



Solicitors Act 1974

1974 CHAPTER 47

PART III

REMUNERATION OF SOLICITORS

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 taxed, shall not be allowed by the taxing officer unless they are paid before the taxation is completed.

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.
- (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.

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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 taxed.
- (2) The requirements referred to in subsection (1) are that the bill—
- (a) must 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) must be delivered to the party to be charged with the bill, either personally or 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;
- 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 bona fide complying with this Act.
- (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 £1,000, 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.

70 Taxation 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 taxed and that no action be commenced on the bill until the taxation 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 taxation), order—
- (a) that the bill be taxed ; and
 - (b) that no action be commenced on the bill, and that any action already commenced be stayed, until the taxation 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

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- (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 taxation as the court may think fit.

- (4) The power to order taxation 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 taxation 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 taxation of the profit costs covered by the bill.
- (6) Subject to subsection (5), the court may under this section order the taxation 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 taxed, may allow an action to be commenced or to be continued for that part of the costs.
- (7) Every order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of the taxation 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 taxation either party to it fails to attend, the officer may proceed with the taxation *ex parte*.
- (9) Unless—
 - (a) the order for taxation was made on the application of the solicitor and the party chargeable does not attend the taxation, or
 - (b) the order for taxation or an order under subsection (10) otherwise provides,the costs of a taxation shall be paid according to the event of the taxation, that is to say, if one-fifth of the amount of the bill is taxed off, the solicitor shall pay the costs, but otherwise the party chargeable shall pay the costs.
- (10) The taxing officer may certify to the court any special circumstances relating to a bill or to the taxation of a bill, and the court may make such order as respects the costs of the taxation as it may think fit.
- (11) Subsection (9) shall have effect in any case where the application for an order for taxation was made before the passing of the Solicitors (Amendment) Act 1974 and—
 - (a) the bill is a bill for contentious business, or
 - (b) more than half of the amount of the bill before taxation consists of costs for which a scale charge is provided by an order for the time being in operation under section 56,as if for the reference to one-fifth of the amount of the bill there were substituted a reference to one-sixth of that amount.
- (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 of the bill taxed off shall be taken, where the taxation 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 taxed.

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

72 Supplementary provisions as to taxations

- (1) Every application for an order for the taxation 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 taxing officer is in the course of taxing a bill of costs, he may request the taxing officer of any other court to assist him in taxing any part of the bill, and the taxing officer so requested shall tax that part of the bill and shall return the bill with his opinion on it to the taxing officer making the request.
- (3) Where a request is made as mentioned in subsection (2), the taxing officer who is requested to tax 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 taxing that part

of the bill in pursuance of an order of the court of which he is an officer; and the taxing officer who made the request shall not take any fee in respect of that part of the bill.

- (4) The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of the costs 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.

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 proceeding may at any time—
- (a) declare the solicitor entitled to a charge on any property recovered or preserved through his instrumentality for his taxed costs in relation to that suit, matter or proceeding; and
 - (b) make such orders for the taxation 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.

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.

75 Saving for certain enactments

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

- (a) section 3 of the Leases Act 1845 (which regulates the taxation of the costs of preparing and executing deeds under that Act);
- (b) section 144 of the Land Registration Act 1925 (which enables rules to be made regulating, among other things, the taxation and incidence of the costs of the registration of land and other matters done under that Act);
- (c) any of the provisions of the Costs in Criminal Cases Act 1973;

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- (d) any of the provisions of the Legal Aid Act 1974;
- (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 which provides that any such rule, order or direction made or given under a previous enactment shall continue in force.