



PRACTICE DIRECTION ON COSTS

(No. 2 of 2024)

Introduction

1. This Practice Direction is issued pursuant to article 37.2 of the Regulations and Procedural Rules of the Court (the '**Rules**') and article 26.2 of the Regulations and Procedural Rules of the Regulatory Tribunal.
2. This Practice Direction sets out the principles and procedures governing the assessment and award of costs in proceedings before the QICDRC, as mandated by article 33 of the Court's Rules and article 26 of the Regulatory Tribunal's Regulations and Procedural Rules.

Costs before the Court

3. Article 33 of the Court's Rules outlines essential provisions for the assessment and award of costs:

Article 33 - Assessment and Award of Costs

33.1 The Court shall make such order as it thinks fit in relation to the parties' costs of the proceedings.

33.2 The general rule shall be that the unsuccessful party pays the costs of the successful party. However, the Court can make a different order if it considers that the circumstances are appropriate.

33.3 In particular, in making any order as to costs, the Court may take account of any reasonable settlement offers made by either party.

33.4 Where the Court has incurred the costs of an expert or assessor, or other costs in relation to the proceedings, it may make such order in relation to the payment of those costs as it thinks fit.

33.5 In the event that the Court makes an order for the payment by one party to another of costs to be assessed if not agreed, and the parties are unable to reach agreement as to the appropriate assessment, the necessary assessment will be made by the Registrar, subject to review, if necessary, by the Judge.

4. This Practice Direction supplements article 33 by setting out in more detail, as derived from the Court's case law, the principles applicable to costs assessment and allocation, including factors influencing the Court's discretion, exceptional circumstances, and the role of submissions in ensuring equitable and just cost allocations. It should not hereafter generally be necessary to refer to the case law.

Reasonableness and assessment criteria

General principle

5. In order for a party to recover costs awarded by the Court, they must be **reasonable**. For costs to be considered reasonable, they must be both reasonably incurred and reasonable in amount. Any costs that fail to meet these criteria are not recoverable.

Factors to consider

6. When determining whether costs are reasonable, the following non-exhaustive list of factors will be considered:
 - i. Proportionality.
 - ii. The conduct of the parties (both before and during the proceedings).
 - iii. Efforts made to try and resolve the dispute without recourse to litigation (for example through alternative dispute resolution).

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- iv. Subject to rules as to privilege, whether any reasonable settlement offers were made and rejected.
- v. The extent to which the party seeking to recover costs has been successful.

Proportionality assessment

- 7. When making the proportionality assessment, which involves evaluating whether the costs incurred are proportionate to the complexity and significance of the case, the following factors, while not exhaustive, are likely to be relevant:
 - i. In monetary or property claims, the amount or value involved.
 - ii. The importance of the matter(s) raised to the parties.
 - iii. The complexity of the matter(s).
 - iv. The difficulty or novelty of any particular point(s) raised.
 - v. The time spent on the case.
 - vi. The manner in which work on the case was undertaken.
 - vii. The appropriate use of resources by the parties including, where appropriate, the use of available information and communications technology.
- 8. As noted, the Court will have regard to the sum in issue. It is particularly important that in claims assigned to the Small Claims Track, the principle of proportionality is considered by the parties at every stage of the proceedings.
- 9. Where costs are awarded on the indemnity basis, the proportionality limb does not apply.

Self-representation, mediation costs, legal representation, settlement offers, and conditional fee arrangements

Self-represented law firms, companies and individuals

10. Self-represented law firms may seek to recover costs at professional rates, provided that such rates are reasonable and justifiable.
11. Self-represented companies or individuals are entitled generally to recover their expenses; a greater measure of recovery may be ordered by the Court where such recovery is in the interests of justice.

Mediation costs

12. Costs associated with mediation shall generally be borne by the parties involved. An exception to this general rule exists when parties have contractually agreed to a different arrangement.

Choice of legal representation

13. Parties have the right to be represented by advocates of their choice, including counsel from abroad. However, in cases which the Court considers straightforward, the costs incurred for such representation may not be recoverable from the unsuccessful individual.

Multiple legal representation

14. In circumstances where a party has engaged a law firm and external counsel, it is not reasonable to seek to recover costs associated with internal employees who are in some way said to have provided input into the claim, whether by providing instructions or in some other way. Costs associated with internal employees will not form a part of cost recovery unless exceptional circumstances warrant otherwise.

Litigants-in-person

15. In order to ensure consistency in the approach to cases in which litigants-in-person appear, where the litigant in person cannot prove other financial loss, the Court has established a

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set hourly rate to calculate cost awards. Therefore, the hourly rate for compensating a litigant in person for their reasonable preparation time is fixed at QAR 100.00 per hour.

16. This standard hourly rate will be applied uniformly in litigant-in-person cases to ensure fairness and consistency in the awarding of costs. Parties, legal practitioners, and the Court should apply this rate accordingly when assessing and awarding costs in such cases.

Recovery of in-house legal teams' costs

17. In-house legal teams shall have the ability to recover their costs, as there is no inherent reason to preclude this. Disallowing such cost recovery could discourage the use of in-house legal teams, potentially leading parties to engage external lawyers even in simple cases, thereby increasing overall costs.

Settlement offers

18. Settlement offers made “*without prejudice*” should usually not be referred to, but settlement offers which are expressly made “*without prejudice save as to costs*” or wording to the same effect may be referred to. When parties reference settlement offers in any documentation for the purpose of a costs assessment, they should present comprehensive details of these offers to the Court.
19. A mere assertion of the existence of such offers is insufficient. Instead, the specific details, encompassing the nature, terms, conditions, and any decisions related to the offer (i.e. acceptance or rejection) must be comprehensively disclosed. This ensures that the Court possesses all the necessary information for a just and adequate costs assessment. Failure to comply with this may mean that the offer upon which a party intend to rely cannot be taken into account.

Conditional fee arrangements

20. Conditional fee agreements are enforceable, with fees stipulated under such arrangements being recoverable by the successful party subject to the usual rules concerning

reasonableness and proportionality. The structure of these agreements can encompass both fixed fees and bonuses calculated as a percentage of the judgment amount.

21. The total recoverable fee should reflect the genuine costs of the case. Notably, fees related to extraneous applications or unnecessary interlocutory steps might not be recoverable.

Regulatory Tribunal proceedings

22. Article 24 of the Regulations and Procedural Rules of the Regulatory Tribunal provides that the Tribunal will not normally order one party to pay another's legal costs, and this is regardless of the appeal's outcome.

23. However, article 24.1 allows it to make an award of costs, *"if it considers that justice so requires."*

24. This discretion will be exercised judiciously, considering the unique circumstances of each case. So far as relevant, the provisions of this Practice Direction apply to assessment by the Registrar.

Matters to be set out in submissions

25. In most cases, parties should submit documentation that assists in determining whether costs incurred have been reasonably incurred and, if so, whether they are reasonable in amount. The documentation should include evidence which shows the amount which the client has in fact paid.

26. Submissions should include, but are not limited to, the following:

- i. A detailed breakdown of costs, including all relevant expenses and charges.
- ii. Justifications for the necessity of the costs, with reference to the nature and complexity of the case.

iii. Evidence of attempts to minimise costs where possible, such as alternative dispute resolution efforts and settlement negotiations.

iv. Information demonstrating that costs are in line with established professional rates and industry standards.

27. Whilst costs are generally awarded at the end proceedings, the Court may make costs orders at any stage it deems appropriate.

Lord Thomas of Cmwigedd

President of the Qatar International Court

Sir William Blair

Chairman of the Qatar Financial Centre Regulatory Tribunal

3 July 2024

