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STATUTORY INSTRUMENTS

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**1998 No. 3132**

**The Civil Procedure Rules 1998**

**PART 47**

**PROCEDURE FOR DETAILED ASSESSMENT  
OF COSTS AND DEFAULT PROVISIONS**

***SECTION II—COSTS PAYABLE BY ONE PARTY TO ANOTHER—  
COMMENCEMENT OF DETAILED ASSESSMENT PROCEEDINGS***

**Application of this Section**

**47.5** This section of Part 47 applies where a costs officer is to make a detailed assessment of costs which are payable by one party to another.

**Commencement of detailed assessment proceedings**

**47.6.—(1)** Detailed assessment proceedings are commenced by the receiving party serving on the paying party—

- (a) notice of commencement in the relevant practice form; and
- (b) a copy of the bill of costs.

(Rule 47.7 sets out the period for commencing detailed assessment proceedings)

(2) The receiving party must also serve a copy of the notice of commencement and the bill on any other relevant persons specified in the costs practice direction.

(3) A person on whom a copy of the notice of commencement is served under paragraph (2) is a party to the detailed assessment proceedings (in addition to the paying party and the receiving party).

(The costs practice direction deals with—

- other documents which the party must file when he requests detailed assessment;
- the court's powers where it considers that a hearing may be necessary;
- the form of a bill; and
- the length of notice which will be given if a hearing date is fixed)

**Period for commencing detailed assessment proceedings**

**47.7** The following table shows the period for commencing detailed assessment proceedings.

<i>Source of right to detailed assessment</i>	<i>Time by which detailed assessment proceedings must be commenced</i>
Judgment, direction, order, award or other determination	3 months after the date of the judgment etc. Where detailed assessment is stayed

<i>Source of right to detailed assessment</i>	<i>Time by which detailed assessment proceedings must be commenced</i>
Discontinuance under Part 38	pending an appeal, 3 months after the date of the order lifting the stay.  3 months after the date of service of notice of discontinuance under rule 38.3; or 3 months after the date of the dismissal of application to set the notice of discontinuance aside under rule 38.4
Acceptance of an offer to settle or a payment into court under Part 36	3 months after the date when the right to costs arose.

### **Sanction for delay in commencing detailed assessment proceedings**

**47.8.**—(1) Where the receiving party fails to commence detailed assessment proceedings within the period specified—

- (a) in rule 47.7; or
- (b) by any direction of the court,

the paying party may apply for an order requiring the receiving party to commence detailed assessment proceedings within such time as the court may specify.

(2) On an application under paragraph (1), the court may direct that, unless the receiving party commences detailed assessment proceedings within the time specified by the court, all or part of the costs to which the receiving party would otherwise be entitled will be disallowed.

(3) If—

- (a) the paying party has not made an application in accordance with paragraph (1); and
- (b) the receiving party commences the proceedings later than the period specified in rule 47.7,

the court may disallow all or part of the interest otherwise payable to the receiving party under—

- (i) section 17 of the Judgments Act 1838(1); or
- (ii) section 74 of the County Courts Act 1984(2),  
but must not impose any other sanction except in accordance with rule 44.14 (powers in relation to misconduct).

(4) Where the costs to be assessed in a detailed assessment are payable out of the Legal Aid Fund, this rule applies as if the receiving party were the solicitor to whom the costs are payable and the paying party were the Legal Aid Board.

### **Points of dispute and consequence of not serving**

**47.9.**—(1) The paying party and any other party to the detailed assessment proceedings may dispute any item in the bill of costs by serving points of dispute on—

- (a) the receiving party; and
- (b) every other party to the detailed assessment proceedings.

(2) The period for serving points of dispute is 21 days after the date of service of the notice of commencement.

(1) 1838 c. 110. Section 17 was amended by S.I. 1998/2940.

(2) 1984 c. 28. Section 74 was amended by section 2 of the Private International Law (Miscellaneous Provisions) Act 1995 (c. 42).

(3) If a party serves points of dispute after the period set out in paragraph (2), he may not be heard further in the detailed assessment proceedings unless the court gives permission.

(The costs practice direction sets out requirements about the form of points of dispute)

(4) The receiving party may file a request for a default costs certificate if—

- (a) the period set out in rule 47.9(2) for serving points of dispute has expired; and
- (b) he has not been served with any points of dispute.

(5) If any party (including the paying party) serves points of dispute before the issue of a default costs certificate the court may not issue the default costs certificate.

(Section IV of this Part sets out the procedure to be followed after points of dispute have been filed)

### **Procedure where costs are agreed**

**47.10.**—(1) If the paying party and the receiving party agree the amount of costs, either party may apply for a costs certificate (either interim or final) in the amount agreed.

(Rule 47.15 and Rule 47.16 contain further provisions about interim and final costs certificates respectively)

(2) An application for a certificate under paragraph (1) must be made—

- (a) where the right to detailed assessment arises from a judgment or court order—
  - (i) to the court where the judgment or order was given or made, if the proceedings have not been transferred since then; or
  - (ii) to the court to which the proceedings have been transferred; and
- (b) in any other case, to the court which would be the venue for detailed assessment proceedings under rule 47.4.