [72.1];
 - Act honestly and in good faith for the best interests of the company,
 - Exercise care, diligence and skill of a reasonably prudent person,
 - Avoid conflict of interest and not make secret profit,
 - Exercise powers for the purpose given only,
 - Comply with Regulations, AoA and any service contracts entered into.
- An officer is deemed to not be acting honestly and in good faith if;
 - He fails to give details to auditors of emolument, pension or other benefit received or agreed with company or loan received/to be received [72.3.1],
 - He fails to disclose a material contract/proposed contract with company or a party to a material contract with company [72.3.2].
- An officer shall give general notice to Directors of any material [72.4.2] interests that may present a conflict [72.4.1].
- A Director must formally declare a personal interest at a board meeting on the topic and will be prevented from voting and counting in the quorum on such matters [75.6].

Exemption, Indemnification and Liability of Officers [73]

- In its AoA a company may indemnify an officer or auditors against negligence, default, breach of duty or breach of trust in relation to the company [73.1] unless such indemnification contravenes the rule of law [73.2].

Insurance of Officers [74]

- A company may insure for the benefit of any officers against any liability incurred by him in carrying out his/her duty of care [74.1]

Liability of Auditor or Officer [75]

- Where an auditor or officer is found liable for damages arising out of performance of any function as such auditor or officer as contemplated by the regulations [75.1], then Auditor/Officer may be liable jointly and severally if they knowingly engaged in fraud/dishonesty [75.2].
- Percentage of liability and amount shall be determined by Courts [75.3]

Directors' Service Contracts [76]

- Any Directors' service/employment contract for greater than one year must be approved by ordinary resolution for shareholders in a general meeting [76.1] and any notice period greater than 3 months must be disclosed in the annual report of directors [76.2].

AMALGAMATIONS [5]

Amalgamations [77], Survival of Company on Amalgamation of One or More Companies and One or More Outside Companies [78], Survival of DMCC Company on Amalgamation of one or more Companies and one or more DMCC Companies [79] and Legal Registrar's Refusal to Grant Consent Under Regulations 77, 78 or 79 [80.]

- With the consent of the Legal Registrar two or more DMCC companies may amalgamate [77.1], or one or more DMCC companies may amalgamate with one or more bodies incorporated outside of the Centre [78.1] subject to application requirements [78.2], including
 - certified resolution of shareholders
 - declaration signed by an officer of each amalgamating company declaring ability to meet liabilities, realisable value greater than liabilities and issued capital, credit requirements are met and all necessary authorities were obtained [79.2]
- The resulting company shall continue in the Centre [79.1], however the Legal Registrar has absolute right of refusal [80.1].

WINDING-UP [6]

Winding-Up [81] and Alternative Remedy to Winding-Up in Cases of Oppressive or Prejudicial conduct [83]

Due to the complex and sensitive nature of winding up the Regulations have not been summarised in that regard. Please refer to the full set of Regulations.

THE INVESTIGATION OF THE AFFAIRS OF A COMPANY AND THE PROTECTION OF MINORITIES [7]

Investigation of the Affairs of a Company [82]

- Any shareholders/creditors/officers may petition Dubai Court to appoint a competent inspector to investigate the affairs of a company [82.1] and the inspector shall report its opinion to the Court [82.5]
- Security and expenses may be required from the applicant.[82.1]
- Officers and agents of the company must show books and documents for inspection [82.3]

BRANCH OF COMPANIES [8]

Branch of Company or Body Incorporated in or Outside the Centre Not to Carry on Business at the Centre [84]

- Any company or body shall NOT engage in/carry on trade or business activity in the Centre, except in accordance with the licensing regulations.[84.1]

Registration of Branch [85] and Grant or Refusal of Application to Register a Branch [86]

- An outside company can apply for a branch in DMCC [85.1] in the form specified, together with required documents including;
 - Constituent documents of outside incorporate company/body,
 - Copy of audited accounts for prior 2 years,
 - Copy of board resolution to establish a branch,
 - Power of attorney in favour of principal representative of the branch,
 - Other documents as required. [85.2]
- Applications granted will be issued a certificate of registration of the branch [86.2]
- Legal Registrar may refuse an application without giving reason. [86.3]

Prohibition of Registration of Branch with Undesirable Name [87]

- Registrar will refuse registration of undesirable branch name/s.[87.1]

Principal Representative

- Branch must appoint/maintain a principal representative and shall give notice in writing to DMCC of particulars [88.1] and amendments [88.2].

Register of Branch [89]

- Registrar shall keep register including name of branch and company, principal place it carries out business in Centre and registered office outside Centre, date and place of incorporation of parent company, and certificate of registration [89.1]

Records to be Kept by Branch [90]

- Branch shall keep records of its act and financial affairs to show the trade or business it carries on in the Centre. [90.1]

Letterheads and Service of Process of Branch [91]

- Branch shall show on letters its full name from License, place of incorporation of parent company, principal place and address of branch in Centre [91.1]
- Notice is served if delivered to registered place of business [91.2]
- Branch domicile is that of its place of business [91.3]

GENERAL [9]

Form of Registers [92]

- Authority shall keep proper records whether paper or electronic [92.1] and may provide a copy of any entry in the register on application from any person [92.2].
- Companies shall keep minutes and financial statements for at least six years [92.5].

Authority and Other Officers May Inspect Books Without Charge [93] and Production and Inspection of Books when Offence Suspected [94]

- DMCC may inspect a company's books and records without charge. [93.1]
- DMCC may require Secretary of company to produce books or papers for inspection by an appointed person if a breach is suspected [94.1] and that person will report on the results of the investigation to DMCC [94.3].

Suits and Actions Against the Authority [95]

- No suit or action shall lie against the authority or any person acting on its behalf for anything done in official capacity in good faith without negligence [95.1].

The Authority to be Indemnified in Respect of Centre Suits [96]

- DMCC is not required to take part in any proceedings outside the jurisdiction unless indemnified by the person who wishes the authority to act [96.1]

Applications to Court [97] and Power to Enforce [98]

- DMCC may refer any matter to a court of arbitral body of its choice [97.1].
- Orders made by such court or arbiter are enforceable [98.1]

Rules and Implementing Regulations [99]

- DMCC may make implementing regulations to prescribe any matter (including fees), including by amending or supplementing to these Regulations [99.1].

Fees [100]

- Fees shall be paid to DMCC [100.1] and may be amended from time to time [100.2]. Services may be provided only upon payment of the fee [100.3] and the forms stipulated by the Legal Registrar [100.4]

Enforcement of Company's Duty to Make Returns

- Legal Registrar may order a company to comply with a requirement, and failure to do so may result in a penalty [101.1/2]

Legal Registrar may Strike Defunct Company or Branch of Company off Register [102][103]

- If reason to believe a company or branch is not carrying on business or not in operation [102.1] or in breach of restrictions on activities [103.1] or fails to pay fees [104.1] Legal Registrar may inquire in writing with company. [102.1]
- If no response or above assertion is confirmed Legal Registrar shall give 3 months notice of striking off and dissolution of the company [102.2].

HELPFUL DEFINITIONS

These are not legally defined terms.

Articles of Association (AoA)	The company's Articles of Association is basically the internal rule book that every incorporated organization must have and work by.
Shareholder	A shareholder of a company is an owner of the company. They purchase shares in the company. Shareholders are often known as members and are technically not responsible for the running of the company.
Director	A director is appointed by the shareholders to run the company on their behalf. A Director does not own the company. However in practice, for many small companies the Director will be the same person as the shareholder.
Secretary	An officer that the directors appoint to handle legal issues and

	legislation. They must set up meetings, record minutes, keep records, make payments, and draft contracts.
Share capital	Share capital refers to the portion of a company's equity that has been obtained (or will be obtained) by selling shares to a shareholder for cash or an equivalent item of capital value.
Company Officer	An executive of a company who shares legal liability for his/her company's actions, including Director and Secretary.