

Rules Governing Bankruptcy Procedures in Commercial Courts

General Provisions

Article (1):

The terms and expressions used herein shall have the meanings assigned thereto in Article (1) of the Bankruptcy Law, issued by virtue of the Royal Decree No. (M/50), dated 28/5/1439 A.H., and Article (1) of the Bankruptcy Law and its Implementing Regulations, issued by virtue of the Council of Ministers' Resolution No. (622), dated 24/12/1439 A.H.

Article (2):

The provisions hereof shall be applicable to the procedures related to requests for consideration, provided for in the Bankruptcy Law and the Implementing Regulations thereof, before the Commercial Courts.

Jurisdiction

Article (3):

1. The Commercial Courts shall consider the following:
 - a. The debtor's claims against third parties if arising from any of the bankruptcy procedures,
 - b. The claims for compensation provided for in the Law, and
 - c. The disputes arising from officeholders' and experts' fees.
2. When necessary, the Court may, upon the request of the debtor or officeholder, decide to consider the debtor's claim against third parties. Such decision shall be governed by the provisions of Article (217) of the Law and Paragraphs (3), (4) and (5) of Article (5) hereof.

Article (4):

1. Venue of considering a request shall be determined by the Court within whose jurisdiction lies the headquarter of the debtor's business- whether the debtor is natural or legal.
2. The Court, which has commenced the bankruptcy procedure, shall be competent to consider any request regarding the said procedure.

Article (5):

1. The Court shall, in the first hearing, verify the preliminary issues of jurisdiction and the conditions for the claim admissibility.
2. The Court shall rule on a plea as to its non-jurisdiction by virtue of a separate judgment. When necessary, the Court may rule on the formal plea by virtue of a separate judgment.
3. The Court shall rule on the plea provided for in Paragraph (2) of this Article within seven days from the referral date.

4. The judgement on jurisdiction or form may be challenged within fourteen days from the issuance date thereof.
5. The Court of Appeal shall rule on the challenge to the judgment provided for in Paragraph (4) of this Article within five days from the date of the challenge referral thereto. The Court's judgement in this regard shall be considered final and non-appealable.

Judicial Notifications

Article (6):

Notification and announcement provisions laid down in the Law and the Implementing Regulations thereof shall be applicable to those residing outside the Kingdom.

Article (7):

The address registered in the request commencement statements shall be considered an address for service to the Court of Appeal.

The Unit Competent to Manage Bankruptcy Lawsuits in the Court

Article (8):

The competent unit in the Court shall manage the bankruptcy lawsuits in accordance with the provisions of the Law and Implementing Regulations, particularly the following:

1. Registering the requests, challenges, briefs, documents and reports;
2. Determining the dates of hearings;
3. Serving judicial notifications;
4. Supervising swapping briefs and documents;
5. Delivering judgements, decisions and notifications;
6. Notifying the stakeholders of the claim's documentation or requests upon the Court's permission;
7. Notifying the officeholder of the claim's documentation or requests;
8. Notifying the Bankruptcy Commission of the judgements and decisions falling within its competence in accordance with the approved work procedures; and
9. Preparing the necessary studies upon the Court's request.

Request Submission and Registration

Article (9):

1. The request submitted to the Court shall include the statements and attachments provided for in the Law, Implementing Regulations and Rules of Information and Documents.

2. The request shall be submitted to the competent unit in the Court.
3. The competent unit in the Court shall register the requests after ascertaining their compliance with the regulatory requirements. The request submitter has the right to file a grievance to the Court President within five days of being notified of the non-registration of the request. The Court President shall adjudicate on the grievance, and the Court President's decision in this regard shall be considered final. When necessary, the Court President may refer the request to the competent circuit to consider the acceptance. The circuit may decide the acceptance of the request registration whenever it deems that the request attachments serve the purpose of the information or document not submitted.

Moratorium and Precautionary Requests

Article (10):

1. Moratorium shall result in the suspension of the right to take or continue any procedure or action, or to file or continue any claim, against the debtor, its assets or the guarantor of the debtor's debts under the provisions of the Law and Regulations. The orders and decisions –issued prior to the moratorium–, that include attaching the assets or preventing the disposal thereof or banning travel, shall remain effective unless the Court, with which the procedure commencement request is registered, decides otherwise.
2. The notification of the registration of a request for the commencement of a bankruptcy procedure or the acceptance of a judicial depository, issued by the Court, shall serve as evidence, to the competent authorities, of the moratorium resulting from the request registration or the depository acceptance by virtue of the Law provisions.
3. The moratorium shall not be hindered by any requirements contained in any other Law concerning the suspension of orders or decisions, including the requirement of a financial guarantee or a personal guarantor.
4. In case a judgment has been issued rejecting a procedure commencement, the moratorium period shall be terminated upon the issuance of the initial judgment.
5. Without prejudice to the plan, the procedure, action or claim shall be continued immediately after the moratorium expiration.

Article (11):

1. The competent unit shall refer the request for a precautionary measure to the competent circuit on the day of its submission.
2. The request shall be adjudicated the day after its referral unless otherwise is required.
3. The challenge to the judgment on the request shall be filed to the Court of Appeal immediately after its submission.

4. The Court of Appeal shall adjudicate on the challenge within three days from its referral date. The Court's decision in this regard shall be considered final and non-appealable.

Request Consideration and Adjudication

Article (12):

1. If the request submitter fails to appear at the hearing scheduled for consideration, the Court shall rule the request null and void and may, when necessary, adjudicate thereon.
2. In all cases, the judgment or decision made on the request, following notification or announcement under the provisions of the Law and Implementing Regulations, shall be in presentia.

Article (13):

1. The Court may –when necessary– hold the hearings thereof away from Headquarters or via modern means of communication.
2. The Court may –when necessary– deem signing the hearing attendance record or proving attendance electronically sufficient.
3. If the record of evidence does not include statements, declaration or testimony of a litigant or others, the signature of the circuit judges and judicial officer shall be deemed sufficient.
4. Any of the procedures provided for in the Law or Implementing Regulations may be electronic. This includes submitting, considering and registering requests; swapping briefs; and issuing and challenging a judgment.

Judgment and Decision Issuance and Challenge

Article (14):

1. The Court may issue whatsoever judgments and decisions that may not be challenged without pleadings. The judgment or decision shall be documented in the Court's record, and a transcript thereof shall be delivered if required by any of the stakeholders.
2. The enforceable transcript shall be appended in the executive form and delivered to whoever has an interest in the execution thereof.
3. A copy of the judgment or decision, challenged before the Court of Appeal, shall be delivered, in accordance with the provisions of the Law or Implementing Regulations, the day after its issuance.
4. The copy of the judgment or decision may be delivered electronically.

Article (15):

Where not specifically provided for in the Law or Implementing Regulations, the submission of challenges, under the provisions of Articles (215) and (216) of the Law, shall not result in a moratorium on the challenged decision or procedure.

Article (16):

The competent unit shall file the challenge to the Court of Appeal the day after the challenge expiration.

Article (17):

Subject to Article (216) of the Law, the Court shall consider the challenge to the Bankruptcy Commission's decision or procedure. In case of overturning the challenge, the Court shall adjudicate on the subject of the said decision or procedure.

Article (18):

1. Except in cases set out in Article (217) of the Law, the judgments and decisions issued by the Court shall be considered final and non-appealable.
2. The Court of Appeal shall scrutinize the challenge.
3. If the Court deems it required to annul the judgment or decision, it shall adjudicate on the subject of judgment or decision, after pleading, by virtue of an incontestable judgment. The First Instance Court shall be responsible for the procedures provided for in Article (6) of the Law.
4. Any judgment issued by the Court of Appeal under the provisions of Article (217) of the Law shall be considered final and non-appealable.

Final Provisions

Article (19):

Where not specifically provided for, the provisions of the Law of Procedure before Shari'ah Courts and the Implementing Regulations thereof shall apply to the procedures pertaining to the consideration of requests provided for in the Law, without violating the nature of bankruptcy lawsuits.

Article (20):

The provisions of the Law of Criminal Procedures shall be applicable to the procedures pertaining to the consideration of requests to impose penalties on the crimes specified in the Law.

Article (21):

The consideration of the requests, specified in Paragraph (3) of Article (86) of the Law's Implementing Regulations, shall be governed by the procedures provided for herein.

Article (22):

The competent department in the Ministry of Justice shall prepare forms and work procedures pertaining to bankruptcy lawsuits. Such forms and procedures shall be approved by virtue of a resolution to be rendered by the Minister of Justice.

Article (23):

The Court may seek assistance from the Assignment and Liquidation Center in managing bankruptcy lawsuits.

Article (24):

These rules shall be published in the Official Gazette and shall come into force as of the date of their publication.