



# Solicitors Act 1974

## 1974 CHAPTER 47

### PART III

#### REMUNERATION OF SOLICITORS

##### *Non-contentious business*

#### **56 Orders as to remuneration for non-contentious business.**

- (1) For the purposes of this section there shall be a committee consisting of the following persons—
- (a) the [<sup>F1</sup>Lord Chancellor];
  - (b) the Lord Chief Justice;
  - (c) the Master of the Rolls;
  - (d) the President of the Society;
  - [<sup>F2</sup>(da) a member of the Legal Services Board nominated by that Board;]
  - (e) a solicitor, being the president of a local law society, nominated by the [<sup>F3</sup>Lord Chancellor] to serve on the committee during his tenure of office as president; and
  - (f) for the purpose only of prescribing and regulating the remuneration of solicitors in respect of business done under the [<sup>F4</sup>Land Registration Act 2002], the Chief Land Registrar appointed under that Act.
- (2) The committee, or any three members of the committee (the [<sup>F5</sup>(the Lord Chancellor being one), may make general orders prescribing the general principles to be applied when determining] the remuneration of solicitors in respect of non-contentious business.
- (3) The [<sup>F6</sup>Lord Chancellor], before any order under this section is made, shall cause a draft of the order to be sent to the [<sup>F7</sup>Society]; and the committee shall consider any observations of the [<sup>F7</sup>Society] submitted to them in writing within one month of the sending of the draft, and may then make the order, either in the form of the draft or with such alterations or additions as they may think fit.

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- (4) [<sup>F8</sup>The principles prescribed by an order under this section may provide that solicitors should be remunerated—]
- (b) by a gross sum; or
  - (c) by a fixed sum for each document prepared or perused, without regard to length; or
  - (d) in any other mode; or
  - (e) partly in one mode and partly in another.
- (5) [<sup>F9</sup> The general principles prescribed by an order under this section may provide that the amount of such remuneration is to be determined by having regard] to all or any of the following, among other, considerations, that is to say—
- (a) the position of the party for whom the solicitor is concerned in the business, that is, whether he is vendor or purchaser, lessor or lessee, mortgagor or mortgagee, or the like;
  - (b) the place where, and the circumstances in which, the business or any part of it is transacted;
  - (c) the amount of the capital money or rent to which the business relates;
  - (d) the skill, labour and responsibility on the part of the solicitor [<sup>F10</sup>, or any employee of his who is an authorised person,] which the business involves;
  - (e) the number and importance of the documents prepared or perused, without regard to length.
- [<sup>F11</sup>(5A) In subsection (5) “authorised person” means a person who is an authorised person in relation to an activity which is a reserved legal activity, within the meaning of the Legal Services Act 2007 (see section 18 of that Act).]
- (6) An order under this section may authorise and regulate—
- (a) the taking by a solicitor from his client of security for payment of any remuneration, to be ascertained by [<sup>F12</sup>assessment] or otherwise, which may become due to him under any such order; and
  - (b) the allowance of interest.
- (7) So long as an order made under this section is in operation the [<sup>F13</sup>assessment] of bills of costs of solicitors in respect of non-contentious business shall, subject to the provisions of section 57, be [<sup>F14</sup>subject to] that order.
- (8) Any order made under this section may be varied or revoked by a subsequent order so made.
- (9) The power to make orders under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and the <sup>M1</sup>Statutory Instruments Act 1946 shall apply to a statutory instrument containing such an order in like manner as if the order had been made by a Minister of the Crown.

#### Subordinate Legislation Made

**P1** S. 56: power previously exercised by S.I. 1983/370

#### Textual Amendments

**F1** Words in s. 56(1)(a) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 54(2)(a) (with ss. 29, 192, 193); S.I. 2008/1436, art. 2(d)(i)

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974, Part III. (See end of Document for details)*

- F2** S. 56(1)(da) inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(2)(b)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(i)**
- F3** Words in s. 56(1)(e) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(2)(c)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)**
- F4** Words in s. 56(1)(f) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), ss. 133, 136(2), **Sch. 11 para. 12(2)** (with s. 129); S.I. 2003/1725, **art. 2(1)**
- F5** Words in s. 56(2) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(3)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)**
- F6** Words in s. 56(3) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(4)(a)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)**
- F7** Words in s. 56(3) substituted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(4)(b)** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(j)(i)**
- F8** S. 56(4)(a) and preceding words substituted for words (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(5)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)**
- F9** Words in s. 56(5) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(6)(a)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)**
- F10** Words in s. 56(5)(d) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(6)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)
- F11** S. 56(5A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(7)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)
- F12** Word in s. 56(6)(a) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(8)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F13** Word in s. 56(7) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(9)(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)**
- F14** Words in s. 56(7) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 54(9)(b)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)**

#### Modifications etc. (not altering text)

- C1** S. 56 (except subsection (1)(e) and (5)) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
- C2** S. 56(1)(a)-(e) modified (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2A) (as inserted by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(d)**)
- C3** S. 56(1)(f) extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)
- C4** S. 56(2) extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)
- C5** S. 56(4)-(7) extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)
- C6** S. 56(5)(a)(d) modified (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 23**; S.I. 1991/2683, **art. 2**

#### Marginal Citations

- M1** 1946 c. 36.

## 57 Non-contentious business agreements.

- (1) Whether or not any order is in force under section 56, a solicitor and his client may, before or after or in the course of the transaction of any non-contentious business by the solicitor, make an agreement as to his remuneration in respect of that business.

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- (2) The agreement may provide for the remuneration of the solicitor by a gross sum [<sup>F15</sup>or by reference to an hourly rate], or by a commission or percentage, or by a salary, or otherwise, and it may be made on the terms that the amount of the remuneration stipulated for shall or shall not include all or any disbursements made by the solicitor in respect of searches, plans, travelling, [<sup>F16</sup>taxes], fees or other matters.
- (3) The agreement shall be in writing and signed by the person to be bound by it or his agent in that behalf.
- (4) [<sup>F17</sup>Subject to subsections (5) and (7)], the agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of a solicitor.
- (5) If on any [<sup>F18</sup>assessment] of costs the agreement is relied on by the solicitor and objected to by the client as unfair or unreasonable, the [<sup>F19</sup>costs officer] may enquire into the facts and certify them to the court, and if from that certificate it appears just to the court that the agreement should be set aside, or the amount payable under it reduced, the court may so order and may give such consequential directions as it thinks fit.
- [<sup>F20</sup>(6) Subsection (7) applies where the agreement provides for the remuneration of the solicitor to be by reference to an hourly rate.
- (7) If, on the [<sup>F21</sup>assessment] of any costs, the agreement is relied on by the solicitor and the client objects to the amount of the costs (but is not alleging that the agreement is unfair or unreasonable), the [<sup>F22</sup>costs officer] may enquire into—
- (a) the number of hours worked by the solicitor; and
  - (b) whether the number of hours worked by him was excessive.]

#### Textual Amendments

- F15** S. 57(2) words inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 98(2)
- F16** Word in s. 57(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 55(a) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(f)(ii) (with art. 9)
- F17** S. 57(4) words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 98(3)
- F18** Word in s. 57(5) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 55(b)(i) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(f)(ii) (with art. 9)
- F19** Words in s. 57(5) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 55(b)(ii) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(f)(ii) (with art. 9)
- F20** S. 57(6)(7) inserted by Courts and Legal Service Act 1990 (c. 41, SIF 76:1), s. 98(4)
- F21** Word in s. 57(7) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 55(c)(i) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(f)(ii) (with art. 9)
- F22** Words in s. 57(7) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 55(c)(ii) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(f)(ii) (with art. 9)

#### Modifications etc. (not altering text)

- C7** S. 57 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 para. 22(2); S.I. 1991/2683, art. 2
- S. 57 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), art. 3(7)(c))

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## 58 Remuneration of a solicitor who is a mortgagee.

- (1) Where a mortgage is made to a solicitor, either alone or jointly with any other person, he or the firm of which he is a member shall be entitled to recover from the mortgagor in respect of all business transacted and acts done by him or them in negotiating the loan, deducing and investigating the title to the property, and preparing and completing the mortgage, such usual costs as he or they would have been entitled to receive if the mortgage had been made to a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.
- (2) Where a mortgage has been made to, or has become vested by transfer or transmission in, a solicitor, either alone or jointly with any other person, and any business is transacted or acts are done by that solicitor or by the firm of which he is a member in relation to that mortgage or the security thereby created or the property thereby charged, he or they shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.
- (3) In this section “mortgage” includes any charge on any property for securing money or money’s worth.

### Modifications etc. (not altering text)

- C8 S. 58 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 para. 22(2); S.I. 1991/2683, art. 2
- C9 S. 58 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2)

### *Contentious business*

## 59 Contentious business agreements.

- (1) Subject to subsection (2), a solicitor may make an agreement in writing with his client as to his remuneration in respect of any contentious business done, or to be done, by him (in this Act referred to as a “contentious business agreement”) providing that he shall be remunerated by a gross sum [<sup>F23</sup>or by reference to an hourly rate], or by a salary, or otherwise, and whether at a higher or lower rate than that at which he would otherwise have been entitled to be remunerated.
- (2) Nothing in this section or in sections 60 to 63 shall give validity to—
  - (a) any purchase by a solicitor of the interest, or any part of the interest, of his client in any action, suit or other contentious proceeding; or
  - (b) any agreement by which a solicitor retained or employed to prosecute any action, suit or other contentious proceeding, stipulates for payment only in the event of success in that action, suit or proceeding; or
  - (c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which under the law relating to bankruptcy is invalid against a trustee or creditor in any bankruptcy or composition.

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#### Textual Amendments

**F23** Words inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **s. 98(5)**

#### Modifications etc. (not altering text)

**C10** [S. 59](#) extended (1.1.1992) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 9, **Sch. 2 para. 22(2)**; [S.I. 1991/2683](#), **art. 2**

**C11** [S. 59](#) extended (22.5.2000) by [S.I. 2000/1119](#), regs. 1, 37(3), **Sch. 4 para. 7(2)**

### 60 Effect of contentious business agreements.

- (1) Subject to the provisions of this section and to sections 61 to 63, the costs of a solicitor in any case where a contentious business agreement has been made shall not be subject to [<sup>F24</sup>assessment] or [<sup>F25</sup>(except in the case of an agreement which provides for the solicitor to be remunerated by reference to an hourly rate)] to the provisions of section 69.
- (2) Subject to subsection (3), a contentious business agreement shall not affect the amount of, or any rights or remedies for the recovery of, any costs payable by the client to, or to the client by, any person other than the solicitor, and that person may, unless he has otherwise agreed, require any such costs to be [<sup>F26</sup>assessed] according to the rules for their [<sup>F27</sup>assessment] for the time being in force.
- (3) A client shall not be entitled to recover from any other person under an order for the payment of any costs to which a contentious business agreement relates more than the amount payable by him to his solicitor in respect of those costs under the agreement.
- (4) A contentious business agreement shall be deemed to exclude any claim by the solicitor in respect of the business to which it relates other than—
  - (a) a claim for the agreed costs; or
  - (b) a claim for such costs as are expressly excepted from the agreement.
- [<sup>F28</sup>(5) A provision in a contentious business agreement that the solicitor shall not be liable for his negligence, or that of any employee of his, shall be void if the client is a natural person who, in entering that agreement, is acting for purposes which are outside his trade, business or profession.
- (6) A provision in a contentious business agreement that the solicitor shall be relieved from any responsibility to which he would otherwise be subject as a solicitor shall be void.]

#### Textual Amendments

**F24** Word in [s. 60\(1\)](#) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, **Sch. 16 para. 56(a)** (with ss. 29, 192, 193); [S.I. 2009/3250](#), **art. 2(f)(ii)** (with art. 9)

**F25** Words inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **s. 98(6)**

**F26** Word in [s. 60\(2\)](#) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, **Sch. 16 para. 56(b)(i)** (with ss. 29, 192, 193); [S.I. 2009/3250](#), **art. 2(f)(ii)** (with art. 9)

**F27** Word in [s. 60\(2\)](#) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, **Sch. 16 para. 56(b)(ii)** (with ss. 29, 192, 193); [S.I. 2009/3250](#), **art. 2(f)(ii)** (with art. 9)

**F28** [S. 60\(5\)\(6\)](#) substituted (30.6.2008) for [s. 60\(5\)](#) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, **Sch. 16 para. 56(c)** (with ss. 29, 192, 193); [S.I. 2008/1436](#), **art. 2(d)(i)**

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**Modifications etc. (not altering text)**

- C12** S. 60 (except (5)) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 para. 22(2); S.I. 1991/2683, art. 2
- C13** S. 60 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2)

**61 Enforcement of contentious business agreements.**

- (1) No action shall be brought on any contentious business agreement, but on the application of any person who—
- is a party to the agreement or the representative of such a party; or
  - is or is alleged to be liable to pay, or is or claims to be entitled to be paid, the costs due or alleged to be due in respect of the business to which the agreement relates,

the court may enforce or set aside the agreement and determine every question as to its validity or effect.

- (2) On any application under subsection (1), the court—
- if it is of the opinion that the agreement is in all respects fair and reasonable, may enforce it;
  - if it is of the opinion that the agreement is in any respect unfair or unreasonable, may set it aside and order the costs covered by it to be [F29 assessed] as if it had never been made;
  - in any case, may make such order as to the costs of the application as it thinks fit.

- (3) If the business covered by a contentious business agreement (not being an agreement to which section 62 applies) is business done, or to be done, in any action, a client who is a party to the agreement may make application to a [F30 costs officer] of the court for the agreement to be examined.

- (4) A [F31 costs officer] before whom an agreement is laid under subsection (3) shall examine it and may either allow it, or, if he is of the opinion that the agreement is unfair or unreasonable, require the opinion of the court to be taken on it, and the court may allow the agreement or reduce the amount payable under it, or set it aside and order the costs covered by it to be [F32 assessed] as if it had never been made.

[F33(4A) Subsection (4B) applies where a contentious business agreement provides for the remuneration of the solicitor to be by reference to an hourly rate.

- (4B) If on the [F34 assessment] of any costs the agreement is relied on by the solicitor and the client objects to the amount of the costs (but is not alleging that the agreement is unfair or unreasonable), the [F35 costs officer] may enquire into—

- the number of hours worked by the solicitor; and
- whether the number of hours worked by him was excessive.]

- (5) Where the amount agreed under any contentious business agreement is paid by or on behalf of the client or by any person entitled to do so, the person making the payment may at any time within twelve months from the date of payment, or within such further time as appears to the court to be reasonable, apply to the court, and, if it appears to the court that the special circumstances of the case require it to be re-opened, the court may, on such terms as may be just, re-open it and order the costs covered by

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the agreement to be [<sup>F36</sup>assessed] and the whole or any part of the amount received by the solicitor to be repaid by him.

- (6) In this section and in sections 62 and 63 “the court” means—
- (a) in relation to an agreement under which any business has been done in any court having jurisdiction to enforce and set aside agreements, any such court in which any of that business has been done;
  - (b) in relation to an agreement under which no business has been done in any such court, and under which more than £50 is payable, the High Court;
  - (c) in relation to an agreement under which no business has been done in any such court and under which not more than £50 is payable, any county court which would, but for the provisions of subsection (1) prohibiting the bringing of an action on the agreement, have had jurisdiction in any action on it;

and for the avoidance of doubt it is hereby declared that in paragraph (a) “court having jurisdiction to enforce and set aside agreements” includes a county court.

#### Textual Amendments

- F29** Word in s. 61(2)(b) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 57\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F30** Words in s. 61(3) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 57\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F31** Words in s. 61(4) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 57\(c\)\(i\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F32** Word in s. 61(4) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 57\(c\)\(ii\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F33** S. 61(4A)(4B) inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 98(7)
- F34** Word in s. 61(4B) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 57\(d\)\(i\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F35** Words in s. 61(4B) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 57\(d\)\(ii\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F36** Word in s. 61(5) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 57\(e\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)

#### Modifications etc. (not altering text)

- C14** S. 61 extended (1.1.1992) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 9, [Sch. 2 para. 22\(2\)](#); S.I. 1991/2683, [art. 2](#)  
S. 61 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), [Sch. 4 para. 7\(2\)](#)

## 62 Contentious business agreements by certain representatives.

- (1) Where the client who makes a contentious business agreement makes it as a representative of a person whose property will be chargeable with the whole or part of the amount payable under the agreement, the agreement shall be laid before a [<sup>F37</sup>costs officer] of the court before payment.
- (2) A [<sup>F38</sup>costs officer] before whom an agreement is laid under subsection (1) shall examine it and may either allow it, or, if he is of the opinion that it is unfair or unreasonable, require the opinion of the court to be taken on it, and the court may allow the agreement or reduce the amount payable under it, or set it aside and order the costs covered by it to be [<sup>F39</sup>assessed] as if it had never been made.



*Status: Point in time view as at 01/01/2010.*

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- (3) A client who makes a contentious business agreement as mentioned in subsection (1) and pays the whole or any part of the amount payable under the agreement without it being allowed by the officer or by the court shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged, and the solicitor who accepts the payment may be ordered by the court to refund the amount received by him.
- (4) A client makes a contentious business agreement as the representative of another person if he makes it—
- (a) as his guardian,
  - (b) as a trustee for him under a deed or will,
  - [<sup>F40</sup>(c) as a deputy for him appointed by the Court of Protection with powers in relation to his property and affairs, or
  - (d) as another person authorised under that Act to act on his behalf.]

#### Textual Amendments

- F37** Words in s. 62(1) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 58\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F38** Words in s. 62(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 58\(b\)\(i\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F39** Word in s. 62(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 58\(b\)\(ii\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F40** S. 62(4)(c)(d) substituted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68, [Sch. 6 para. 22\(3\)](#) (with ss. 27-29, 62); S.I. 2007/1897, [art. 2](#)

#### Modifications etc. (not altering text)

- C15** S. 62 extended (1.1.1992) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 9, [Sch. 2 para. 22\(2\)](#); S.I. 1991/2683, [art. 2](#)  
S. 62 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), [Sch. 4 para. 7\(2\)](#)

### 63 Effect on contentious business agreement of death, incapability or change of solicitor.

- (1) If, after some business has been done under a contentious business agreement but before the solicitor has wholly performed it—
- (a) the solicitor dies, or becomes incapable of acting; or
  - (b) the client changes his solicitor (as, notwithstanding the agreement, he shall be entitled to do),
- any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as the court would have had if the solicitor had not died or become incapable of acting, or the client had not changed his solicitor.
- (2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by [<sup>F41</sup>assessment], and in that case—
- (a) the [<sup>F42</sup>costs officer], in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and

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- (b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.
- (3) If in such a case as is mentioned in subsection (1)(b) an order is made for the [<sup>F43</sup>assessment] of the amount due to the solicitor in respect of the business done under the agreement, the court shall direct the [<sup>F44</sup>costs officer] to have regard to the circumstances under which the change of solicitor has taken place, and the [<sup>F44</sup>costs officer], unless he is of the opinion that there has been no default, negligence, improper delay or other conduct on the part of the solicitor [<sup>F45</sup>, or any of his employees,] affording the client reasonable ground for changing his solicitor, shall not allow to the solicitor the full amount of the remuneration agreed to be paid to him.

#### Textual Amendments

- F41** Word in s. 63(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 59(a)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F42** Words in s. 63(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 59(a)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F43** Word in s. 63(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 59(b)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F44** Words in s. 63(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 59(b)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F45** Words in s. 63(3) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 59(b)(iii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**

#### Modifications etc. (not altering text)

- C16** S. 63 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

## 64 Form of bill of costs for contentious business.

- (1) Where the remuneration of a solicitor in respect of contentious business done by him is not the subject of a contentious business agreement, then, subject to subsections (2) to (4), the solicitor's bill of costs may at the option of the solicitor be either a bill containing detailed items or a gross sum bill.
- (2) The party chargeable with a gross sum bill may at any time—
- before he is served with a writ or other originating process for the recovery of costs included in the bill, and
  - before the expiration of three months from the date on which the bill was delivered to him,
- require the solicitor to deliver, in lieu of that bill, a bill containing detailed items; and on such a requirement being made the gross sum bill shall be of no effect.
- (3) Where an action is commenced on a gross sum bill, the court shall, if so requested by the party chargeable with the bill before the expiration of one month from the service on that party of the writ or other originating process, order that the bill be [<sup>F46</sup>assessed].
- (4) If a gross sum bill is [<sup>F47</sup>assessed], whether under this section or otherwise, nothing in this section shall prejudice any rules of court with respect to [<sup>F48</sup>assessment], and the solicitor shall furnish the [<sup>F49</sup>costs officer] with such details of any of the costs covered by the bill as the [<sup>F49</sup>costs officer] may require.

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#### Textual Amendments

- F46** Word in s. 64(3) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 60\(a\)](#) (ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with art. 9)
- F47** Word in s. 64(4) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 60\(b\)\(i\)](#) (ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with art. 9)
- F48** Word in s. 64(4) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 60\(b\)\(ii\)](#) (ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with art. 9)
- F49** Words in s. 64(4) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 60\(b\)\(iii\)](#) (ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with art. 9)

#### Modifications etc. (not altering text)

- C17** [S. 64](#) extended (1.1.1992) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 9, [Sch. 2 para. 22\(2\)](#); [S.I. 1991/2683](#), [art. 2](#)  
[S.64](#) extended (22.5.2000) by [S.I. 2000/1119](#), regs. 1, 37(3), [Sch. 4 para. 7\(2\)](#)

### 65 Security for costs and termination of retainer.

- (1) A solicitor may take security from his client for his costs, to be ascertained by [<sup>F50</sup>assessment] or otherwise, in respect of any contentious business to be done by him.
- (2) If a solicitor who has been retained by a client to conduct contentious business requests the client to make a payment of a sum of money, being a reasonable sum on account of the costs incurred or to be incurred in the conduct of that business and the client refuses or fails within a reasonable time to make that payment, the refusal or failure shall be deemed to be a good cause whereby the solicitor may, upon giving reasonable notice to the client, withdraw from the retainer.

#### Textual Amendments

- F50** Word in s. 65(1) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 61](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with art. 9)

#### Modifications etc. (not altering text)

- C18** [S. 65](#) extended (1.1.1992) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 9, [Sch. 2 para. 22\(2\)](#); [S.I. 1991/2683](#), [art. 2](#)  
[S. 65](#) extended (22.5.2000) by [S.I. 2000/1119](#), regs. 1, 37(3), [Sch. 4 para. 7\(2\)](#)

### 66 [<sup>F51</sup>Assessments] with respect to contentious business.

Subject to the provisions of any rules of court, on every [<sup>F52</sup>assessment] of costs in respect of any contentious business, the [<sup>F53</sup>costs officer] may—

- (a) allow interest at such rate and from such time as he thinks just on money disbursed by the solicitor for the client, and on money of the client in the hands of, and improperly retained by, the solicitor [<sup>F54</sup>or an employee of the solicitor]; and
- (b) in determining the remuneration of the solicitor, have regard to the skill, labour and responsibility involved in the business done by him [<sup>F55</sup>or by any employee of his who is an authorised person (within the meaning of section 56(5A))].

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#### Textual Amendments

- F51** S. 66: word in section heading substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 62(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F52** Word in s. 66 substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 62(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F53** Words in s. 66 substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 62(c)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F54** Words in s. 66(a) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 62(d)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F55** Words in s. 66(b) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 62(e)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (with art. 4)

#### Modifications etc. (not altering text)

- C19** S. 66 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

### *Remuneration—general*

#### 67 Inclusion of disbursements in bill of costs.

A solicitor's bill of costs may include costs payable in discharge of a liability properly incurred by him on behalf of the party to be charged with the bill (including counsel's fees) notwithstanding that those costs have not been paid before the delivery of the bill to that party; but those costs—

- (a) shall be described in the bill as not then paid; and
- (b) if the bill is [<sup>F56</sup>assessed], shall not be allowed by the [<sup>F57</sup>costs officer] unless they are paid before the [<sup>F58</sup>assessment] is completed.

#### Textual Amendments

- F56** Word in s. 67(b) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 63(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F57** Words in s. 67(b) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 63(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F58** Word in s. 67(b) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 63(c)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

#### Modifications etc. (not altering text)

- C20** S. 67 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**  
S. 67 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

#### 68 Power of court to order solicitor to deliver bill, etc.

- (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.

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- (2) A county court shall have the same jurisdiction as the High Court to make orders making such provision as is mentioned in subsection (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 section and in sections 69 to 71 “solicitor” includes the executors, administrators and assignees of a solicitor.

**Modifications etc. (not altering text)**

- C21** S. 68 extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 3\(2\)\(n\)](#), Sch.
- C22** S. 68 extended (22.5.2000) by [S.I. 2000/1119](#), regs. 1, 37(3), [Sch. 4 para. 7\(2\)](#)

**69 Action to recover solicitor’s costs.**

- (1) Subject to the provisions of this Act, no action shall be brought to recover any costs due to a solicitor before the expiration of one month from the date on which a bill of those costs is delivered in accordance with the requirements mentioned in subsection (2); but if there is probable cause for believing that the party chargeable with the costs—
- (a) is about to quit England and Wales, to become bankrupt or to compound with his creditors, or
  - (b) is about to do any other act which would tend to prevent or delay the solicitor obtaining payment,
- the High Court may, notwithstanding that one month has not expired from the delivery of the bill, order that the solicitor be at liberty to commence an action to recover his costs and may order that those costs be [<sup>F59</sup>assessed].

[<sup>F60</sup>(2) The requirements referred to in subsection (1) are that the bill must be—

- (a) signed in accordance with subsection (2A), and
- (b) delivered in accordance with subsection (2C).

(2A) A bill is signed in accordance with this subsection if it is—

- (a) signed by the solicitor or on his behalf by an employee of the solicitor authorised by him to sign, or
- (b) enclosed in, or accompanied by, a letter which is signed as mentioned in paragraph (a) and refers to the bill.

(2B) For the purposes of subsection (2A) the signature may be an electronic signature.

(2C) A bill is delivered in accordance with this subsection if—

- (a) it is delivered to the party to be charged with the bill personally,
- (b) it is delivered to that party by being sent to him by post to, or left for him at, his place of business, dwelling-house or last known place of abode, or
- (c) it is delivered to that party—
  - (i) by means of an electronic communications network, or
  - (ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible,

and that party has indicated to the person making the delivery his willingness to accept delivery of a bill sent in the form and manner used.

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- (2D) An indication to any person for the purposes of subsection (2C)(c)—
- (a) must state the address to be used and must be accompanied by such other information as that person requires for the making of the delivery;
  - (b) may be modified or withdrawn at any time by a notice given to that person.
- (2E) Where a bill is proved to have been delivered in compliance with the requirements of subsections (2A) and (2C), it is not necessary in the first instance for the solicitor to prove the contents of the bill and it is to be presumed, until the contrary is shown, to be a bill bona fide complying with this Act.
- (2F) A bill which is delivered as mentioned in subsection (2C)(c) is to be treated as having been delivered on the first working day after the day on which it was sent (unless the contrary is proved).]
- (3) Where a bill of costs relates wholly or partly to contentious business done in a county court and the amount of the bill does not exceed [<sup>F61</sup>£5,000], the powers and duties of the High Court under this section and sections 70 and 71 in relation to that bill may be exercised and performed by any county court in which any part of the business was done.
- <sup>F62</sup>(4) . . . . .
- [<sup>F63</sup>(5) In this section references to an electronic signature are to be read in accordance with section 7(2) of the Electronic Communications Act 2000 (c. 7).
- (6) In this section—
- “electronic communications network” has the same meaning as in the Communications Act 2003 (c. 21);
- “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 (c. 80).]

#### Textual Amendments

- F59** Word in s. 69(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 64(2)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F60** S. 69(2)-(2F) substituted (7.3.2008) for s. 69(2) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 64(3)** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(j)(i)**
- F61** Words in s. 69(3) substituted by S.I. 1991/724, art. 2(8), **Schedule Part I**
- F62** S. 69(4) omitted by S.I. 1991/724, art. 2(8), **Schedule Part I**
- F63** S. 69(5)(6) inserted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 64(4)** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(j)(i)**

#### Modifications etc. (not altering text)

- C23** Ss. 69-71 extended by S.I. 1991/724, **art. 2(7)**  
S. 69 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**
- C24** S. 69 modified (temp.) (31.3.2009) Legal Services Act 2007 (c. 29), ss. 209, 211, **Sch. 22 para. 14** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(e)**
- C25** S. 69(1) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
- C26** S. 69(2A) applied (with modifications) by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 29(1) (as substituted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 115** (with ss. 29, 192, 193)); S.I. 2008/222, **art. 2(j)(ii)**

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**C27** S. 69(2E) applied (with modifications) by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 29(2) (as substituted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 115** (with ss. 29, 192, 193)); S.I. 2008/222, **art. 2(j)(ii)**

**70** [<sup>F64</sup>Assessment] on application of party chargeable or solicitor.

- (1) Where before the expiration of one month from the delivery of a solicitor's bill an application is made by the party chargeable with the bill, the High Court shall, without requiring any sum to be paid into court, order that the bill be [<sup>F65</sup>assessed] and that no action be commenced on the bill until the [<sup>F66</sup>assessment] is completed.
- (2) Where no such application is made before the expiration of the period mentioned in subsection (1), then, on an application being made by the solicitor or, subject to subsections (3) and (4), by the party chargeable with the bill, the court may on such terms, if any, as it thinks fit (not being terms as to the costs of the [<sup>F67</sup>assessment]), order—
  - (a) that the bill be [<sup>F68</sup>assessed]; and
  - (b) that no action be commenced on the bill, and that any action already commenced be stayed, until the [<sup>F67</sup>assessment] is completed.
- (3) Where an application under subsection (2) is made by the party chargeable with the bill—
  - (a) after the expiration of 12 months from the delivery of the bill, or
  - (b) after a judgment has been obtained for the recovery of the costs covered by the bill, or
  - (c) after the bill has been paid, but before the expiration of 12 months from the payment of the bill.no order shall be made except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the [<sup>F69</sup>assessment] as the court may think fit.
- (4) The power to order [<sup>F69</sup>assessment] conferred by subsection (2) shall not be exercisable on an application made by the party chargeable with the bill after the expiration of 12 months from the payment of the bill.
- (5) An order for the [<sup>F69</sup>assessment] of a bill made on an application under this section by the party chargeable with the bill shall, if he so requests, be an order for the [<sup>F69</sup>assessment] of the profit costs covered by the bill.
- (6) Subject to subsection (5), the court may under this section order the [<sup>F70</sup>assessment] of all the costs, or of the profit costs, or of the costs other than profit costs and, where part of the costs is not to be [<sup>F71</sup>assessed], may allow an action to be commenced or to be continued for that part of the costs.
- (7) Every order for the [<sup>F72</sup>assessment] of a bill shall require the [<sup>F73</sup>costs officer] to [<sup>F74</sup>assess] not only the bill but also the costs of the [<sup>F72</sup>assessment] and to certify what is due to or by the solicitor in respect of the bill and in respect of the costs of the taxation .
- (8) If after due notice of any [<sup>F75</sup>assessment] either party to it fails to attend, the officer may proceed with the [<sup>F75</sup>assessment] ex parte.
- (9) Unless—
  - (a) the order [<sup>F76</sup>for assessment] was made on the application of the solicitor and the party chargeable does not attend [<sup>F77</sup>the assessment] , or

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- (b) the order [<sup>F76</sup>for assessment] or an order under subsection (10) otherwise provides,  
the costs of [<sup>F78</sup>an assessment] shall be paid according to the event of [<sup>F77</sup>the assessment] , that is to say, if [<sup>F79</sup>the amount of the bill is reduced by one fifth], the solicitor shall pay the costs, but otherwise the party chargeable shall pay the costs.
- (10) The [<sup>F80</sup>costs officer] may certify to the court any special circumstances relating to a bill or to the [<sup>F81</sup>assessment] of a bill, and the court may make such order as respects the costs of the [<sup>F81</sup>assessment] as it may think fit.
- (11) <sup>F82</sup> .....
- (12) In this section “profit costs” means costs other than counsel’s fees or costs paid or payable in the discharge of a liability incurred by the solicitor on behalf of the party chargeable, and the reference in subsection (9) to the fraction of the amount [<sup>F83</sup>of the reduction in the bill] shall be taken, where the [<sup>F84</sup>assessment] concerns only part of the costs covered by the bill, as a reference to that fraction of the amount of those costs which is being [<sup>F85</sup>assessed].

#### Textual Amendments

- F64** S. 70: word in section heading substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F65** Word in s. 70(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(b)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F66** Word in s. 70(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(b)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F67** Word in s. 70(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(c)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F68** Word in s. 70(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(c)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F69** Words in s. 70(3)-(5) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(d)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F70** Word in s. 70(6) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(e)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F71** Word in s. 70(6) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(e)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F72** Word in s. 70(7) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(f)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F73** Words in s. 70(7) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(f)(ii)** (with ss. 29, 192, 193)
- F74** Word in s. 70(7) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(f)(iii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F75** Words in s. 70(8) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(g)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F76** Words in s. 70(9) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(h)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F77** Words in s. 70(9) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(h)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F78** Words in s. 70(9) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(h)(iii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F79** Words in s. 70(9) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(h)(iv)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)



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- F80** Words in s. 70(10) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(i)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F81** Words in s. 70(10) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(i)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F82** S. 70(11) repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, **Sch. 16 para. 65(j)**, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F83** Words in s. 70(12) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(k)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F84** Word in s. 70(12) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(k)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F85** Word in s. 70(12) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 65(k)(iii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

**Modifications etc. (not altering text)**

- C28** S. 70 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**  
Ss. 69-71 extended by S.I. 1991/724, **art. 2(7)**  
S. 70 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

**71** [<sup>F86</sup>Assessment] on application of third parties.

- (1) Where a person other than the party chargeable with the bill for the purposes of section 70 has paid, or is or was liable to pay, a bill either to the solicitor or to the party chargeable with the bill, that person, or his executors, administrators or assignees may apply to the High Court for an order for the [<sup>F87</sup>assessment] of the bill as if he were the party chargeable with it, and the court may make the same order (if any) as it might have made if the application had been made by the party chargeable with the bill.
- (2) Where the court has no power to make an order by virtue of subsection (1) except in special circumstances it 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 party chargeable with the bill.
- (3) Where a trustee, executor or administrator has become liable to pay a bill of a solicitor, then, on the application of any person interested in any property out of which the trustee, executor or administrator has paid, or is entitled to pay, the bill, the court may order—
  - (a) that the bill be [<sup>F88</sup>assessed] on such terms, if any, as it thinks fit; and
  - (b) that such payments, in respect of the amount found to be due to or by the solicitor and in respect of the costs of the [<sup>F89</sup>assessment], be made to or by the applicant, to or by the solicitor, or to or by the executor, administrator or trustee, as it thinks fit.
- (4) In considering any application under subsection (3) the court shall have regard—
  - (a) to the provisions of section 70 as to applications by the party chargeable for the [<sup>F90</sup>assessment] of a solicitor's bill so far as they are capable of being applied to an application made under that subsection;
  - (b) to the extent and nature of the interest of the applicant.
- (5) If an applicant under subsection (3) pays any money to the solicitor, he shall have the same right to be paid that money by the trustee, executor or administrator chargeable with the bill as the solicitor had.

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- (6) Except in special circumstances, no order shall be made on an application under this section for the [F91assessment] of a bill which has already been [F92assessed].
- (7) If the court on an application under this section orders a bill to be [F93assessed], it may order the solicitor to deliver to the applicant a copy of the bill on payment of the costs of that copy.

#### Textual Amendments

- F86** S. 71: word in section heading substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 66(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F87** Word in s. 71(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 66(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F88** Word in s. 71(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 66(c)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F89** Word in s. 71(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 66(c)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F90** Word in s. 71(4) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 66(d)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F91** Word in s. 71(6) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 66(e)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F92** Word in s. 71(6) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 66(e)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F93** Word in s. 71(7) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 66(f)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

#### Modifications etc. (not altering text)

- C29** S. 71 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**  
Ss. 69-71 extended by S.I. 1991/724, **art. 2(7)**  
S. 71 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

## 72 Supplementary provisions as to [F94assessments].

- (1) Every application for an order for the [F95assessment] of a solicitor's bill or for the delivery of a solicitor's bill and for the delivery up by a solicitor of any documents in his possession, custody or power shall be made in the matter of that solicitor.
- (2) Where a [F96costs officer] is in the course of [F97assessing] a bill of costs, he may request the [F96costs officer] of any other court to assist him in [F97assessing] any part of the bill, and the [F96costs officer] so requested shall [F98assess] that part of the bill and shall return the bill with his opinion on it to the [F96costs officer] making the request.
- (3) Where a request is made as mentioned in subsection (2), the [F99costs officer] who is requested to [F100assess] part of a bill shall have such powers, and may take such fees, in respect of that part of the bill, as he would have or be entitled to take if he were [F101assessing] that part of the bill in pursuance of an order of the court of which he is an officer; and the [F99costs officer] who made the request shall not take any fee in respect of that part of the bill.
- (4) The certificate of the [F102costs officer] by whom any bill has been [F103assessed] shall, unless it is set aside or altered by the court, be final as to the amount of the costs

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covered by it, and the court may make such order in relation to the certificate as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.

#### Textual Amendments

- F94** S. 72: word in section heading substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F95** Word in s. 72(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F96** Words in s. 72(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(c)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F97** Words in s. 72(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(c)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F98** Word in s. 72(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(c)(iii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F99** Words in s. 72(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(d)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F100** Word in s. 72(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(d)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F101** Word in s. 72(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(d)(iii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F102** Words in s. 72(4) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(e)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F103** Word in s. 72(4) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 67(e)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

#### Modifications etc. (not altering text)

- C30** S. 72 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**  
S. 72 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

### 73 Charging orders.

- (1) Subject to subsection (2), any court in which a solicitor has been employed to prosecute or defend any suit, matter or proceedings may at any time—
- declare the solicitor entitled to a charge on any property recovered or preserved through his instrumentality for his [<sup>F104</sup>assessed] costs in relation to that suit, matter or proceeding; and
  - make such orders for the [<sup>F105</sup>assessment] of those costs and for raising money to pay or for paying them out of the property recovered or preserved 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.
- (2) No order shall be made under subsection (1) if the right to recover the costs is barred by any statute of limitations.

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### Textual Amendments

- F104** Word in s. 73(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 68(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F105** Word in s. 73(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 68(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

### Modifications etc. (not altering text)

- C31** S. 73 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, art. 2
- S. 73 extended (31.1.1997) by 1996 c. 23, ss. 75, 93(6), **Sch. 2 para. 12** (with ss. 1, 2, 5, 81, 84, 93(6), 94, 95, 106); S.I. 1996/3146, **art. 3**
- S. 73 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

## 74 Special provisions as to contentious business done in county courts.

- (1) The remuneration of a solicitor in respect of contentious business done by him in a county court shall be regulated in accordance with sections 59 to 73, and for that purpose those sections shall have effect subject to the following provisions of this section.
- (2) The registrar of a county court shall be the taxing officer of that court but any taxation of costs by him may be reviewed by a judge assigned to the county court district, or by a judge acting as a judge so assigned, on the application of any party to the taxation.
- (3) The amount which may be allowed on the taxation of any costs or bill of costs in respect of any item relating to proceedings in a county court shall not, except in so far as rules of court may otherwise provide, exceed the amount which could have been allowed in respect of that item as between party and party in those proceedings, having regard to the nature of the proceedings and the amount of the claim and of any counterclaim.

### Modifications etc. (not altering text)

- C32** S. 74 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
- C33** S. 74 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**
- C34** Power to apply conferred by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **s. 42(2)**
- C35** S. 74(3) extended by S.I. 1988/1328, **reg. 22**

## 75 Saving for certain enactments.

Nothing in this Part of this Act shall affect the following enactments, that is to say—

- <sup>F106</sup>(a) .....
- (b) <sup>F107</sup> .....
- (c) any of the provisions of the <sup>M2</sup>Costs in Criminal Cases Act 1973;
- <sup>F108</sup>(d) .....
- (e) any other enactment not expressly repealed by this Act which authorises the making of rules or orders or the giving of directions with respect to costs, or

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which provides that any such rule, order or direction made or given under a previous enactment shall continue in force.

**Textual Amendments**

**F106** S. 75(a) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), [Sch. 1 Pt. I Gp. 5](#)

**F107** S. 75(b) repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 133-135, 136(2), [Sch. 11 para. 12\(3\)](#), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); S.I. 2003/1725, [art. 2\(1\)](#)

**F108** S. 75(d) repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 6](#)

**Modifications etc. (not altering text)**

**C36** S. 75 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), [Sch. 4 para. 7\(2\)](#)

**Marginal Citations**

**M2** 1973 c. 14.

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