

# A NEW CODE: CONTRACT CONCERNS

Malek Al Rifai and Mohammed Basama of King & Spalding look at contract priorities now a new UAE civil code has been issued.

**“F**ederal Decree-Law No. 25/2025 issuing the Civil Transactions Law, will replace the previous UAE Civil Code (Federal Law No. 5/1985) with effect from 1 June 2026,” states Malek Al Rifai.

“This law includes a number of matters companies and boards will have to tackle as a result including: how this new law affects partnerships and professional firms, contracts and remedies (including in areas such as hardship and agreed damages), assignments and receivables.”

“It has also brought with it new time limits and guarantees, as well as changes on security and governing law, and new provisions on pre-contract behaviour.”



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## KEY CHANGES

“From 1 June 2026 Federal Decree-Law No. 25/2025 will become the key law the UAE courts use to answer a number of basic questions on contracts and damages,” Mohammed Basama states. “These will include: ‘Is a contract valid and binding? How should unclear clauses be read, and what happens if performance becomes impossible or extremely burdensome?’”

“It will also cover questions such as when can agreed damages be changed by a court; and when is a party liable for civil wrongs, and what losses can be claimed,” Al Rifai adds. “Sector-specific laws such as the Commercial Companies Law (Federal Decree-Law No. 32/2021), and legislation on financial regulation, agency, employment, real estate and insolvency will continue to apply and still govern many ‘front-of-house’ issues but Federal Decree-Law No. 25/2025 will provide the background rules on contracts,



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obligations, partnerships and security which apply where the contract is silent or where the Code imposes mandatory rules.

“Many of its concepts already existed under the Federal Law No. 5/1985, e.g. good faith, abuse of rights, specific performance and limitation.”

“What Federal Decree-Law No. 25/2025 has done is to modernise and organise them, add more detail in key areas and introduce some new tools the courts can use to rebalance contracts and transactions in defined situations.”

### **BASIC CONTRACT CONCEPTS**

“Federal Decree-Law No. 25/2025 has kept the basic rule that contracts must be honoured but recognises that circumstances can change dramatically in ways which the parties could not reasonably foresee,” Basama explains.

“Article 224 and 236 of Federal Decree-Law No. 25/2025 set out the key hardship and force majeure concepts.”

### **RELEVANT LEGISLATION**

#### **Article 340(2) of Federal Decree-Law No. 25/2025**

The court may reduce the amount of the agreed compensation (Liquidated Damages) if the debtor proves that the assessment was exaggerated or that the original obligation has been partially performed.

(Source: Lexis Middle East Law)

### **HARDSHIP**

“If events occur that are exceptional; general (not just affecting one party); and unforeseeable at the time of contracting; and they make performance extremely burdensome and likely to cause heavy loss to one party, a court may reduce that party’s obligation to a reasonable level; or in more serious cases, allow the contract to be brought to an end.”

“Parties cannot exclude this hardship rule in advance,” Al Rifai adds. “Clauses that purport to strip the court of this power will not be effective, although parties can still agree

## TIME LIMITS FOR BRINGING A CLAIM

### Approach

Federal Decree-Law No. 25/2025 continues the approach found in Federal Law No. 5/1985 that, after specific periods, courts will not hear certain types of claim.

### General period

It retains a general 15-year period.

### Specific periods

Under Article 429-444 of Federal Decree-Law No. 25/2025 shorter limits apply for certain categories of claim such as periodic payments, professional fees, certain commercial claims and wages.

### Guarantees and suretyship

Article 1006 of Federal Decree-Law No. 25/2025 has introduced a key timing rule under which a guarantor may be discharged if a creditor does not take the required legal steps against both the debtor and guarantor within six months after the debt falls due, unless a more specific law applies.

how they will manage hardship situations in practice, e.g. by setting up a negotiation process or an adjustment formula.”

### FORCE MAJEURE

Federal Decree-Law No. 25/2025 also treats force majeure separately from hardship,” Basama adds. “If an event makes performance objectively impossible, the corresponding obligations in a bilateral contract may lapse and the contract may terminate automatically. It also addresses partial and temporary impossibility, particularly in contracts where performance is repeated over time.”

### UNFAIR CONTRACTS

“Federal Decree-Law No. 25/2025 strengthens the tools courts have to deal with unfair or exploitative contracts,” Al Rifai states. “In addition to existing rules on mistake, misrepresentation and duress, Federal Decree-Law No. 25/2025 also addresses situations where one party clearly takes advantage of another’s weakness, inexperience or urgent need; and the resulting contract terms are grossly one-sided. In such cases, the court can intervene to adjust or even set aside the contract. This reinforces how important it is for companies to engage in fair dealing, have clear records of negotiations and avoid ‘take-it-or-leave-it’ tactics with clearly weaker parties in high-pressure situations.”

### REMEDIES

“In addition, Article 331-339 of Federal Decree-Law No. 25/2025 clarify specific performance and compensation mechanics,” Basama adds. “Federal Decree-Law No. 25/2025 confirms that parties can generally insist on performance in kind, if it is still possible. In addition, the Courts may order the defaulting party to perform; authorise the other party to have the work done at the defaulting party’s expense; or order the removal of acts that breach an obligation to refrain from doing something. If performance is impossible or defective, the courts can also award money damages based on the loss and lost profit that are a natural result of the breach.”

### AGREED LIQUIDATED DAMAGES

“Parties remain free to agree in advance the amount of compensation which will be payable on specified

breaches,” Al Rifai states. “However, Article 340 of Federal Decree-Law No. 25/2025 has clarified when the courts may change these amounts.”

“For example, if a debtor can show that the agreed sum is clearly excessive or that the obligation has been partly performed, the court may reduce the amount. In addition, if the creditor has contributed to the harm, the court may reduce compensation or decide that no compensation is payable. However, if the debtor has acted fraudulently or with gross fault, it may be possible for the creditor to claim more than the agreed amount.”

### PRE-CONTRACT

“There has also been significant change on pre-contract negotiations and disclosure, as Federal Decree-Law No. 25/2025 addresses pre-contract behaviour more directly than Federal Law No. 5/1985 in its provisions on negotiation, consent and misrepresentation,” Al Rifai continues. “In particular, Federal Decree-Law No. 25/2025 imposes duties to negotiate in good faith; requires parties to disclose certain fundamental or decisive information that, if withheld, could mislead the other side; and sets out when failure to negotiate honestly or to disclose key information can give rise to liability. For companies, this may be especially relevant in competitive sale processes; RFPs and tenders; onboarding key vendors, agents or distributors; and the early-stage M&A or joint-venture discussions.”

### NEXT STEPS

“As a result of these changes it is important businesses review hardship and force majeure clauses in key contracts to ensure they work with Article 224 and 236 of Federal Decree-Law No. 25/2025 and provide clear steps for renegotiation or adjustment,” states Al Rifai. “They should consider if existing arrangements could be vulnerable to ‘unfair exploitation’ arguments and if additional safeguards or documentation might be needed.”

“They may have to re-calibrate liquidated damages clauses so they are defensible as reasonable estimates of likely loss and structured to account for partial performance, in line with Article 340 of Federal Decree-Law No. 25/2025,” Basama adds. “Termination and acceleration rights should also be checked to ensure they focus on material breaches and support proportionate enforcement strategies. In addition, when it comes to pre-contract negotiations and disclosures, it will be necessary for there to be more discipline around what is said and recorded in negotiations. More structured information-sharing, and clearer internal guidance may also be needed on when withholding information might create legal risk.”

Nabil Issa, Alexander Barker, Sherif Saleh and Husni Al Far also contributed to this article.