**IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE**

**COURTS**

**PRACTICE DIRECTION NO. 4 OF 2016**

**DIFC Courts Fees Amendment – for Consultation**

**Citation**

This Practice Direction will come into effect on the date of signature. It may be cited as **Practice Direction 4 of 2016** – **DIFC Courts Fees Amendment** and may be abbreviated to **PD 4/2016.**

1. This Practice Direction is issued pursuant to the powers conferred on me by Article 8 (3) (a) of Dubai Law no. 9 of 2004, as amended. It will come into force from the date of signature and supersedes the former Amended Practice Direction No. 4 of 2015 – DIFC Courts’ Fees.

2. The attached Schedule 1 of this Practice Direction prescribes the fees of the DIFC Courts that will come into effect on the date of signature.

Dated this XX day of XX 2016

**Chief Justice Michael Hwang**

Schedule 1

DIFC Courts’ Fees

**I. Originating Proceedings – Court of First Instance (CFI)**

Part 7 claim (money and/or property claims):

|  |  |
| --- | --- |
| Claim Value | Fee |
| Up to and including USD 500,000 | 5% of the value of the claim and/or the property with a minimum of USD 1,500 |
| USD 500,000 – USD 1 million | USD 25,000 + 1% over USD 500,000 |
| USD 1 million – USD 5 million | USD 30,000 + 0.5% over USD 1 million |
| USD 5 million – USD 10 million | USD 50,000 + 0.4% over USD 5 million |
| USD 10 million – USD 50 million | USD 70,000 + 0.15% over USD 10 million |
| Over 50 million | USD 130,000 |

This amount will include the hearing fees for any in-chamber meetings, one Case Management Conference, one Pre-Trial Review and up to 3 days of trial. Any additional filings or hearings will be charged as per Article IV below.

All Other Claims:

**USD 5,000** for non-monetary claims.

Filing Proceedings against a party or parties not named in originating proceedings:

**USD 500**

Reimbursement:

1. Where the parties successfully settle the claim filed in the DIFC Courts in full, the following reimbursements shall apply:
* For claims settled before the Case Management Conference takes place, 65% of the filing fee shall be reimbursed.
* For claims settled between the Case Management Conference and the Pre-Trial Review, 35% of the filing fee shall be reimbursed.
* For claims settled after the Pre-Trial Review has taken place, no reimbursement shall be applicable.
1. For applications to recognise and/or ratify arbitral awards where the recognition and/or ratification is unopposed, 50 % of the relevant fee will be reimbursed once the award is recognised and/or ratified;
2. For claims in which judgment is given in default of the filing of an acknowledgement of service or defence, 65% of the filing fee will be reimbursed upon application following the expiry of a period of 1 month after the judgment creditor has advised the Court that the judgment debtor has been made aware of the default judgment. The fee will be payable again should the judgment debtor apply successfully to set aside the default judgment in question (see RDC 14.1 to 14.4); and
3. For claims which are the subject of a successful immediate judgment application (even after a disputed jurisdiction hearing), 65% of the filing fee will be reimbursed upon application following the expiry of 1 month after the judgment creditor has advised the Court that the judgment debtor has been made aware of the immediate judgment [in the event that the order for immediate judgment was made against a respondent who did not appear at the hearing of the application, or after the period within which the judgment debtor can apply to appeal the immediate judgment, where the respondent was present at the hearing.] .

Notes:

* All other claims include, but are not limited to:
1. Part 8 claims
2. Winding-up petitions
3. Unquantified damages claims; and
4. Proceedings for judicial review
* Where a claim is both for money and for other relief (whether cumulatively or in the alternative) only the higher applicable fee is payable.
* For a claim made by way of counterclaim, the same fee shall be payable as if the relief or remedy sought were the subject of separate proceedings.
* Where a claim or counterclaim is amended so that a higher fee would have been payable if it had been so drawn originally, the party making the amendment shall pay the difference.
* For the avoidance of doubt, the fees applicable to claims to recognise and/or ratify (i) arbitration awards or (ii) judgments from other courts shall be those applicable to Part 7 claims. This does not apply to applications to enforce judgments from, among others, Courts in the UAE or GCC, which are to be filed as enforcement claims rather than claims for recognition or ratification.
* Where a claim or counterclaim is said to be for an unspecified amount, an amount to be determined by the Courts or for an amount which reasonably appears to the DIFC Courts to be less than the actual amount of the claim or counterclaim, the DIFC Courts may impose such fees as it considers reasonable and which are based on the fees set out in this Schedule.

**II. Applications**

Applications without a hearing:

**USD 300**

Ordinary Applications:

Applications likely to require an oral hearing lasting 2 hours or less: **USD 300**

Heavy Applications:

Applications likely to require an oral hearing lasting more than 2 hours: **USD 2,000**

This fee will include a one day hearing for the relief sought, if applicable.

Notes:

Heavy applications include, but are not limited to:

1. An application contesting jurisdiction
2. An application seeking to strike out all or part of a statement of case, submission or evidence filed
3. An application for immediate judgment

The above fee is payable whenever an application notice is received by the Registry.

The above fee also applies to applications made by way of letter or email, or pursuant to another Rule, whether on or without notice, with the exception of applications made orally at a hearing.

Where an application is amended so as to request a hearing where none was previously sought, an additional Court fee in line with the above will be payable. The Registrar or Judge shall have the discretion to determine, on a case-by-case basis, which party shall pay the additional fee.

Where an application is amended seeking a longer duration for the hearing, so as to classify that application as a heavy rather than ordinary application, an additional Court fee in line with the above will be payable. The Registrar or Judge shall have the discretion to determine, on a case-by-case basis, which party shall pay the additional fee.

**III. Late Filings:**

**USD 200** for every day that any and all documents to be filed pursuant to a Rule, Direction or Order of the Court are filed late with the Court

Notes:

* Parties filing documents after the deadline to do so has passed, even if filed on the same day, may be charged a late filing fee.
* Upon written application, which may be made by way of letter, the Registrar or a Judge of the DIFC Courts shall have the discretion to vary, suspend or waive any and all late filing fees that are applied.

**IV. Hearings:**

On setting down for a hearing (up to 1 day):

**USD 1,000**

For each half-day of a hearing after the first day:

**USD 500**

The fee shall be paid when the hearing is set down by the DIFC Courts, based on the number of days agreed by the parties or, failing agreement, as determined by the DIFC Courts.

Fees for any overrun shall be paid prior to the expiry of the period for which the hearing was originally set down.

The paying party may seek reimbursement of any payment of this fee for half-days not utilised for the relevant hearing. Reimbursement of such fees shall be at the sole discretion of the DIFC Courts.

Use of video conferencing facilities:

**USD 1,000** per hearing

Notes:

With regard to hearings by telephone or video conference, the costs of the transmission will initially be the responsibility of, and must be met by, the party requesting the telephone or video conferencing facility. Such costs will be invoiced in addition to the setting down for a hearing fee.

Should a hearing be vacated one month in advance of the date it is listed, the hearing fee will no longer be payable and will be refunded if already paid. Any hearing vacated within a month of the listing date remains payable. If a hearing is vacated within a month of the listing date and is relisted for a later date, both hearing fees will be payable.

**V. Appeals:**

Filing an Appellant’s/Respondent’s Notice:

**USD 5,000**

This fee includes a 1 day hearing before the Court of Appeal.

Notes:

* For a cross-appeal, the same fees as payable as for an appeal.
* Setting down for hearing fees under Article IV applies to appeal hearings.

**VI. Enforcement (ENF):**

Enforcement in the DIFC:

1. Enforcing DIFC Court judgments or orders:
2. **No fee** will be payable by the party filing for enforcement.
3. **3% of the value of the judgment or order** is to be settled by the party against whom enforcement has been filed.
4. Enforcing judgments or orders made outside of the DIFC Courts:
5. **1% of the value of the judgment or order, with a minimum of USD 100 and a maximum of USD 20,000**, is to be settled by the party filing for enforcement.
6. **3% of the value of the judgment or order** is to be settled by the party against whom enforcement has been filed.

An enforcement fee will not be payable in the event that an interim enforcement order does not become final. In practical terms, the receiving party’s invoice will be issued upon application, whereas the paying party’s fee will be invoiced and fall due once the enforcement order becomes final.

Enforcement outside of the DIFC:

**USD 100** for a letter or information from the DIFC Courts to enforce outside of the DIFC.

Enforcement applications:

**USD 300**

Notes:

Enforcement as per the above does not apply to the ratification and/or recognition of arbitral awards or judgments of other courts. See Article I.

**VII. Determination of Costs:**

Upon filing a Notice of Commencement of Assessment of Bill of Costs:

**7.5% of the sum claimed**

Upon issuing:

Default costs certificate or certificate for an agreed amount: **USD 300**

Notes:

* A separate setting down fee for the detailed costs assessment hearing shall apply (see Article IV — Hearings).
* Where the sum certified in a final costs certificate includes costs certified in an interim certificate in respect of which a fee has been paid, the fee for the final costs certificate shall be correspondingly reduced.
* Parties will be entitled to a 50% refund (of the sum they paid in respect of the notice of commencement of assessment of bill of costs) if they settle in full and advise the Court within 21 days of the date of the detailed assessment.

**VIII. Small Claims Tribunal:**

Filing fees for employment claims shall be assessed as follows:

**2% of the value of the claim with a minimum of USD 100.**

Appeals to the CFI following employment claims in the SCT shall be assessed as follows:

**1% of the value of the claim with a minimum of USD 100.**

Filing fees for claims relating to rental disputes which do not exceed AED 500,000 shall be assessed as follows:

**5% of the value of the claim with a minimum of USD 100.**

Filing fees for all other claims:

**5% of the value of the claim with a minimum of USD 100.**

Appeals to the CFI following non-employment claims in the SCT shall be assessed as follows:

**2.5% of the value of the claim with a minimum of USD 100.**

Notes:

* For a claim made by way of counterclaim, the same fee shall be payable as if the relief or remedy sought were the subject of separate proceedings.
* The SCT Registrar or SCT Judge shall have the discretion to suspend, reduce, or waive applicable fees in the SCT if they consider it appropriate in the circumstances.
* The fees for a Part 7 Claim will apply to cases that are transferred from the SCT to the CFI pursuant to RDC 53.37.

**IX. Transcripts, Recordings and Photocopies:**

Transcripts of hearings (unofficial only):

* USD 385 per hour for overnight turnaround
* USD 337 per hour for 2 working-day turnaround
* USD 298 per hour for 4 working-day turnaround
* USD 248 per hour for 7 working-day turnaround
* USD 585 per hour for processing on a weekend or Public Holiday

In accordance with Rule 35.99 of the Rules of the DIFC Courts, should a party wish to request the DIFC Courts to have a transcript of any hearing(s) drawn up, the Court shall charge an administrative fee of **USD 300** for the handling of such a request, in addition to the applicable third party charges.

Recordings of hearings:

**USD 300** per CD of recording (8 hours of recording per disc)

Photocopies of documents from the Court records (RDC 6.9-12, 17):

for the first page: **USD 2**

for each subsequent page: **USD 1**

Notes:

* Payment for transcripts must be made before the transcript can be provided to the requesting party.
* Transcripts requested on overnight turnaround will be delivered, if paid for, by no later than 2pm UAE time the following day.
* A full day’s hearing cannot be transcribed on overnight turnaround without advance notice being given to the DIFC Courts Registry.
* Working days for transcription are from Monday to Friday. The weekend falls on Saturday and Sunday.
* A transcript cannot be processed on a weekend or public holiday without at least one week’s notice being given to the DIFC Courts Registry.
* Once a transcript has been drawn up, it will be available to all the parties to a case and will be placed in the DIFC Courts eRegistry.
* There is no fee for downloading soft copies of documents via the eRegistry available via the DIFC Courts’ website.
* The above fee for photocopies also applies to photocopies of documents from the DIFC Courts library and documents to be printed by the Court at the request of the parties.

**X. General Information**

All of the above mentioned fees are payable in UAE Dirhams or their equivalent in United States Dollars (at the conversion rates of US$1:AED3.675 or as otherwise determined by the DIFC Courts from time to time).

* Payments may be made by using the Courts’ e-payment facility or alternatively by registering your law firm with the Courts’ credit facility. Payments can also be made by wire transfer or in person in cash or cheque.
* In an effort to promote the most efficient handling of cases and allocation of resources, and in line with the DIFC Courts’ paperless initiative, parties are encouraged to use the DIFC Courts’ e-filing facility for the filing of court documents.
* Please note that a 40% surcharge will be added to the applicable fees for any document filed with the Registry for the Court of First Instance or Court of Appeal by means other than the e-filing facility.

For further information, please visit our website [www.difccourts.ae](http://www.difccourts.ae) or contact the Registry via telephone: +971 4 427 3333 or via email: registry@difccourts.ae