



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 Lord Chancellor ;
 - (b) the Lord Chief Justice ;
 - (c) the Master of the Rolls;
 - (d) the President of the Society ;
 - (e) a solicitor, being the president of a local law society, nominated by the 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 Land Registration Act 1925, the Chief Land Registrar appointed under that Act.
- (2) The committee, or any three members of the committee (the Lord Chancellor being one), may make general orders prescribing and regulating in such manner as they think fit the remuneration of solicitors in respect of non-contentious business.
- (3) The Lord Chancellor, before any order under this section is made, shall cause a draft of the order to be sent to the Council; and the committee shall consider any observations of the Council 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.
- (4) An order under this section may prescribe the mode of remuneration of solicitors in respect of non-contentious business by providing that they shall be remunerated—

Status: This is the original version (as it was originally enacted).

- (a) according to a scale of rates of commission or a scale of percentages, varying or not in different classes of business; or
 - (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) An order under this section may regulate the amount of such remuneration with reference 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 which the business involves ;
 - (e) the number and importance of the documents prepared or perused, without regard to length.
- (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 taxation 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 taxation of bills of costs of solicitors in respect of non-contentious business shall, subject to the provisions of section 57, be regulated by 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 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.

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.
- (2) The agreement may provide for the remuneration of the solicitor by a gross sum, 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, stamps, 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) Subject to subsection (5), 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 taxation of costs the agreement is relied on by the solicitor and objected to by the client as unfair or unreasonable, the taxing 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.

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.

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, 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

Status: This is the original version (as it was originally enacted).

- (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.

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 taxation or 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 taxed according to the rules for their taxation 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.
- (5) A provision in a contentious business agreement that the solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as a solicitor, shall be void.

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—
 - (a) is a party to the agreement or the representative of such a party; or
 - (b) 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—
 - (a) if it is of the opinion that the agreement is in all respects fair and reasonable, may enforce it;
 - (b) 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 taxed as if it had never been made;
 - (c) 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 taxing officer of the court for the agreement to be examined.

- (4) A taxing 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 taxed as if it had never been made.
- (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 the agreement to be taxed 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.

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 taxing officer of the court before payment.
- (2) A taxing 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 taxed as if it had never been made.
- (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,

Status: This is the original version (as it was originally enacted).

- (c) as his receiver under Part VIII of the Mental Health Act 1959, or
- (d) as a person other than a receiver authorised under that Part of that Act to act on his behalf.

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 taxation, and in that case—
 - (a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement ; and
 - (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 taxation of the amount due to the solicitor in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor has taken place, and the taxing 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 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.

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—
 - (a) before he is served with a writ or other originating process for the recovery of costs included in the bill, and
 - (b) 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 taxed.

- (4) If a gross sum bill is taxed, whether under this section or otherwise, nothing in this section shall prejudice any rules of court with respect to taxation, and the solicitor shall furnish the taxing officer with such details of any of the costs covered by the bill as the taxing officer may require.

65 Security for costs and termination of retainer

- (1) A solicitor may take security from his client for his costs, to be ascertained by taxation 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.

66 Taxations with respect to contentious business

Subject to the provisions of any rules of court, on every taxation of costs in respect of any contentious business, the taxing 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; and
- (b) in determining the remuneration of the solicitor, have regard to the skill, labour and responsibility involved in the business done by him.

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.

Status: This is the original version (as it was originally enacted).

- (3) In this section and in sections 69 to 71 " solicitor " includes the executors, administrators and assignees of a solicitor.

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.

Status: This is the original version (as it was originally enacted).

- (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 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

Status: This is the original version (as it was originally enacted).

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.

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—

Status: This is the original version (as it was originally enacted).

- (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;
- (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.