

1970. No. 287

[C]

SOLICITORS' REMUNERATION

GENERAL ORDER UNDER SECTION 2 OF THE SOLICITORS' REMUNERATION ACT 1881.

We, the Right Honourable John Clarke, Baron MacDermott, Lord Chief Justice of Northern Ireland, the Right Honourable Sir Herbert Andrew McVeigh, one of the Judges of Her Majesty's Court of Appeal in Northern Ireland, and Henry Edward Pierce, Esquire, President of the Incorporated Law Society of Northern Ireland (being the persons in that behalf authorised by Section 2 of the Solicitors' Remuneration Act 1881(a), as amended by Section 51 of the Solicitors' Act (Northern Ireland) 1938), do in pursuance and execution of the powers given to us by the said statutes and of all other powers and authorities enabling us in that behalf, order and direct as follows:—

1. The following Schedule shall be substituted for Schedule II to the Order of 1884:—

"SCHEDULE II

Any business not being business in any action, or transacted in any Court, or in the Chambers of any Judge or Registrar, and not being otherwise contentious business, for which no charge is prescribed by Schedule I, or being business in respect of which the solicitor has elected to charge under Schedule II.

Such sum as may be fair and reasonable, having regard to all the circumstances of the case and in particular to—

1. the complexity of the matter or the difficulty or novelty of the questions raised;
2. the skill, labour, specialised knowledge and responsibility involved on the part of the solicitor;
3. the number and importance of the documents prepared or perused, without regard to length;
4. the place where and the circumstances in which the business or any part thereof is transacted;
5. the time expended by the solicitor;
6. where money or property is involved, its amount or value;
7. the importance of the matter to the client:

provided that—

- (a) without prejudice to the right to taxation prescribed by the Solicitors' Remuneration Act 1881 the client may require the solicitor to obtain a certificate from the Incorporated Law Society of Northern Ireland, acting by a committee of at least three members of the said Society nominated by the President thereof, certifying that the sum charged is fair and reasonable or, if it is not, what is a fair and reasonable sum, and the sum so certified, if less than that charge, shall, in the absence of taxation, be the sum payable;

- (b) before a solicitor brings proceedings to recover costs on a bill delivered under this Schedule, he must, unless the costs have been taxed, have drawn the attention of the client in writing
- (i) to his right under paragraph (a) of this proviso to require the solicitor to obtain a certificate from the Incorporated Law Society of Northern Ireland, and,
- (ii) to the provisions of the Solicitors' Remuneration Act 1881 in regard to taxation of costs;
- (c) the client shall not be entitled to require the solicitor to obtain a certificate from the Incorporated Law Society of Northern Ireland under paragraph (a) of this proviso after the bill has been either taxed or paid;
- (d) on any taxation of a bill delivered under this Schedule it shall be the duty of the solicitor to satisfy the Taxing Master as to the fairness and reasonableness of his charge;
- (e) if the Taxing Master allows less than one-half of the amount charged, he shall bring the facts of the case to the attention of the Incorporated Law Society of Northern Ireland."

2. This Order, which may be cited as the Solicitors' Remuneration Order (Northern Ireland) 1970, shall come into operation on the 1st day of January 1971, and shall apply to all business transacted on or after that date.

Dated this 11th day of November 1970.

MacDermott,
Lord Chief Justice.

H. A. McVeigh,
Lord Justice of Appeal.

H. E. Pierce,
President of the Incorporated
Law Society of Northern Ireland.

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport.)

This Order amends the General Order of 1884 by substituting a new Schedule II which regulates solicitors' charges for certain non-contentious business.

The new Schedule replaces the present method of charging by a system which enables a solicitor to charge such sum as may be fair and reasonable having regard to all the circumstances of the case and in particular to the matters referred to in paragraphs 1-7 of the Schedule.

While the right to have a bill taxed is not affected, provision is made for the client to obtain a certificate from the Incorporated Law Society of Northern Ireland certifying that the sum charged is fair and reasonable or, if it is not, what constitutes a fair and reasonable charge in the circumstances.