

An Overview of Law No. 21 for 2015 Establishing the Judicial Fees before the Dubai Courts

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The New Law regulates the fees required by the courts of Dubai for legal proceedings presented to the courts and is effective from 1 September 2015.

This article provides an overview of some of the key amendments enacted by the New Law.

Scope of New Law

The Law enumerates several changes in the court fees for claims and petitions, examples of which include the fee for an attachment application which was capped at AED 15,000 and is now calculated as 50% of the main action fees. Another example is the court fee for filing a case which was calculated as a percentage (7.5%) by reference to the monetary value of the claim and capped at AED 30,000. This cap has increased to AED 40,000.

The provisions of the New Law are not applicable to claims filed before the courts prior to its enforceability and fees which were partially or entirely deferred during the course of litigation. In this case, the fees due at the time of registration of the claim will be applicable.

All other legislation or rules in contravention of the New Law now stand superseded. The New Law further repealed the Court Fees Law No. 1 of 1994 and Regulation No. 2 of 1992 concerning Appeal Registration Fees in Criminal Cases.

Court of First Instance Fees

The New Law provides the basis for calculating court fees in claims for both specified and unspecified amounts before the Dubai Court of First Instance. A fee of 6 % of the value of the claim will be applied for civil cases and civil actions affiliated to criminal cases (excluding personal status cases) provided that the result of this calculation does not fall below AED 500. The applicable fees before the Court of First Instance are set out below:

Court of Appeal Fees

According to article 29(a) of the New Law, appeals against judgments issued in claims other than personal status matters will be calculated as 50% of the fee collected before the Court of First Instance on the following basis:

- If the appeal is possible for the entire challenged judgment, the full due fee shall be due.
- If the appeal is possible for a part of the challenged judgment, the fee shall be collected based on the

value of the part of the challenged judgment.

- If there are several appellants and the judgment is issued jointly and severally, the fee shall be collected only once from the party which filed the appeal first.
- If there are several appellants and the judgment is not issued jointly and severally against the parties, an independent fee shall be collected for each appeal whether the appellants file one or several appeals.
- 25% of the collected fee in the first instance stage shall be collected if the appeal is possible for a judgment issued in a subject matter which does not end the dispute but results in ceasing the progress of the claim.

General Provisions

1. Committee for Deferral and Exemption from Judicial Fees

Article 10 of the New Law introduces the formation of a committee to decide on applications for entire or partial exemption or postponement of court fees (the "Committee"). A resolution will be issued by the Director General of the Dubai courts to identify the Committee's scope, method of work, legal quorum of its meetings and decision making. The Committee's decisions are final and may not be subject to appeal.

2. Effect of Postponement and Exemption from Fees

In the event an exemption or postponement is approved by the Committee, such exemption or postponement will include all the fees due for all stages of the litigation as well as any insurance deposit and any other amounts stipulated by the New Law or the applicable legislation. This is applicable even if the claim filed by the party in whose favor the exemption or postponement was granted, dismissed or rejected. If the Committee grants the party with the exemption or deferment, the applicable court fees and insurance deposits will be payable by the judgment debtor.

If the court ruled to dismiss or reject a claim brought by the party in whose favor a postponement decision was issued by the Committee, such party will be directed to pay the relevant court fees and applicable insurance deposits.

3. Exemption from Court Fees

Articles 8 and 9 of the New Law determine the types of cases and entities/persons that are either exempted or are not subject to payment of court fees.

Article 8 provides that the following claims, requests and challenges are not subject to the fee structure set out in the New Law:

- Claims, challenges and requests submitted by ministries, federal governmental entities and local governmental entities of Dubai or any other Emirate
- Challenges of judgments issued in respect of alimony
- The bankruptcy trustee's deposit of proceeds to the benefit of the bankruptcy
- Amounts deposited by bidders of the price of the real estate
- The amounts deposited by the ministries, federal or local governmental entities towards liabilities of concerned persons
- Claims concerning charity endowments, grants, wills dedicated for philanthropy if such claims were submitted by these parties
- Requests of declaration or proof of Islam
- Attestation of social care applications
- Death and inheritance declaration applications

Article 9 enumerates the following categories of claims and requests that are exempted from the New Law:

- Claims, challenges, and requests pertaining to the UAE Labour Law (Federal Law No. 8 of 1980) where

the value of the claim does not exceed AED 100,000. The Law states that if a judgment issued in a labour case directs a party to pay costs and fees, the court fees will be calculated based on the judgment amount. If the claim amount exceeds AED 100,000 the value of the court fees will be calculated at 5% of the claimed amount provided that the fees do not exceed AED 20,000.

- Victims of domestic violence by virtue of a resolution issued by the Committee based on the request of the Dubai Foundation for Women and Children.
- Cases in which the Committee decides on exemption from court fees in accordance with the directives of the director general of Dubai courts in coordination with the financial department of the court.

4. Payment of Court Fees

According to article 3 of the New Law, claims or petitions will only be considered following full payment of the due fees, unless a resolution for partial or full exemption or deferment is issued by the Committee.

Any disputes regarding the quantum of fees shall be referred to the chief of the competent court whose decision shall be final and irrevocable. The court, however, may re-consider the amount of fees to be paid (article 4 of the New Law).

If during the course of the proceedings (before reserving the case for judgment) the competent court finds that the paid court fees do not commensurate with the final claims and are less than the due fees or that the fees were collected against the provisions of the Law, the court shall order the plaintiff to pay the difference of the fees during a time frame specified by the court. Otherwise, the court shall dismiss the claim (article 5 of the New Law).

However, if the case was reserved for judgment, the court shall order the plaintiff to pay the difference in the fees in its ruling.

If it was discerned from the judgment to be executed that there is a difference between the claimed amount upon which the fees were calculated, and the adjudicated amount, such judgment will not be conferred with the writ of execution until payment of the difference in fees is made.

In the event the judgment creditor does not obtain the writ of execution within 60 days from the date of the judgment as a result of non-payment of the difference in fees, the judgment debtor will then be obliged to remit the difference in the court fees through an order from the chief of the court which shall be executed in the same manner as a writ of execution.

5. Costs of the Proceedings

Article 13 of the New Law states that the party who is ordered to pay the costs of the proceedings is also obliged to pay the court fees. Article 13 further provides that a judgment debtor who is ordered to pay the court fees may object or challenge the quantum before the chief of the competent court within 8 days from the date the debtor is notified of the execution proceedings.

6. Notification Fees

The party who requests for notification to be affected through private process servers shall bear the full expenses and costs for such notifications.

7. Centre for Amicable Settlement of Disputes

50% of the applicable court fees will be due upon registration of a dispute before the Centre for Amicable Settlement of Disputes and the remainder will be due upon referring the case to the competent court of first instance.

8. Execution Fees

The New Law provides a fee threshold between AED 200 – AED 5,000 for the execution stage of court proceedings.

It is pertinent to mention that the former practice of the Dubai Court was for court fees to be payable for opening an execution file to enforce a court judgment only, without the requirement of paying additional fees for filing applications or requests in the execution stage. However, the New Law sets out fees payable for applications and petitions filed in execution proceedings, examples of which include AED 300 for a travel ban order and AED 200 for an arrest order.

9. Fixed Fees

Schedule 1 of the New Law sets out fixed fees for several claims and requests, such as AED 1,000 for the appointment of arbitrators and AED 500 for the validity of an attachment order.

10. Court fees for several requests in the claim

If all requests are specified in value and are based on one cause of action, the court fees will be estimated based on the aggregate amount of all the requests. If all requests are specified in value but based on different causes of action, the court fees will be estimated according to the value of each request separately.

If the claim included an original and alternative request, the higher estimation of the requests will be applicable. Additional requests will be added to the original request and the fees will be estimated based on the aggregate of the original and additional requests together.

If the claim includes requests which are of unspecified amounts, the fee shall be collected based on the value of each of them separately if they are based on different causes of action. The court fees will be estimated according to the value of each request separately.

If one claim consists of requests specified in value and requests that are not specified in value, the court fees will be estimated according to the value of each request separately.

11. Mortgage Claims

Article 23 of the New Law provides that court fees related to the validity, revocation, termination, annulment of the mortgage or the approval for selling the mortgaged object or any other right related thereto, will be based on the value of the mortgage. However, from our recent experience with the Dubai courts in a mortgage foreclosure claim, the court fee for enforcing a foreclosure application remains capped at AED 5,000.

We trust that this article acts as a useful overview of some of the amendments to the structure of court fees before the Dubai court.