

PRACTICE DIRECTION – SALE, etc. OF LAND BY ORDER OF COURT: CONVEYANCING COUNSEL OF THE COURT

**THIS PRACTICE DIRECTION SUPPLEMENTS RSC ORDER 31
IN SCHEDULE 1 TO THE CIVIL PROCEDURE RULES**

SALES, ETC. OF LAND BY ORDER OF COURT

1. It should be noted that Order 31 now applies not only to proceedings in the High Court but also to county court proceedings.
2. An application under rule 1 of Order 31 should be made by issuing an application notice in the proceedings in question.

(Part 23 and the practice direction that supplements Part 23 contain rules about applications.)
3. If the land to be sold is subject to any incumbrance, the court may, on an application under section 50 of the Law of Property Act 1925, direct that a sum sufficient to provide for the incumbrance and for further costs and expenses be paid into court. The land may then be sold free from the incumbrance (s.50(2) *ibid.*).
4. Any application under section 50 should, if made in existing proceedings, be made in accordance with CPR Part 23.

MANNER OF CARRYING OUT SALE

5. Where a sale has been directed by the court, any party who wishes to bid should, before the sale, apply to the court for permission to do so. If all parties are given permission to bid, the conduct of the sale may be given to an independent person, usually a solicitor.

CONVEYANCING COUNSEL TO THE COURT

6. Not only the High Court but also a county court may refer a matter to conveyancing counsel of the court under Order 31 rule 5.
- 7.1 Notice of every reference under Order 31 rule 5 should be given to the Chief Chancery Master.
- 7.2 Unless the reference was to a particular conveyancing counsel, matters referred to conveyancing counsel of the court will be distributed among them in rotation in accordance with arrangements made by the Chief Chancery Master.

- 7.3 The proper officer of the court that has referred the matter must supply the conveyancing counsel to whom the matter has been allocated with a copy of the order of the court referring the matter and all other necessary documents.
- 7.4 The fees of conveyancing counsel will be fixed by a costs judge, subject to an appeal to the judge whose decision will be final (see the Costs Practice Direction relating to Part 44, paragraph 2.7).