

Law No 13 of 2017 concerning the Judicial Fees in Abu Dhabi: A Step in the Right Direction

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The Law, which will come into force one month after its publication in the official Gazette, repeals Law No. 6 of 2013 concerning the Judicial Fees in the Emirate of Abu Dhabi and the Abu Dhabi Judicial Decision No. 2 of 2012, which had abolished the fee cap applicable to first instance claims (the "Previous Law").

The Law has reinstated the cap on fees payable for court of first instance (civil and commercial) claims, which under the Previous Law was 3% of the value of the claim with no cap. The new fees regime will be implemented after the Previous Law was in force for a period of almost four years. The move is largely welcomed by legal practitioners and litigants and is a step in the right direction.

The new fees have now been set at 5% of the claimed amount with a cap of AED 40,000. This is unlike the fees payable for Dubai Court claims, which have caps depending on the value of the claim with a maximum cap of AED 40,000 (Dubai Law No. 21 of 2015 on Judicial Fees Payable before Dubai Courts). Although the cap has increased from the previous cap of AED 20,000, the Law generally provides more competitive fees than those payable under the Previous Law.

The Law has also removed the fees payable for various requests related to criminal matters. Under Article 50 of the Previous Law, a fee of AED 20 was applicable to 13 different types of requests, such as bail and obtaining the accused's criminal records. This fee is no longer payable for such requests.

One of the other notable changes to the law is with respect to the fees payable for ratification/nullification of arbitral awards and enforcement of foreign judgments. Under the Previous Law, the fee was 3% of the value of the award or the foreign judgment. The fees are now fixed at AED 5,000 and AED 1,000 respectively. These amendments have clarified the long-standing ambiguity that has surrounded the fees applicable for these two categories of cases. Under the Previous Law, there were two categories of fees; the first set fees at AED 1,000 (for both arbitral awards and foreign judgments), if the claim was for an unquantified sum, and the second set fees at 3% of the claimed amount (with no cap) if the amount was quantified. We believe the abolition of this distinction between quantified and unquantified claims is a sensible move because the vast majority of awards and foreign judgments are for quantified sums. Additionally, collecting fees ordinarily applicable to substantive claims acts as a disincentive for judgment creditors, who have already expended large sums on the original proceedings.

New categories and fees have also been introduced under the Fee Schedule included in Article 60 of the Law, however, the fees are nominal.

The table below provides a summary of the fee structures for filing substantive claims in various Courts:

Court	Current Fees	Previous Fees	Recoverability
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Abu Dhabi Courts	5% of the claimed amount with a cap of 5% For a claim for AED 5m, the filing fee would be AED 40,000	3% of the claimed amount with no cap.	Fully Recoverable
Dubai Courts	AED 20,000 for claims up to AED 500,000; AED 30,000 for claims between AED 500,001 and AED 1m; and AED 40,000 for claims in excess of AED 1m. For a claim for AED 5m, the filing fee would be AED 40,000.	7.5% of the claim amount with a cap of AED 30,000	Fully Recoverable
DIFC Courts	Determined by the value of the claim and/or the property value with a minimum of USD 1,500 (AED 5,510) and a maximum of USD 135,000 (AED 495,850). For a claim of AED 5m, fees would be USD 36,807 (AED 135,182).	5% of the value of the claim (monetary) and/or the property with a minimum of USD 1,000 and a maximum of USD 20,000	Fully Recoverable

In our opinion, the new law represents progress in the fee regime applicable in the Emirate of Abu Dhabi. It was prompted by criticisms made against the Previous Law to the effect that court fees acted as an impediment to access to justice. According to a recent survey by the World Bank, court fees and the cost of filing a claim are among the criteria for measuring the efficiency of a judicial system. It's anticipated that the Law will contribute to the Emirate's reputation for providing an efficient and inexpensive forum for resolving disputes.