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## STATUTORY INSTRUMENTS

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# 1976 No. 582

## Solicitors (Northern Ireland) Order 1976

### [<sup>F1</sup>PART V

#### REMUNERATION OF SOLICITORS

##### *[<sup>F1</sup>Remuneration—general*

F1 1989 NI 14

#### **Power of court to order solicitor to deliver bill**

**71C.**—(1) The jurisdiction of the High Court to make orders for the delivery by a solicitor of a bill of costs, and for the delivery up of, or otherwise in relation to, any documents in his possession, custody or power, is hereby declared to extend to cases in which no business has been done by him in the High Court.

(2) A county court shall have the same jurisdiction as the High Court to make orders making such provision as is mentioned in paragraph (1) in cases where the bill of costs or the documents relate wholly or partly to contentious business done by the solicitor in that county court.

(3) In this Article and in Articles 71D to 71G “solicitor” includes the executors, administrators and assignees of a solicitor.

#### **Right to furnish bill in general terms**

**71D.** A solicitor's bill shall be sufficient in form if it contains a reasonable statement or description of the services rendered, with a lump sum charged there for, together with a detailed statement of disbursements, but in any action upon or taxation of such a bill further details of the services rendered may, if it is deemed proper, be ordered by the court or, as the case may be, by the taxing officer.

#### **Action to recover solicitors' costs**

**71E.**—(1) Subject to the provisions of this Order, no action shall be brought to recover any costs due to a solicitor unless a bill of those costs has been delivered in accordance with the requirements set out in paragraph (2).

(2) The requirements referred to in paragraph (1) are that the bill must—

- (a) be signed by the solicitor, or if the costs are due to a firm, by one of the partners of that firm, either in his own name or in the name of the firm, or be enclosed in, or accompanied by, a letter which is so signed and refers to the bill; and
- (b) be delivered to the party to be charged therewith, either personally or by being sent to him by ordinary post to, or left for him at, his place of business, dwelling-house, or last known place of abode;

and, where a bill is proved to have been delivered in compliance with those requirements, it shall not be necessary in the first instance for the solicitor to prove the contents of the bill and it shall be presumed, until the contrary is shown, to be a bill duly complying with this Order.

### **Order for taxation**

**71F.**—(1) Where the retainer of a solicitor is disputed, the solicitor or the client may apply to the High Court to have such dispute determined and if the Court then finds that a proper retainer exists the Court may order the bill to be taxed.

(2) Where the retainer of a solicitor is not disputed an order may be obtained from the Master (Taxing Office)

- (a) by the client, for the delivery and taxation of the solicitor's bill;
- (b) by the client, for the taxation of a bill already delivered;
- (c) by the solicitor, for the taxation of a bill already delivered, at any time after the expiration of one month from its delivery, where no other order for its taxation has previously been made.

(3) An application for an order under paragraph (2) shall not be made by a client—

- (a) save in exceptional circumstances—
  - (i) after the expiration of three months from the date of the delivery of the bill;
  - (ii) in any case where judgment has been obtained in an action for the recovery of the amount of a bill of costs; or
  - (iii) where the bill has been paid;
- (b) in any event, after the expiration of six months from the date of the delivery of the bill.

(4) An order for the taxation of a bill made on an application under this Article by a client shall be an order

- (a) for the taxation of all the costs; or
- (b) for the taxation of such part of the costs as the client requests in his application.

(5) An order under this Article may be made upon such terms as to the costs of the application therefor and of the taxation as the Master (Taxing Office) or, as the case may be, the High Court, thinks fit.

(6) No bill previously taxed shall be again referred unless in exceptional circumstances the High Court sees fit so to order.

(7) Where a person other than the client has paid, or is or was liable to pay, a bill either to the solicitor or to his client, that person or his assignee or personal representative may apply to the Master (Taxing Office) for taxation of the bill as if he were the client, and the same proceedings shall be had thereon as if the application had been made by the client.

(8) Where the Master (Taxing Office) has no power to make an order by virtue of paragraph (7) except in special circumstances, he may in considering whether there are special circumstances sufficient to justify the making of an order, take into account circumstances which affect the applicant but do not affect the client.

(9) Without prejudice to the provisions of paragraph (7), where a trustee or personal representative has become liable to pay the bill of a solicitor, the Master (Taxing Office) may, upon the application of any person interested in any property out of which the trustee or personal representative has paid, or has power to pay, the bill, and upon such terms (if any) as he thinks fit, make an order for the taxation of the bill; and in considering any such application, the Master (Taxing Office) shall have regard to the provisions of this Article as to applications by the client for the taxation of a solicitor's

bill so far as they are capable of being applied to an application made under this paragraph and to the extent and nature of the interest of the applicant.

(10) If an applicant under paragraph (9) pays any money to the solicitor, he shall have the same right to be paid that money by the trustee or personal representative liable to pay the bill as the solicitor had.

(11) The Master (Taxing Office) on any application made pursuant to paragraph (7) or (9) may order the solicitor to deliver to the person making the application a copy of the bill upon payment of the costs of the copy.

(12) Where a bill of costs relates wholly to contentious business done in a county court the functions of the High Court and the Master (Taxing Office) under this Article and Article 71G in relation to that bill may be exercised by the county court and a circuit registrar, and the references in Article 71G(5) and (8) to rules of court shall in any such case be construed as references to county court rules.

### **Provisions as to taxation**

**71G.**—(1) Where a client or other person obtains an order for the delivery and taxation of a solicitor's bill, a copy of the bill shall be delivered within two months from the service of the order or such extended time as the Master (Taxing Office) may allow.

(2) The bill delivered shall stand referred to the Master (Taxing Office) and he shall tax the bill on such date as he may direct.

(3) On such taxation the solicitor shall give credit for, and an account shall be taken of, all sums of money received by him from or on account of the client and the solicitor shall be entitled to credit for all disbursements, expenses or other sums properly paid by him for or on account of the client.

(4) The costs of the taxation shall, unless otherwise directed by the High Court in any particular case, be in the discretion of the Master (Taxing Office), subject to an appeal under paragraph (6) by any dissatisfied party and shall be taxed by the taxing officer when and as allowed.

(5) The amount certified by the Master (Taxing Office) to be due on such taxation (including, where allowed, the costs of the taxation) shall be paid forthwith by the party liable to pay the same, unless rules of court provide otherwise pending the determination of an appeal under paragraph (6).

(6) An appeal shall lie at the instance of any dissatisfied party to the High Court against any allowance or disallowance made by the Master (Taxing Office) under this Part.

(7) If after due notice of any taxation any party fails, without reasonable explanation given to the Master (Taxing Office) before taxation, to attend or be represented on the taxation, the Master (Taxing Office) may proceed with the taxation in the absence of such party.

(8) Without prejudice to the provisions of section 21 of the Interpretation Act (Northern Ireland) 1954, the procedure to be followed on taxation under this Part and on an appeal therefrom shall be regulated by rules of court.

### **Charging orders**

**71H.**—(1) Subject to paragraph (2), any court in which a solicitor has been employed to prosecute or defend any action, matter or proceeding may at any time declare the solicitor entitled to a charge on the property recovered or preserved through his instrumentality for his taxed costs in relation to that action, matter or proceeding, and may make such orders for the taxation of those costs and for raising money to pay, or for paying, those costs out of that property as the court thinks fit, and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a bona fide purchaser for value without notice, be void as against the solicitor.

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**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Solicitors (Northern Ireland) Order 1976. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

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(2) No order shall be made under paragraph (1) if the right to recover the costs is barred by any statute of limitations.

*Para. (3) rep. by 1996 c. 23]*

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 6(1A) inserted by [2011 c. 24 \(N.I.\) s. 88\(2\)](#)
- art. 10(2D) inserted by [2011 c. 24 \(N.I.\) s. 88\(4\)](#)
- art. 51(11A) inserted by [2016 c. 14 \(N.I.\) s. 3\(4\)](#)
- art. 71H(3) revoked by [1996 c. 23 s. 107\(2\)Sch.4](#)
- art. 75(1A) inserted by [2016 c. 14 \(N.I.\) s. 3\(6\)](#)
- art. 75(2A)(2B) inserted by [2011 c. 24 \(N.I.\) s. 90\(1\)](#)