

Federal Decree-Law No. (32) of 2023

On Finance Lease

We, Mohamed bin Zayed Al Nahyan

President of the United Arab Emirates,

- Having reviewed the Constitution,
- And Federal Law No. (1) of 1972 on the Competencies of Ministries and Powers of Ministers, and its amendments,
- And Federal Law No. (8) of 2018 on Finance Lease,
- And based on the proposal of the Minister of Finance and the approval of the Cabinet,

Have issued the following Decree-Law:

Chapter One

General Provisions

Article (1)

Definitions

For the purposes of this Decree-Law, the following words and phrases shall have the meanings assigned to them below, unless the context otherwise requires:

State: The United Arab Emirates.

Minister: The Minister of Finance.

Central Bank: The Central Bank of the United Arab Emirates.

Person: A natural or legal person.

Asset: 1. Any non-consumable item owned or legally possessed by the Lessor in accordance with the provisions of this Decree-Law and the resolutions issued in implementation thereof, and used in the Lessee's craft, trade, business, or personal use, and includes:

- a. Off-plan real estate units that may be the subject of legal transactions in accordance with the legislation in force in each Emirate.
 - b. Capital, future, and specifically manufactured assets, equipment, plants, live animals, and those in gestation. Movable property is considered an asset even if it becomes real property by destination or is merged with real property.
2. The Leased Asset shall not include the following:
- a. Aircraft, airframes, helicopters, and aircraft engines of any type that are subject to registration in special registers in accordance with the legislation in force in the State and the international treaties and conventions to which the State is a party.
 - b. Marine vessels of any type that are subject to registration in special registers in accordance with the legislation in force in the State.
 - c. Cash.
 - d. Investment bonds.
 - e. Lands granted by the State.

Principal Place of Business: The place where a Person regularly manages their transactions. In the absence of proof to the contrary, the address registered with the competent authorities or the Person's usual place of residence shall be deemed their principal place of business.

Finance Lease: The leasing of an Asset by the Lessor to the Lessee in return for rent for a specified period, with the option for the Lessee to own the Asset as provided for in Article (3) of this Decree-Law.

Lease Contract: A contract under which the Lessor leases the Leased Asset to the Lessee in accordance with the provisions of this Decree-Law.

Lessee: The Person who acquires the right to possess and use the Leased Asset under a Lease Contract, and includes a sub-lessee.

Lessor: The legal person who grants another person the right to possess and use the Leased Asset under a Lease Contract, and includes a sub-lessor.

Supplier: The Person from whom the Lessor acquires the Leased Asset under a Supply Agreement in a tripartite lease.

Supply Agreement: An agreement under which the Lessor acquires the Asset from the Supplier for the purpose of leasing it to another person in a tripartite lease.

Special Movables: Movables that require registration under the legislation in force in the State, and do not include movables for which rights are registered in the registry established under Federal Law No. (4) of 2020 on Securing Rights in Movable Property.

Writing: Information that is created, transmitted, received, or stored in written form or through any electronic means, including modern communication methods.

Article (2)

Scope of Application

1. The provisions of this Decree-Law shall apply to every finance lease of a Leased Asset in the following cases:

- a. If the Leased Asset is located in the State or in any of the free zones that are not subject to special provisions regulating finance lease.
- b. If the Lessee's principal place of business is located in the State or in any of the free zones that are not subject to special provisions regulating finance lease.
- c. If the Lease Contract provides that the laws of the State shall govern the contractual relationship.

2. This Decree-Law shall not apply to financial free zones in the State.

Article (3)

Types of Finance Lease

1. A bilateral finance lease is one in which the Lessor grants the Lessee the right to possess and use an asset for the period specified in the Lease Contract in exchange for rent or other amounts due under that transaction, with the contract including the following:

- a. An option to purchase all or part of the Leased Asset.

- b. The rent or other amounts due under the Lease Contract and the method of their payment.
- 2. A tripartite lease is a finance lease that includes the following characteristics:
 - a. The Lessee specifies the Leased Asset and its specifications and selects the Supplier.
 - b. The Lessor acquires the Leased Asset for the purpose of leasing, and the Supplier is aware of this.
- 3. A tripartite finance lease contract may include granting the Lessee an option to purchase all or part of the Leased Asset.
- 4. A sale and leaseback, whereby the Supplier sells the Asset to the Lessor and then the Supplier leases it back from the Lessor under a lease contract as a lessee, shall be considered a tripartite finance lease.
- 5. A sublease is when the Lessee leases the Leased Asset to a third party.

Article (4)

Regulation and Licensing of Finance Lease Activity

- 1. The Central Bank shall regulate, license, and supervise the finance lease activity practiced by banks, companies, and institutions subject to its regulation under the legislation in force in the State, and shall issue the conditions and controls for practicing this activity.
- 2. The Cabinet shall, upon the proposal of the Minister:
 - a. Determine the authority or authorities supervising the regulation, licensing, and supervision of legal persons that practice finance lease activity other than banks, companies, and institutions subject to regulation by the Central Bank.
 - b. Issue the conditions and controls for practicing finance lease activity for the legal persons referred to in paragraph (a) of clause (2) of this Article.
- 3. The Minister shall issue the necessary regulations to regulate the provisions of accounting treatment related to finance lease.

4. The concerned authorities in the State that adopt procedures for registering or licensing assets or annotating the registers with the main transactions carried out on them, shall amend or adapt these procedures to register cases where these assets become leased under a lease contract subject to the provisions of this Decree-Law in their registers.

Chapter Two

Finance Lease Contract

Article (5)

Data of the Finance Lease Contract

1. The parties to the Lease Contract may agree to determine the provisions governing their respective rights and obligations.

2. The Lease Contract shall include the following data and information as a minimum:

- a. Name of the Lessor and Lessee and their details.
- b. Name of the Supplier in the tripartite contract and their details.
- c. Description of the Leased Asset.
- d. Duration of the Lease Contract.
- e. The intended purpose for the use of the Leased Asset and the limits of its use.
- f. The amount of rent, the number of payments, and their due dates.
- g. Rights and obligations of the parties to the Lease Contract.
- h. Any other data or information agreed upon by the parties to the Lease Contract, provided it does not violate the provisions of this Decree-Law.

3. The omission of any of the data and information provided for in paragraphs (d, e, f, g) of clause (2) of this Article in the Lease Contract shall not affect the validity or enforceability of the contract against third parties.

4. The Lease Contract must be in writing, otherwise it shall be void.

Article (6)

Effectiveness Between the Parties and Against Third Parties

1. The Lease Contract shall be effective and binding between its parties according to its terms.
2. The enforceability of the rights of the parties to the Lease Contract against third parties, including any third party who purchases the Leased Asset, creditors of the parties, and the trustee in bankruptcy, shall be subject to the provisions of clauses (3), (4), and (5) of this Article.
3. The enforceability of the rights of the parties to the Lease Contract against third parties shall be subject to the provisions of Law No. (4) of 2020 on Securing Rights in Movable Property to the extent that its provisions apply to the Assets.
4. The Lease Contract concerning real estate and any amendment thereto shall be annotated, upon the request of the Lessor or the Lessee, in the real estate registry of the property with the competent authority in the concerned Emirate in accordance with its applicable procedures, and it shall be effective against third parties from the date of this annotation.
5. The Lease Contract concerning special movables and any amendment thereto shall be annotated, upon the request of the Lessor or the Lessee, in the registry prepared for this purpose with the competent authority in the concerned Emirate in accordance with its applicable procedures, and it shall be effective against third parties from the date of this annotation.
6. The annotation made in accordance with the provisions of clauses (4) and (5) of this Article shall not be canceled except by a final judgment of cancellation from the competent court or with the consent of the parties to the Lease Contract or their legal successor, or in accordance with any other legislation in force in the State, as the case may be.

Article (7)

Beneficiary of the Supply Agreement in a Tripartite Lease

1. The obligations of the Supplier under the Supply Agreement in a tripartite lease shall be performable to the Lessee as if the Lessee were a

party to the Supply Agreement and the Leased Asset were to be supplied directly to them. The Supplier shall not be liable to compensate both the Lessor and the Lessee for the same act that causes damage more than once.

2. The Lessor shall, upon the request of the Lessee, assign its rights related to the performance of the Supply Agreement to the Lessee, including rights related to judicial and arbitration proceedings. If the Lessor refuses, it shall be liable to the Lessee for the performance of the Supplier's obligations.

3. If the Lessee has approved the Supply Agreement, its rights arising from the Supply Agreement shall not be affected by any amendment made to it, unless the Lessee agrees to such amendment in writing. Otherwise, the Lessor shall be deemed liable for the performance of the Supplier's obligations to the Lessee to the extent of the amendment.

4. The Lessee may not negotiate the amendment, termination, or cancellation of the Supply Agreement unless the parties agree otherwise.

Article (8)

Rights of the Parties to the Lease Contract

1. The rights of the parties to the Finance Lease Contract shall be effective and have legal effect against the creditors of the Lessor.

2. The nullity or rescission of the Supply Agreement shall have no effect on the Finance Lease Contract.

Article (9)

Cases of Non-Liability of the Lessor in a Tripartite Lease

Unless the parties agree otherwise in a tripartite lease, the Lessor shall not be liable to the Lessee or a third party for death, personal injury, or property damage caused by the Leased Asset or arising from its use, within the limits of its capacity as the Lessor of the Asset, as established in the Supply Agreement and the Lease Contract.

Chapter Three

Performance

Article (10)

Irrevocability of Obligations

1. Unless the Lessor and the Lessee agree otherwise:
 - a. In a tripartite lease, upon delivery of the Leased Asset subject to the Lease Contract to the Lessee and its acceptance thereof, the obligations of the Lessor and the Lessee contained in the Lease Contract shall become independent and irrevocable.
 - b. In a bilateral lease, the Lessor and the Lessee may agree that any of their obligations shall be independent and irrevocable by specifying those obligations.
2. Without prejudice to the provisions of clause (3) of Article (23) of this Decree-Law, every independent and irrevocable obligation must be performed even if any third party fails to perform its obligations, unless the party for whose benefit the obligation is to be performed terminates the Lease Contract.

Article (11)

Risk of Loss

Unless the Lessor and the Lessee agree otherwise:

1. In a tripartite lease:
 - a. The risk of loss of the Leased Asset passes to the Lessee from the time the Lease Contract becomes effective between its parties.
 - b. If the Leased Asset is not delivered to the Lessee, or is delivered partially, or in a manner that does not conform to the Lease Contract, and the Lessee claims compensation under Article (14) of this Decree-Law, the Lessor or the Supplier shall be responsible for the loss, as the case may be.

2. In a bilateral lease contract, the Lessor remains responsible for the loss of the Leased Asset and the responsibility does not transfer to the Lessee, unless the loss is due to the Lessee.

Article (12)

Loss and Damage of the Leased Asset

Unless the Lessor and the Lessee agree otherwise:

1. In a tripartite lease, if the Leased Asset subject to the lease is lost or partially damaged before the Lessee receives it without fault on their part or on the part of the Lessor, the Lessee may request an inspection of the Leased Asset and has the option to accept it with the Supplier's guarantee for the reduction in value or to claim other compensation provided for under the legislation in force in the State.
2. In a bilateral lease, if the Leased Asset is lost before the Lessee receives it without fault on their part or on the part of the Lessor, the Lease Contract shall terminate. If it is partially damaged, the Lessee may request an inspection of the Leased Asset and has the option to consider the Lease Contract terminated or to accept the Leased Asset with a reduction in the rent and other amounts due for the remaining period of the Lease Contract equivalent to the reduction in value, without having the right to recourse against the Lessor for anything else.

Article (13)

Acceptance of the Leased Asset

Unless the Lessor and the Lessee agree otherwise, the Leased Asset is deemed accepted by the Lessee if they inform the Lessor or the Supplier of the conformity of the Leased Asset with the terms of the Supply Agreement, or by not expressing refusal to receive the Leased Asset after having a reasonable opportunity to inspect or use the Leased Asset.

Article (14)

Remedies

Unless the Lessor and the Lessee agree otherwise:

1. In a tripartite lease, if the Leased Asset is not delivered, or is delivered partially, or delivery is late, or in a manner that does not conform to the terms of the Lease Contract or the Supply Agreement, the Lessee may claim any compensation provided for under the legislation in force in the State, and may also demand that the Supplier deliver a conforming substitute for the asset, as the case may be.
2. In a bilateral lease, if the Leased Asset is not delivered, or is delivered partially, or delivery is late, or in a manner that does not conform to the terms of the Lease Contract, the Lessee may accept or reject the Leased Asset, or terminate the Lease Contract, without prejudice to the provisions of Article (23) of this Decree-Law, provided that the Lessor is notified of the rejection and termination within a reasonable time from the delivery of the Leased Asset.
3. In a bilateral lease, the Lessee may, after accepting the Leased Asset, reject it in accordance with the provisions of clause (2) of this Article, provided that the non-conformity of the Leased Asset with the terms of the Lease Contract substantially impairs its value, even if either of the following two cases occurs:
 - a. The Lessee accepted the Leased Asset without knowing about the non-conformity due to the difficulty of discovering it.
 - b. The Lessor induced the Lessee to accept the Leased Asset under warranties issued by the Lessor.
4. In a bilateral lease, if the Lessee rejects the Leased Asset in accordance with the provisions of this Decree-Law or the Lease Contract, they may withhold payment of the rent until compensated for the non-conforming delivery, and may recover the rent and any other amounts paid in advance after deducting an amount for the benefit the Lessee derived from the Leased Asset.
5. If the Lessee is the one who provided the Lessor or the Supplier with specific specifications to be met in the Leased Asset, this shall be

considered an acceptance on their part not to recourse against the Lessor or the Supplier for compensation for any claim of breach resulting from the obligation to implement those specifications.

Article (15)

Transfer of Rights and Obligations

1. Unless the Lessor and the Lessee agree otherwise:
 - a. The Lessor's rights under the Lease Contract are assignable without the need for the Lessee's consent.
 - b. The Lessor and the Lessee may agree that the Lessee may not assert against the assignee of the Lessor's rights any of the defenses or rights of set-off available to them against the Lessor, except for those arising from the Lessee's incapacity, and without prejudice to the Lessee's right to assert their rights against the Lessor.
 - c. The Lessor's obligations arising from the Lease Contract may not be transferred except with the Lessee's written consent, and the Lessee may not withhold such consent without a reasonable cause, taking into account the rights of third parties.
 - d. The Lessee's rights and obligations arising from the Lease Contract may be transferred with the Lessor's written consent, and the Lessor may not withhold such consent without a reasonable cause, taking into account the rights of third parties.
 - e. The new Lessee to whom the Lease Contract has been transferred shall substitute the original Lessee in all rights and obligations arising from the Lease Contract.
2. The assignment of the Lessor's rights to collect rent and other amounts due shall be subject to the provisions of Federal Law No. (4) of 2020 on Securing Rights in Movable Property.
3. The rights of the Lessee, if a natural person, shall be transferred in the event of their death to their general or special successor, unless the parties agree otherwise.

Article (16)

Warranty of Quiet Possession of the Leased Asset

Unless the Lessor and the Lessee agree otherwise:

1. The Lessor warrants that the Lessee's possession and enjoyment of the Asset will not be disturbed by any person with a first-degree real or personal right, or who claims under a court order to have a first-degree real or personal right, or who claims the existence of negligence, omission, or willful act of the Lessor, whether the Lease Contract is bilateral or tripartite.
2. Without prejudice to the provisions of clause (3) of Article (23) of this Decree-Law, the Lessee has the right to claim compensation for the disturbance of possession of the Leased Asset by filing a lawsuit against the Lessor to claim compensation for the damage.

Article (17)

Warranties of the Supplier and Lessor for the Leased Asset

Unless the Lessor and the Lessee agree otherwise:

1. In a tripartite lease, the Supplier warrants that the Leased Asset described in the Supply Agreement is of a quality that conforms to commercial custom and is fit for the usual purpose for which an asset of the same type is used. Subject to the provisions of clause (2) of Article (7) of this Decree-Law, this warranty may only be asserted against the Supplier.
2. In a bilateral lease, the Lessor warrants that the Leased Asset agreed upon in the Lease Contract is of a quality that conforms to commercial custom and is fit for the usual purpose for which an asset of the same type is used, if the Lessor is one who normally deals in assets of the same type.

Article (18)

Lessee's Obligation to Maintain the Leased Asset

1. The Lessee is obligated to exercise due care to maintain the Leased Asset, use it in the customary manner for similar assets, and maintain it in the condition in which it was delivered, except for normal wear and tear.
2. Unless the Lessor and the Lessee agree otherwise, the Lessee is obligated to maintain the Leased Asset and follow the technical instructions issued by the Supplier or manufacturer, if any.

Article (19)

Licensing of the Leased Asset

1. Unless the Lessor and the Lessee agree otherwise, and subject to clause (2) of this Article, the Lessee shall, at their own expense, license and renew the license of the Leased Asset and obtain from the competent authorities any necessary approvals to enable them to use it, if the Asset by its nature requires licensing according to the legislation in force in the State.
2. The Lessor must provide the Lessee with all documents and permits necessary to enable the Lessee to perform the duty stipulated in clause (1) of this Article.

Chapter Four

Default and Termination

Article (20)

Breach of Obligations Arising from the Lease Contract or the Provisions of the Decree-Law

The parties may agree to define the cases that constitute a default or give rise to rights or remedies as provided for in this Chapter. In the absence of an agreement, a default is considered to have occurred if one of the

parties breaches any of its obligations arising from the Lease Contract or the provisions of this Decree-Law.

Article (21)

Notices

Unless the Lessor and the Lessee agree otherwise, the aggrieved party is obligated to notify the defaulting party of the occurrence of the default, of performance, or of termination, with notice of the possibility of remedy.

Article (22)

Compensation for Damages

1. Unless the Lessor and the Lessee agree otherwise, the aggrieved party, upon the occurrence of a default, has the right to claim damages, either alone or in addition to other remedies for damages as provided for in the Lease Contract, which are necessary to redress the harm so as to restore the aggrieved party to the position they would have been in if the Lease Contract had been performed according to its terms.

2. If the Lease Contract provides that the party in breach of its obligations under the Lease Contract must pay the aggrieved party a specified amount or an amount to be calculated as compensation for that breach, the aggrieved party is entitled to claim this amount.

Article (23)

Termination of the Lease Contract

Unless the Lessor and the Lessee agree otherwise:

1. The Lease Contract may be terminated in the following cases:
 - a. In accordance with the provisions of clause (2) of Article (12) of this Decree-Law.
 - b. By agreement of the parties.

- c. At the request of the aggrieved party in the event of a material breach by the Lessor or the Lessee.
 - d. In the event of the Lessor's breach of the duty to warrant quiet possession as provided for in Article (16) of this Decree-Law.
2. Notwithstanding the provisions of paragraphs (a) and (b) of clause (1) of this Article, the Lessee in a tripartite lease may not terminate the Lease Contract after accepting and receiving the Leased Asset for a reason attributable to a material breach by the Lessor or the Supplier, without prejudice to their right to claim other remedies agreed upon between the parties or provided for by the legislation in force in the State.
3. Subject to the provisions of Article (10) of this Decree-Law, upon termination of the contract, all corresponding obligations to be performed by both parties under the Lease Contract shall cease, except for obligations that are to be performed as a result of its termination and rights arising from a breach or performance prior to termination.

Article (24)

Bankruptcy and Liquidation

1. In the event of the Lessor's liquidation or declaration of bankruptcy, the Lessee has the right to continue performing the Lease Contract according to its terms and provisions, provided that the liquidator or trustee in bankruptcy is notified thereof.
2. The new Lessor to whom the ownership of the Leased Asset has been transferred as a result of liquidation or declaration of bankruptcy must continue to perform the Lease Contract if the Lessee expresses their desire to do so.

Article (25)

Return of the Leased Asset and Right of Possession and Disposal

1. Upon the termination or expiration of the Lease Contract, the Lessee must return the Leased Asset to the Lessor in the condition specified in

clause (1) of Article (18) of this Decree-Law, unless the parties to the contract agree otherwise or the contract includes an agreement for the Lessee to own the Leased Asset upon the expiration of the contract period.

2. The Lessor may, under a Lease Contract related to movables, enforce their rights in accordance with the provisions of Federal Law No. (4) of 2020 on Securing Rights in Movable Property.

Article (26)

Improvements to the Leased Asset

Unless the Lessor and the Lessee agree otherwise, if the Leased Asset is returned to the Lessor in accordance with the provisions of clause (1) of Article (18) of this Decree-Law, the following shall be observed:

1. All improvements that can be separated from the Leased Asset without damaging it, made by the Lessee at their own expense, shall remain their property.

2. The Lessee may claim compensation from the Lessor for any improvements made to the Leased Asset at their own expense with the Lessor's prior written consent, if they are such that they cannot be separated from the Leased Asset without damaging it.

3. The Lessee is not entitled to any compensation for improvements made to the Leased Asset at their own expense which are not separable from the Leased Asset without damaging it, if they were made without the Lessor's prior written consent.

Chapter Five

Final Provisions

Article (27)

Penalties

Without prejudice to any more severe penalty provided for by any other law, anyone who engages in finance lease activity or uses the phrase

"finance lease" or any of its synonyms in their trade name without a license shall be punished by imprisonment for a period not exceeding (6) six months and a fine of not less than (100,000) one hundred thousand dirhams and not exceeding (5,000,000) five million dirhams, or by one of these two penalties.

Article (28)

Judicial Enforcement

The employees who are designated by a decision of the Minister of Justice in agreement with the Minister, or by a decision of the head of the local judicial authority in agreement with the head of the concerned authority, shall have the capacity of judicial enforcement officers in proving violations of the provisions of this Decree-Law, its executive regulations, and the decisions issued in implementation thereof.

Article (29)

Repeals

1. Federal Law No. (8) of 2018 on Finance Lease is hereby repealed, and any provision that contradicts or is inconsistent with the provisions of this Decree-Law is also repealed.
2. The resolutions in force before the entry into force of the provisions of this Decree-Law shall continue to be effective, to the extent that they do not conflict with its provisions, until they are replaced by others in accordance with the provisions of this Decree-Law.

Article (30)

Publication and Entry into Force of the Decree-Law

This Decree-Law shall be published in the Official Gazette and shall come into force (6) six months after the date of its publication.

Issued by us at the Presidential Palace in Abu Dhabi:

On: 10/ Rabi' al-Awwal/ 1445 H

Corresponding to: 25/ September/ 2023 AD

Mohamed bin Zayed Al Nahyan
President of the United Arab Emirates