

# PRACTICE DIRECTION – ACCOUNTS, INQUIRIES ETC.

## THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 40

Section 1 contains provisions as to taking accounts and conducting inquiries under a judgment or order. Section 2 contains provisions formerly in CCR Order 23. As to obtaining an interim or summary order for accounts or inquiries, attention is drawn to the Accounts Inquiries Practice Direction that supplements CPR Part 25 and to paragraph 6 of the Summary Judgment Practice Direction that supplements CPR Part 24.

### SECTION 1

#### ACCOUNTS AND INQUIRIES: GENERAL

- 1.1 Where the court orders any account to be taken or any inquiry to be made, it may, by the same or a subsequent order, give directions as to the manner in which the account is to be taken and verified or the inquiry is to be conducted.
- 1.2 In particular, the court may direct that in taking an account, the relevant books of account shall be evidence of their contents but that any party may take such objections to the contents as he may think fit.
- 1.3 Any party may apply to the court in accordance with CPR Part 23 for directions as to the taking of an account or the conduct of an inquiry or for the variation of directions already made.
- 1.4 Every direction for the taking of an account or the making of an inquiry shall be numbered in the order so that, as far as possible, each distinct account and inquiry is given its own separate number.

#### VERIFYING THE ACCOUNT

2. Subject to any order to the contrary:
  - (1) the accounting party must make out his account and verify it by an affidavit or witness statement to which the account is exhibited,
  - (2) the accounting party must file the account with the court and at the same time notify the other parties that he has done so and of the filing of any affidavit or witness statement verifying or supporting the account.

#### OBJECTIONS

- 3.1 Any party who wishes to contend:

- (a) that an accounting party has received more than the amount shown by the account to have been received, or
  - (b) that the accounting party should be treated as having received more than he has actually received, or
  - (c) that any item in the account is erroneous in respect of amount, or
  - (d) that in any other respect the account is inaccurate, must, unless the court directs otherwise, give written notice to the accounting party of his objections.
- 3.2 The written notice referred to in paragraph 3.1 must, so far as the objecting party is able to do so:
- (a) state the amount by which it is contended that the account understates the amount received by the accounting party,
  - (b) state the amount which it is contended that the accounting party should be treated as having received in addition to the amount he actually received,
  - (c) specify the respects in which it is contended that the account is inaccurate, and
  - (d) in each case, give the grounds on which the contention is made.
- 3.3 The contents of the written notice must, unless the notice contains a statement of truth, be verified by either an affidavit or a witness statement to which the notice is an exhibit.

(Part 22 and the Practice Direction that supplements it contain provisions about statements of truth).

## ALLOWANCES

4. In taking any account all just allowances shall be made without any express direction to that effect.

## Management of Proceedings

5. The court may at any stage in the taking of an account or in the course of an inquiry direct a hearing in order to resolve an issue that has arisen and for that purpose may order that points of claim and points of defence be served and give any necessary directions.

## DELAY

- 6.1 If it appears to the court that there is undue delay in the taking of any account or the progress of any inquiry the court may require the accounting party or the party with the conduct of the inquiry, as the case may be, to explain the delay and may then make such order for the management of the proceedings (including a stay) and for costs as the circumstances may require.

- 6.2 The directions the court may give under paragraph 6.1 include a direction that the Official Solicitor take over the conduct of the proceedings and directions providing for the payment of the Official Solicitor's costs.

## **DISTRIBUTION**

7. Where some of the persons entitled to share in a fund are known but there is, or is likely to be, difficulty or delay in ascertaining other persons so entitled, the court may direct, or allow, immediate payment of their shares to the known persons without reserving any part of those shares to meet the subsequent costs of ascertaining the other persons.

## **GUARDIAN'S ACCOUNTS**

8. The accounts of a person appointed guardian of the property of a child (defined in CPR 21.1(2)) must be verified and approved in such manner as the court may direct.

## **SECTION 2**

### **APPLICATION OF RSC ORDER 44 TO COUNTY COURT PROCEEDINGS**

- 9.1 The provision of rules 1 to 10 of RSC Order 44 (see Part 50 and Schedule 1 to the CPR) relating to proceedings under a judgment or order in the Chancery Division shall apply to proceedings under a judgment or order made in a County Court -
- (a) in proceedings for:-
    - (i) the administration of the estate of a deceased person; or
    - (ii) the execution of a trust; or
    - (iii) the sale of any property; or
  - (b) in any other proceedings in the exercise of its equity jurisdiction.
- 9.2 Where a judgment or order directs an account to be taken or an inquiry to be made and does not otherwise provide, the account shall be taken or the inquiry made by a Master or district judge (if the proceedings are in the High Court) or a district judge (if the proceedings are in the county court).
10. The court shall give to every creditor or other person whose claim or any part of whose claim has been allowed or disallowed, and who did not attend when the claim was disposed of, a notice informing him of that fact.

11. Rule 11 of RSC Order 44 (Schedule 1 to the CPR) shall apply to proceedings in a county court as if references to 'the Master' were references to a district judge.
12. An appeal shall lie to the judge from any order made by a district judge under rules 1 to 10 of RSC Order 44 (including an order giving directions as to the further conduct of the proceedings) and the provisions about an appeal in rule 12 of RSC Order 44 shall apply.