

PRACTICE DIRECTIONS ON AWARD OF COST 2024



COMPENDIUM OF PRACTICE DIRECTIONS & ADMINISTRATIVE GUIDELINES IN GHANA 2024

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Practice Directions on Award of Cost:

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Practice Directions on Adjournments and Adoption of Proceedings in Part Heard Trials in Courts:

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- H/L Justice Yaw Darko Asare (JSC)
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Practice Directions on Commercial Pre-Trial Settlement under High Court Civil Procedure Amendment Rules 2020, C. I. 133:

- H/L Justice Angelina Mensah-Homiah (JA)
- H/L Justice Jerome Noble Nkrumah (JA)
- Mr. Alex Nartey

Practice Directions on Court Connected ADR under High Court Civil Procedure Amendment Rules 2020, C. I. 133:

- H/L Justice Koomson (JSC)
- H/L Justice Angelina Mensah-Homiah (JA)
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Practice Directions in respect of Prerogative Writs involving Chiefs/Chieftaincy Issues

- H/L Justice Samuel Alan Brobbey (JSC) (Rtd)
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Practice Directions on Plea Bargaining 2024

- H/L Justice Afia Serwaa Asare-Botwe (JA)
- H/L Justice Marie-Louise Simmons (J)
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Practice Directions for Determination of Applications for Interlocutory Injunctions to Restrain Burial of a Deceased Person

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Administrative Guidelines on using the Supreme Court Registry

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I. Long Title

A DIRECTION to provide guidelines and uniform standards in the assessment and award of costs and to prevent the ad hoc and arbitrary award of costs and to rationalize the assessment of costs awarded to parties and their lawyers in Civil Litigation.

II. Citation

This Practice Direction may be cited as **Practice Direction on The Award of Cost 2024.**

III.Preamble

Whereas

- Recognizing that the Courts in Ghana during civil trials have the discretionary power to award Cost;
- Guided by the provisions of Article 296(a) of the 1992 Constitution that persons exercising discretional powers have a duty to be fair and candid, and the exercise of discretionary power shall not be arbitrary, capricious or biased; and the following Rules of Court with the objective of ensuring clarity in the award of Costs;
- Order 7 Rule 1 of the District Court Rules, 2004 (C.I. 59) which gives the District Court authority to award costs that the court considers just.
- Order 74 Rule 1(2) of the High Court (Civil Procedure) Rules,
 2004 (C.I. 47) which gives the Circuit Court and the High Court the power to determine to who and to what extent costs are paid.
- **Rule 35** of the **Court of Appeal Rules, 1997 (C.I. 19)** which gives power to the Court of Appeal to summarily award costs which shall be taxed according to Order 74 of C.I. 47.

- Rule 27(1) of the Supreme Court Rules, 1996 (C.I. 16) which gives the Supreme Court the power to award costs at the time when a judgment is delivered.
- Acknowledging that Costs may take the form of Costs in Any Event, Costs Without Court Order, Costs Against Waste, Costs Against Third Parties and Costs Against Lawyers
- Recognizing that the award of Costs must facilitate access to justice and serve the needs of all litigants and potential litigants in society in the context of existing economic conditions.
- Recognizing that there is a need to provide the basis for a scale of taxation with regards to assessment of cost
- Recognizing that the Civil Procedure Rules for various courts do not offer detailed and comprehensive uniform standards for the assessment of Costs.

I hereby direct that the award of cost in civil proceedings shall be guided by the following directions:

1. APPLICATION:

- a. Subject to clause (b) below, this Practice Direction is applicable to Civil Proceedings in the District Courts, Circuit Courts, High Courts, the Court of Appeal and the Supreme Court where the Court under its respective Rules of Court, exercises its discretion to award costs or orders an assessment of costs.
- b. This Practice Direction shall not apply to Constitutional, Election and Public Interest Litigation unless the conduct of a party is determined by the Court to be frivolous and vexatious.

2. ASSESSMENT OF COSTS

Assessment of costs can be done summarily 1 or by detailed Assessment ² by order of the Court.

2.1 **Summary Assessment of Costs**

A summary assessment of costs is the process by which the Court determines how much should be paid to the party in whose favor an award is made without reference to the detailed Bill of costs incurred.

a. Time to Make Assessment:

Summary assessments should be made after interim proceedings in a trial, usually in proceedings not lasting more than a day and should be assessed on the basis of the fixed costs table bands in these Directions

b. Bill of Cost

Where there is a summary assessment during hearings, the parties and their lawyers have a duty to assist the Court in the determination of the costs by filing a bill of costs to be considered by the Court at the end of the hearing.

c. Award of Cost

If both parties are satisfied with the costs so submitted, it will be adopted by the Court and entered as costs to be paid within a time specified by order of the Court. Any summary costs awarded shall be taken into consideration in the final determination of costs at the conclusion of the trial.

2.2 Detailed Assessments of Costs

¹ Or.7r.1 C.I.59, Or.74r2(1)(5) C.I.47, Or. 35 r1 C.I.19, Or.27 C.I. 16. ² Or.74 C.I. 47, Or.35 C.I.16, Or.27 C.I.16.

Detailed assessment should be based on specified items of expenditure. All assessments are to take cognizance of any offer of contribution made and the amount of any monies paid into court³.

a. Time to Make Assessment

Detailed assessments should be applied at the end of a trial, or after lengthy or complex proceedings when the costs are not agreed upon by the parties. Assessment is also referred to as "Taxing" in the Rules of Court⁴ and may be conducted by the Court itself or referred to a taxing officer who must be an official of the Judicial Service.

b. Taxing Officer

Where the Court refers the costs to a taxing officer, a detailed notice of assessment of costs must be filed and served on both lawyers/parties prior to the delivery of the judgment⁵.

c. Basis of Detailed Assessment

The basis for a detailed assessment would be the fixed cost of the litigation as detailed in **Schedule 2** plus any or all of the following underlisted variables as provided for in the assessment forms:

- The conduct of all the parties and lawyers both before and during the trial/ hearing, and any efforts made in utilizing any of the Alternative Dispute Resolution Mechanisms.
- ii. The amount of money or value of the subject -matter in dispute.

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³ Or. 74 r6 C.I. 47

⁴ Or. 74 r2(6).

⁵ Ibid.

- iii. The complexity of the issues where the case involves multiple issues or parties (Multi Track).
- iv. The skill, effort, specialization knowledge and responsibility involved.
- v. The time spent on the trial.
- vi. Attendances at Court.
- vii. Transportation cost.
- viii. The Civil Court Proceedings (Fees and Allowances) (Amendment) Rules, 2014 CI.86; (Filing fees) (or as amended)
- ix. Lawyer's fees of the party in whose favor an award is made based on the scale of fees of the Ghana Bar Association (2022) at any given time.
- x. Administrative expenses such as Witness expenses,
 Expert witnesses and costs of interpretation.
- xi. Cost orders made during proceedings.

d. Hearing of Detailed Assessment

Any detailed assessment of costs proceedings will be considered by the Judge who delivers the judgment. The Court has the discretion to query or interrogate the details in a Bill of Cost, hear oral arguments by the lawyers on the detailed Bill of Costs and make any cost orders it deems reasonable. Where there are extreme variations in respect of the

Bill of Costs and the awarded costs sum, the Court shall briefly give reasons⁶.

A detailed formula for the calculation of costs is contained in **Schedule 4**.

3. BILL OF COSTS

This is a Judicial Form⁷ containing details of all the legal costs incurred during any proceedings in the trial or the conclusion of the trial. The Summary Bill of Costs and Detailed Assessment forms can be found in **Schedule 1 and 2** respectively.

3.1 Summary Bill of Costs

A summary Bill of Costs provides information on the following:

- The title of the case and suit number.
- The lawyer's designation (a senior lawyer / junior lawyer).
- The nature and amount of any disbursements to be claimed.
- Invoices / Receipts for payments.

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⁶ Rules of Court allows the Court to exercise discretion in the award.

⁷ Or.35 and Forms 13 and 14 C.I. 19

3.2 Detailed Assessment Bill of Cost

The detailed assessment bill of costs in addition to the above should include the costs of any or all of the following;

- (1) Up to date attendances at court by the Lawyer /party.
- (2) Communications with the other Lawyer /Party.
- (3) Attendances at Court and communications with witnesses including any expert witness;
- (4) Attendances to inspect any property or place for the purposes of the proceedings;
- (5) Attendances and communications with other persons, including offices of public records;
- (6) Electronic Communications with the Court;
- (7) Preparatory legal work done on documents;
- (8) The work done in connection with negotiations with a view to settlement if not already covered as listed above;
- (9) Attendances and communications with other agents and work done by them;
- (10) Communications, which are not routine communications must be set out in chronological order.

- (11) Routine communications must be set out as single item at the end of each section;
- (12) Other work done which was of or incidental to the proceedings and which is not already covered in the list above.

3.3 Numbering

Each item claimed in the Bill of Costs must be consecutively numbered.

3.4 Attendances at Court

In each part of the Bill of Costs which claims attendances at Court and upon counsel, note should be made of –

- (1) All relevant events, including events which do not constitute chargeable items.
- (2) Any orders for costs which the Court made (whether or not a claim is made in respect of those costs in this bill of costs).
- (3) In respect to paragraph 3.2 (1) to (9) above, if the number of attendances and communications other than routine communication is twenty or more, the claim for the costs of those items in that section of the Bill of Costs should be for the total only and there should be attached additional forms in which the full record of dates and details is set out.

3.5 Other Considerations

The following provisions relate to work done by Lawyers –

- (1) Routine letters sent out, routine e-mails sent out and routine telephone calls will in general be allowed on a unit basis of 6 minutes each, the charge being calculated by reference to the appropriate hourly rate for the identified service provider. The unit charge for letters out and e-mail out will include perusing and considering the routine letters or e-mails.
- (2) The Court may, in its discretion, allow an actual time charge for preparation of electronic communications sent by legal representatives, which properly amount to attendances provided that the time taken has been recorded.
- (3) The cost of making copies of documents will not in general be allowed, but the Court may exceptionally in its discretion make an allowance for copying in unusual circumstances or where the documents copied are unusually numerous and in excess of 100 pages in relation to the nature of the case. Where this discretion is invoked, the number of copies made, their purpose and the costs claimed for them must be set out in the Bill.

(4) Agency charges as between principal legal representatives and their agents will be dealt with on the principle that such charges, where appropriate, form part of the principal's legal representative's charges. Where these charges relate to attendances at court and on the lawyer, they must be included in their chronological order in that section.

4. NOTICE OF BILL OF COSTS

A Notice of Bill of Cost for a summary order or detailed assessment of Costs should be filed and served on both lawyers / parties⁸; in the case of a summary order after any proceedings **ten (10) days** before the next hearing date and in the case of a detailed assessment at least **fourteen (14) days** before the delivery of final judgment.

5. COST ORDERS ON ASSESSMENT

The Court, after receipt of the filed assessment, may accept, in its discretion what constitutes the reasonable cost of the litigation and may accept, the entire assessment or only specified portions of such Bills⁹.

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⁸ Order 74 r12(5) C.I. 47

⁹ The Court may exercise its discretion as allowed by the Rules of Court.

6. APPEALS

Appeals against cost orders should follow the procedure of appeals in the awarding Court.

7. INTERPRETATION

'Administrative Expenses' includes but are not limited to expenditure for experts, witnesses, printing and communication.

'Assessed Costs' refers to costs that are determined based upon the filed Bill of Costs.

'Bill of Costs' is one prepared by the Receiving Party and which lists in detail all items of the costs claimed.

'Communications' includes letters out, e-mails out and telephone calls.

'Cost Capping/Fixed Costs' refers to the lower and upper thresholds of costs under the various litigation costs headings or Limits imposed by Judges on the amount of costs that can be claimed by parties.

'Costs' means the costs incurred by a party incidental to the conduct of Civil Litigation¹⁰.

'Court' means the District Court or Circuit Court, High Court or Court of Appeal or Supreme Court whether sitting in chambers or in public, in civil proceedings as established by law.

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¹⁰ Or. 74r1

'Court Fees' means fees payable for filing court processes¹¹.

'Civil Procedure Rules'; Constitutional Instruments as amended guiding the Procedure and Practice for Civil proceedings in the Courts of Ghana¹².

'Disbursements' refers to out of pocket expenses in relation to the litigation. See Administrative expenses.

'Fixed Costs' means costs that fall under Schedule 3. See Cost Capping.

'Judge' includes Judges of the Superior Courts and Lower Courts.

'Junior Lawyer'; See Lawyer. A lawyer below ten years at the Bar.

'Lawyer' means a person whose name has been entered in the Roll of Lawyers to practice in Ghana and does not include a lawyer for the time being suspended from practice¹³.

"Notice of Bill of Cost" means a formal notice of itemized Costs filed in the Registry of the Court for the assessment of costs by a Judge or taxing officer¹⁴.

"Notice of Taxation" means the notice served on parties for an assessment of costs.

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 $^{^{\}rm 11}$ Civil Proceedings (Fees and Allowances) Amendment Rules 2014 or any subsequent amendment of same

¹² Supreme Court Rules (1996) C.I.16, Court of Appeal Rules (1997) C.I. 19, High Court Rules (2004) C.I. 47, District Court Rules (2004) C.I. 59.

¹³ See Or. 82r3.

¹⁴ Or.35r1 Court of Appeal Rules C.I. 19.

"Registrar" means the Registrar of the District Court, Circuit Court, High Court, Court of Appeal and Supreme Court.

"Routine Communications" refers to letters, e-mails and telephone calls which, because of their simplicity should not be regarded as letters or e-mails to be billed for separately or telephone calls which properly amount to an attendance.

"Schedule" means the Schedule to this Practice Direction.

"Senior Lawyer" a Lawyer of ten or more years standing at the Bar.

"Taxing" refers to the process of summarizing the total costs submitted to the Court for acceptance.

"Taxable Costs"; Litigation related expenses that the prevailing Party is entitled to as part of the Court's award¹⁵.

"Taxing officer" means Registrar of the District, Circuit, High Court, Court of Appeal and Supreme Court¹⁶.

"Variables" means Items of expenditure categorized A-K as details of Expenditure.

DATE OF ENTRY INTO FORCE

¹⁵ Blacks Law Dictionary 9th Ed. Pg 329.

¹⁶ Or. 35 r (2) supra.

This Practice Direction comes into force on the 1^{ST} Day of May 2024.

GERTRUDE ARABA ESAABA SACKEY TORKORNOO CHIEF JUSTICE OF THE REPUBLIC OF GHANA

SCHEDULE 1 – BILL OF COSTS

MOTION ON NOTICE FOR ASSESSED BILL OF COSTS¹⁷



IN THE HIGH COURT/ COURT OF APPEAL/SUPREME COURT

NOTICE OF TAXATION

Suit No./	Civil Appeal N	No	
Between			(Plaintiff/Appellant
and			
(Defendant/Res	pondent).		
TAKE NOTICE	that the Bill of	Costs of the	will be taxed
on even if	the you are absen	day of t.	at the hour of
Dated at	this	day of	
Taxing Officer			
TO THE ABOV	E-NAMED		
of	and		
	of		
The Registra	ſ		
Circuit/High,	/CA/SC.		
¹⁷ See Or 27r4 C	.I. 16.		



Appendix 1			
IN THE	•••••	••••	
BILL OF COS	STS SUMMARY CLA	IM (PARAGRAP	H)
Civil Appeal I	No		
Title of Cause	:		
		Plaintiff/	Appellant
		Respond	dent /Defendant
Bill of costs of	:	(APPELANT/RI	ESPONDENT)
Date of judgm	nent:		
Date of appea	rance:		
Dates on which	ch the cause was in the	e list:	
1.			
2.			
3.			
No. of Item	Particulars	Claim	Allowed
Fees for court	:		
Appearance:			
Lawyers' fees	:		
Taxed at ¢			
Allowed at ¢			

Signature of Taxing Officer.

IN THE.

Note, every Bill of cost must be delivered in duplicate on this Form to Registrar who will on request deliver one of the copies to the opposite party. Every payment included in the bill including allowances to witnesses, must be proved either by receipts or by the verbal admission of the payee to the Registrar or by an affidavit or otherwise to the satisfaction of the Registrar.



11 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
SUIT NO.:
TITLE:
BILL OF COSTS: SUMMARY
Judgment to be entered in the above entitled action on
against the taxing officer is requested to tax the following
as costs, awarded:
Fees for court appearance ¢

Fees for witnesses	¢			
Fees for court appointed experts	¢			
Fees for interpreters	¢			
Others	¢			
Bill of Costs For	¢ (Plaintiff/Defendant) (Applicant/Respondent)			
I declare that the foregoing cos	sts are correct and were necessarily			
incurred in this action and that t	the services for which fees have been			
charged were actually and necess	arily performed.			
A copy of this bill has been served	d on all parties.			
Name of Lawyer				
For Claiming Party	Date			
Taxation of Costs				
	••••••			
Costs are taxed in the amount of . judgment.	and included in the			
Registrar	 Date			

Note, every Bill of cost must be delivered in duplicate on this Form to Registrar who will on request deliver one of the copies to the opposite party. Every payment included in the bill including allowances to witnesses, must be proved either by receipts or by the verbal admission of the payee to the Registrar or by an affidavit or otherwise to the satisfaction of the Registrar



BILL OF COSTS (Detailed Assessment)	In the			
Statement of Costs		Court		
Before				
Case Title				
[Party]'s				
Statement of Costs for the hearing (Type of proceeding)	g on (Date)			

Description of fee earners*

(b)	(name) (grade) (h	ourly rate clai	med)	
(c) ((name) (grade) (ho	ourly rate clain	med)	
(a)	(name) (grade) (h	ourly rate clai	med)	
Attendances on (party)			
Personal attendar	nces			
TOTAL				
(a) (number)				
hou	rs at ø	Ø		
(b) (number)	hours at ø	Ø		
(c) (number)	hours at g	Ø		
(d) (number)	hours at ø	Ø		
Letters out/emails	S			
(a) (number)	hours at ø	Ø		
(b) (number)	hours at g	Ø		
(c) (number)	hours at g	Ø		

(a) (name) (grade) (hourly rate claimed)

(a) (number)	hours at g		
Ø			
(b) (number)	hours at ø	Ø	
(c) (number)	hours at g	Ø	
(d) (number)	hours at g	Ø.	
Telephone			
(a) (number)		Ø	
(b) (number)		Q	
(c) (number)		g	
(d) (number)	hours at ø	Ø	
Attendance on oth	ners		
(a)			
a		(number) hours at α	
ø (b) (number)	hours at ø	ø	
(c) (number)	hours at g	ø Ø	
(d) (number)	hours at g	g Ø	
(u) (mumber)	mours at k	K.	

Letters out/emails

(a) (number)			
hou	rs at ø	Ø.	
(b) (number)	hours at ø	ę Ø	
(c) (number)		Ø.	
(d) (number)	nours at g	Ø	
Telephone			
(a)			
(number)			
,			
hou	rs at ø	¢	
(b) (number)	hours at ø	Ø	
(c) (number)		Ø	
(d) (number)		Ø	
Site inspections et	.C.		
(a)			
		(number) hours at	
Ø	Ø	(House of)	
(b) (number)	hours at ø	Ø	
(c) (number)	hours at ø	Ø	
		~	
(d) (number)	hours at ø	Ø	
YAY 1 1 1	_		
work done on do	cuments, as s	set out in schedule:	
Attendance at hear	ring:		

(a)						
(number)						
,						
hou	rs at ø	Ø				
(b) (number)	hours at ø			Ø		
(c) (number)	hours at ø			Ø		
(d) (number)	hours at ø	!	Ø.			
(e) Fixed costs						
	<u> </u>					
(a)						
number)						
hou	rs travel and ø	!				
wa	iting time ø					
	C					
(b) number)	hours travel	and	Ø			
waiti	ng time ø					
	hours travel	and		Ø		
waitir	ng time ø					
(d) (number) !	nouna travel and	1 ~				
(a) (number) r	nours travel and waiting time					
	waiting time					
				9	Sub	
Гotal						