



Procedures for the Conciliation and Adjudication of Employment Disputes

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EMPLOYMENT STANDARDS OFFICE
OF
QATAR FINANCIAL CENTRE

PROCEDURES FOR THE CONCILIATION AND ADJUDICATION OF
EMPLOYMENT DISPUTES

The Employment Standards Officer determines the following procedures for the Conciliation and Adjudication of Employment Disputes pursuant to Article 6 (3) of the QFC Employment Regulations Law No. (10) of 2006 as amended.



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1. Definitions

- 1.1. The "Complainant" means the person filing a Complaint with the ESO.
- 1.2. The "Complaint" means the complaint filed with the ESO regarding one or more alleged contraventions of the QFC Employment Regulations, rules, procedures, codes and policies made pursuant to those Regulations, including any supporting documents submitted to the ESO by the Complainant.
- 1.3. The "ESO" means the Employment Standards Office, established by Article 6 of the QFC Regulation No. (10) of 2006 (the QFC Employment Regulations) pursuant to Article 6 (11) of the QFC Law No. (7) of 2005 as amended. The ESO comprises of the Employment Standards Officer (also referred to as the Commissioner of the Employment Standards Office), ESO officers and other people appointed by the ESO to perform its functions including investigation and dispute resolution functions, as described in these Procedures.
- 1.4. The "Notice of Investigation" is a notice sent by the ESO to the Respondent upon acceptance of the Complaint in order to initiate the Procedure, as further described in clause 6.1 of these Procedures.
- 1.5. The "Party" or "Parties" refer to the Complainant and/or Respondent.
- 1.6. The "Procedures" mean these Procedures for the Conciliation and Adjudication of Employment Disputes.
- 1.7. The "Regulations" mean the QFC Employment Regulations, as amended from time to time, including any rules, procedures, codes and provisions made pursuant to those Regulations.
- 1.8. The "Respondent" means the natural or legal person against whom the complaint is made.
- 1.9. All other capitalized words shall have the same meaning as given in the Regulations.

2. Status and Purpose

- 2.1. The ESO has been established as an independent Institution of the QFC to administer and enforce the Regulations, investigate contraventions of the Regulations and deal with all aspects of employment matters taking place in the QFC or which involves at least one entity regulated by the QFC.
- 2.2. The ESO is managed by the Employment Standards Officer also known as the Commissioner who determines its procedures and management in accordance with



Article 6(3) of the Regulations.

- 2.3. These Procedures are established pursuant to Article 6(3) of the Regulations.
- 2.4. The Procedures will be kept under review and may be amended as appropriate in the light of further experience and developing law and practice.
- 2.5. The purpose of the Procedures is to:
- a. provide Complainants and Respondents with transparent and consistent procedures to handle and resolve Complaints;
 - b. ensure that Parties have access to free and voluntary conciliation and adjudication services offered by the ESO to assist them to resolve their differences;
 - c. ensure that Parties, in situations where conciliation has failed or was not an option, have access to impartial adjudication services offered by the ESO to hear their dispute and make a determination; and
 - d. confirm that the ESO exercises its investigative and dispute resolution powers in an independent and impartial manner, free from external influence.

3. General Principles

3.1. The ESO exercises its powers as described in these Procedures in an impartial, procedurally fair, equitable, just and timely manner.

3.2. Any person involved in a matter before the ESO is required to cooperate with the ESO in furtherance of the above principles and each person must avoid obstructive conduct as stated in Article 60 of the Regulations.

3.3. ESO proceedings are conducted in English and all documents submitted to the ESO must be in English, in accordance with Article 9 of the QFC Law and Article 4(1) of the Regulations.

3.4. Translation services may be provided by the ESO to one or more of the Parties if the ESO considers that they cannot understand or communicate in English.

3.5. All information and documents exchanged by Parties and the ESO under the Regulations must be kept confidential from third Parties, except as provided by Article 61 of the Regulations or as otherwise ordered by a court, tribunal or other competent authority.

3.6. A document that is to be filed with the ESO or served on a Party to any proceedings or procedure hereunder shall be deemed to have been filed in accordance with the following provisions:

- I. where a document is sent by a postal or similar method that provides delivery on the next working day, it shall be deemed to be served or filed on the second working day after the day it was sent;
- II. where a document is delivered at the ESO's or (as the case may be) a Party's offices, it shall be deemed to be filed on the working day after it has been delivered.
- III. where a document is served or filed by fax, it shall be deemed to be served or filed:



- a. if it is transmitted before 4pm AST (Arabian Standard Time), on the day on which it is transmitted;
- b. if it is transmitted after 4pm AST, on the next working day.

4. Making a Complaint or Joint Submission

4.1. Under Article 55 of the Regulations, an Employee, former Employee or any other person may make a Complaint to the ESO that a person has committed a contravention of the Regulations. An Employee may also request the ESO to review any penalty imposed on him by his Employer by making a Complaint to the ESO about the imposed penalty.

4.2. The Complaint shall be filed with the ESO by email or delivered to the ESO premises, currently located in QFC Tower 1, West Bay, and must contain the following information:

- a. name, address and telephone number of the Complainant and the Complainant's representative (if any);
- b. name, address and telephone number (if known) of the Respondent;
- c. details of the Complaint including a succinct statement of the relevant matters or alleged violation, the remedies sought by the Complainant;
- d. a list of documents and other evidence supporting the Complaint that are attached to the Complaint (if any);
- e. the relationship between the Complainant and the Respondent;
- f. the signature of the Complainant and the date on which the Complaint is filed before the ESO.

4.3. Parties who have identified an employment related matter, not entailing a contravention of the Regulations, can jointly and voluntarily submit this matter to the ESO, in accordance with ESO's role stated in Article 6(2) of the Regulations, for dispute resolution assistance by the ESO. After receipt of such joint submission, the ESO will provide the Parties with dispute resolution support tailored to the needs of the parties.

5. Initial Assessment of a Complaint

5.1. Within 21 days after receipt of the Complaint, the ESO will perform an initial assessment of the Complaint and decide whether to:

- a) dismiss a Complaint for any of the reasons stated in Article 56 (3) of the Regulations;
- b) accept a Complaint and start the investigation of the Complaint.

5.2. The ESO will notify the Complainant about the decision it has taken under clause 5.1 of these Procedures and inform the Complainant accordingly.



6. Investigation

6.1. If the ESO accepts a Complaint, it starts to investigate it. Paragraphs (1) and (2) of Article 56 of the Regulations describe the investigative powers of the ESO, which include workplace inspections. The procedures for workplace inspections are described in a separate document.

6.2. If the Complaint is accepted, the ESO sends the Respondent a Notice of Investigation containing information on the Complaint and the reasons for the investigation. The ESO may include a copy of the Complaint if the ESO determines that such disclosure does not jeopardise the procedure or cause adverse effect on the Complainant.

6.3. The Notice of Investigation must specify such timetable as the ESO considers appropriate of between 7 and 14 calendar days after receipt of the Notice, for the Respondent to submit a response. The Notice must specify the requirements for a response, including information and documents necessary for the investigation, and inform the Respondent on the following steps of the procedure.

6.4. The response to a Complaint shall be filed with the ESO by email or delivered to the ESO premises located in QFC Tower 1, West Bay and must contain the following information:

- a. name, address and telephone number (if known) of the Respondent and its legal representative (if any);
- b. grounds on which the matters raised in the Complaint are denied and/or confirmed;
- c. list of the documents and/or other evidence on which the Respondent relies as support of its response, which documents need to be attached to the response;
- d. the signature (including electronic signature) of the Respondent or its duly authorized representative and the date on which the response is filed with the ESO;
- e. copy of the Respondent's most recent computer card (if applicable).

6.5. The ESO will not consider a response that does not comply with clause 6.4 of this document and/or is submitted after the deadline given to the Respondent unless a prior approval of an extension of time has been requested and granted or, alternatively, the ESO is satisfied that it was not reasonably practicable for the Respondent to present the response within the time limit.

6.6. If the ESO decides at its discretion to share the response with the Complainant or requests the Complainant to provide further information and documents, the ESO will do so at least 7 calendar days before the commencement of an adjudication hearing, if the Complaint has not been settled by that time.

6.7. The ESO may, at any time during the procedure, invite the Parties to appear before it to give them the opportunity to clarify their positions in respect of the alleged contravention of the Regulations and other positions taken in the Complaint and the Response.

6.8. If at any time during the investigation the ESO has reasonable grounds to believe that further contraventions of the Regulations that were not included in the Complaint may have occurred, it will inform the concerned Party of those alleged further violations giving that Party the opportunity to respond to those alleged contraventions within a reasonable time, normally not less than 5 working days.



7. Conciliation

7.1. After receipt of a timely and proper response, the ESO may invite Parties to attend a voluntary conciliation session before the ESO. The primary purpose of the voluntary conciliation session is to allow parties to attempt to resolve their dispute. In such instances, the Employment Standards Officer or a person appointed by the ESO shall perform the role of conciliator.

7.2. Anything said during the conciliation sessions will remain confidential and will not be used as evidence against the Party who said it at a later stage of the procedure.

7.3. If the Parties decide to attend the conciliation session, they must attend in person or, in case the Party is a legal entity, be represented by a duly authorized person.

7.4. All persons appearing at the conciliation session must provide an identification card, passport or equivalent. Any company representative must provide a letter of authorization at the beginning of the conciliation.

7.5. Conciliation sessions will be held in private and are closed to the public. The ESO may authorize other persons than the Parties involved in the Complaint, to attend the conciliation session upon prior written request.

7.6. Once the conciliation session is scheduled and a Party is unable to attend, it needs to inform the ESO at its earliest convenience, in any case at least two days before the date of the session, providing a valid reason for its request to reschedule the conciliation.

7.7. If a Party fails to attend a conciliation, the ESO may:

- a. Reach a final determination of the Complaint against that Party if the Party did not communicate its impossibility to attend and a valid reason for that at least two days before the date of the conciliation session, or
- b. reschedule the conciliation session to a later date.

7.8. The ESO may arrange for subsequent conciliation session(s) with one or both Parties if it deems that opportune in order to let parties reach a settlement about the Complaint.

7.9. If a settlement is reached during conciliation, paragraphs 10.4 to 10.6 will apply.

8. Adjudication Hearing

8.1. If Parties have not settled the Complaint during conciliation, the ESO may conduct an adjudication hearing before it issues a determination about the Complaint. During the adjudication hearing the ESO may decide to further investigate the Complaint and discuss with Parties in case they wish to settle the Complaint. The ESO shall conduct hearings in such manner as the ESO considers appropriate.



8.2. Parties must attend the adjudication hearing in person or, in case the Party is a legal entity, be represented by a duly authorized person.

8.3. All persons appearing at the adjudication hearing must provide an identification card, passport or equivalent. Any company representative must provide a letter of authorization at the beginning of the conciliation.

8.4. The adjudication hearing will be conducted by the Employment Standards Officer. The Employment Standards Officer may delegate this to another appropriate, impartial and independent person if required by the circumstances (for example, if the Employment Standards Officer was previously involved in the case such that it may affect the Officer's or the case's impartiality, or if the Officer's impartiality is otherwise affected).

8.5. Upon the start of the adjudication hearing, the Parties shall be informed that anything said during the hearing may be used as evidence if the matter proceeds to determination.

8.6. Adjudication hearings will be held in private and are closed to the public. Each Party may be assisted by another person of its own choice who may be present at hearings. The ESO may authorize other persons to attend the adjudication hearing upon prior written request to be submitted to the ESO at least 24 hours before the hearing.

8.7. All adjudication hearings may be digitally recorded and subsequently transcribed and distributed to the parties if required by the circumstances. Parties may submit a written request to ESO for a transcript, specifying the reasons for such request. The ESO will take into account the reasons for the request and provide the transcript if it considers in its absolute discretion that providing the transcript of the hearing will not require a disproportionate effort or cost upon the ESO.

9. Completion of the Investigation

9.1. Upon completion of the investigation, the ESO can at its discretion provide the Parties with a brief written summary of the report with its investigation findings. If the ESO decides to do so, it will specify the date by which the Parties can file their final submissions, if any.

9.2. The final submissions of the Parties in response to the investigation report can be filed with the ESO by email or delivered to the ESO premises located in QFC Tower 1, West Bay.

9.3. The ESO may refuse to consider a submission sent after the deadline given to the Parties unless a prior approval of an extension of time has been requested and granted or, alternatively, the ESO is satisfied that it was not reasonably practicable for the Party to present the response within the time limit.

9.4. If one of the Parties has submitted new arguments and/or documents or other evidence, the ESO will give the other Party the opportunity to respond to those new arguments and/or documents or other evidence.

9.5. Upon completion of the investigation, the ESO will issue a Determination.



9.6. The Party who seeks or argues a certain legal consequence to be determined in the Determination bears the burden of proof of the facts and circumstances required to prove that legal consequence, unless the burden of proof must be divided differently between parties for reasonableness or procedural fairness.

9.7. If the ESO is satisfied that a Party has contravened the Regulations, it may make a determination to that effect and may order the Party one or more of the remedies pursuant to article 57 (1) and (2) of the Regulations.

9.8. If there is not enough evidence to prove the alleged contravention(s) of the Regulations, the ESO will issue a determination to dismiss the Complaint.

9.9. Except in cases of dismissal under 9.8 above, the ESO shall serve each Party with a copy of the determination that includes details of the Complaint and the response, the findings of the investigation, the decision and its reasons, and the time limit for appealing the determination with the Regulatory Tribunal.

10. Withdrawal, Dismissal and Settlement of Complaint

10.1. The Complainant may withdraw its Complaint at any time during the Procedure, in which case the ESO dismisses the Complaint.

10.2. Under article 56 (3) of the Regulations the ESO has the power, at any time during the Procedure, to refuse to accept, review, mediate, investigate, or otherwise resolve a Complaint or may stop or postpone any such activity under any of the circumstances listed in that article. In such cases, the ESO issues a determination to dismiss the Complaint and its reasons for doing so.

10.3. In its Determination, the ESO may additionally or separately issue a Costs Determination, in which the ESO may make any Determination as to costs and expenses incurred in the prosecution of the Complaint prior to its dismissal under clauses 10.1 or 10.2. The ESO will give reasons for such determination as to costs.

10.4. The ESO has the power to facilitate a settlement and, if so requested by the Parties, guide or assist the Parties in their negotiations to settle and review the Parties' settlement document. Any assistance, facilitation, drafting or other action performed by the ESO under this clause will be done so on the strict understanding and agreement that the ESO is neither required to, nor agrees to, be liable for any losses, costs and expenses, howsoever arising out of or in relation to any facilitation, assistance, or drafting provided pursuant to this clause 10.4.

10.5. If the Complaint is settled and a copy of the settlement agreement, signed by both parties, is provided to the ESO for its records, the ESO shall issue a determination to dismiss the Complaint.

10.6. If as result of a settlement an amount shall be paid to any of the parties, the determination shall contain an order to direct such Party to make the payment within a reasonable time limit.



11. Publication of a Determination

11.1. When making a determination, the ESO shall make its findings public and may serve any person named in the determination with a copy in accordance with article 58 of the Regulations.

11.2. The ESO may order the Employer to display a copy of the determination in each workplace in locations where the determination can be read by any affected Employees.

12. Variation of Determination

12.1. Under article 57 (6) of the Regulations, the ESO may vary or cancel a determination if circumstances have changed.

12.2. Both Parties can file a request to vary or cancel a determination within 6 months of its issue detailing reasons and grounds on which such request is based.

13. Enforcement of Determination

13.1. A person on whom a requirement or other remedy has been imposed in a determination must comply with that requirement or other remedy. Without prejudice to any other remedy, failure to comply may lead to the ESO taking disciplinary measures including financial penalties, public censure, and/or any other remedies in Article 4 of Part 5 of the QFCA Rules. The ESO may also refer the case to the QFCA for further appropriate actions.

13.2. If the ESO imposes a financial penalty on a Party in its determination and this financial penalty is not paid within the period stipulated by the ESO in the determination, the financial penalty may on application to the Relevant Review Body be recovered by the ESO as a debt.

13.3. In case of non-compliance with the Regulations and/or non-compliance with measures ordered by the ESO under these Procedures, the ESO may apply to the Relevant Review Body for an injunction order as described in Article 4.6 of the QFC Authority Compliance and Enforcement Rules (Part 5 of the QFCA Rules).

