

PRACTICE DIRECTION

PROCEEDINGS RELATING TO SOLICITORS

This Practice Direction supplements CPR Part 67

GENERAL

- 1** This Practice Direction applies to proceedings under Rule 67.2 and to the following types of claim under Rule 67.3 and Part III of the Solicitors Act 1974 ('the Act'):
- (1) an application under section 57(5) of the Act for a costs officer to enquire into the facts and certify whether a non-contentious business agreement should be set aside or the amount payable under it reduced;
 - (2) a claim under section 61(1) of the Act for the court to enforce or set aside a contentious business agreement and determine questions as to its validity and effect;
 - (3) a claim by a client under s 61(3) of the Act for a costs officer to examine a contentious business agreement as to its fairness and reasonableness;
 - (4) where the amount agreed under a contentious business agreement has been paid, a claim under section 61(5) of the Act for the agreement to be re-opened and the costs assessed;
 - (5) proceedings under section 62 of the Act for the examination of a contentious business agreement, where the client makes the agreement as a representative of a person whose property will be chargeable with the amount payable;
 - (6) proceedings under section 63 of the Act where, 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 solicitor;
 - (7) where an action is commenced on a gross sum bill, an application under section 64(3) of the Act for an order that the bill be assessed;
 - (8) a claim under section 68 of the Act for the delivery by a solicitor of a bill of costs and for the delivery up of, or otherwise in relation to, any documents;
 - (9) an application under section 69 of the Act for an order that the solicitor be at liberty to commence an action to recover his costs within one month of delivery of the bill;
 - (10) a claim under section 70(1) of the Act, by the party chargeable with the solicitor's bill, for an order that the bill be assessed and that no action be taken on the bill until the assessment is completed;
 - (11) a claim under section 70(2) of the Act, by either party, for an order that the bill be assessed and that no action be commenced or continued on the bill until the assessment is completed;
 - (12) a claim under section 70(3) of the Act, by the party chargeable with the bill, for detailed assessment showing special circumstances;
 - (13) a claim under section 71(1) of the Act, by a person other than the party chargeable with the bill, for detailed assessment;
 - (14) a claim under section 71(3) of the Act, by any person interested in any property out of which a trustee, executor or administrator has paid or is entitled to pay a solicitor's bill, for detailed assessment; and
 - (15) a claim by a solicitor under section 73 of the Act for a charging order.

PROCEEDINGS IN THE COSTS OFFICE

- 2.1** Where a claim to which this practice direction applies is made by Part 8 claim form in the High Court in London –
- (1)** if the claim is of a type referred to in paragraphs 1(1) to (5), it must be issued in the Costs Office;
 - (2)** in any other case, the claim may be issued in the Costs Office.
- 2.2** A claim which is made by Part 8 claim form in a district registry or by Part 23 application notice in existing High Court proceedings may be referred to the Costs Office.
- 2.3** ‘Costs Office’ has the same meaning as set out in rule 43.1(2)(ba).

JURISDICTION AND ALLOCATION OF CLAIMS BETWEEN JUDICIARY

- 3.1** Rule 67.3(3) makes provision about jurisdiction to determine claims under Part III of the Act.
- 3.2** Claims for any of the orders listed in paragraph 1 should normally be made to a Master, costs judge or district judge. Only exceptional circumstances will justify making the claim directly to a High Court Judge.
- 3.3** Paragraph 1 of the practice direction supplementing Part 23 sets out the circumstances in which a matter may be referred to a judge.

EVIDENCE IN PROCEEDINGS FOR ORDER FOR DETAILED ASSESSMENT

- 4** Where a Part 8 claim is brought for an order for the detailed assessment of a solicitor’s bill of costs, the parties are not required to comply with Rule 8.5 unless:
- (1)** the claim will be contested; or
 - (2)** the court directs that the parties should comply with Rule 8.5.

DRAWING UP AND SERVICE OF ORDERS

- 5** Unless the court orders otherwise, an order in proceedings in the Costs Office to which this practice direction applies shall be drawn up and served by the party who made the relevant claim or application.