

1988 No. 70

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland)
(Amendment) 1988*Made* 7th March 1988*Coming into operation* 11th April 1988*To be laid before Parliament*

We, the Northern Ireland Supreme Court Rules Committee being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers and all other powers enabling us in that behalf as follows:

Citation, interpretation and commencement

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 1988 and shall come into operation on 11th April 1988 and shall, subject to rule 5, apply to all proceedings for the taxation of costs, whether begun before or after that date.

(2) In these Rules an order referred to by number means the Order so numbered in the Rules of the Supreme Court (Northern Ireland) 1980(b).

Consolidation etc. of causes or matters

2. Order 4, rule 5, shall be amended by substituting the following rule:—

“Consolidation etc. of causes or matters

5.—(1) Where two or more causes or matters are pending in the same Division and it appears to the Court—

- (a) that some common question of law or fact arises in both or all of them, or
- (b) that rights to relief claimed therein are in respect of or arise out of the same transactions or series of transaction, or
- (c) that for some other reason it is desirable to make an order under this rule

the Court may order those causes or matters to be consolidated on such terms as it thinks just or may order them to be tried at the same time or

(a) 1978 c. 23

(b) S.R. 1980 No. 346; the relevant amending instruments S.R. 1980 No. 433, S.R. 1981 No. 166, S.R. 1982 No. 138, S.R. 1982 No. 217, S.R. 1983 No. 183, S.R. 1985 No. 170 and S.R. 1986 No. 184

immediately after another or may order them to be stayed until after the determination of any other of them.

(2) Where the Court makes an order under paragraph (1) that two or more causes or matters are to be tried at the same time but no order is made for those causes or matters to be consolidated, then, a party to one of those causes or matters may be treated as if he were a party to any other of those causes or matters for the purpose of making an order for costs against him or in his favour.”.

Costs

3. For Order 62, there shall be substituted the Order set out in the Schedule hereto.

Amendment of Legal Aid, Advice and Assistance (N.I.) Order 1981

4. Paragraph 4 of Schedule 2 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a) shall be amended by substituting for the words from “costs shall” to “interested” the following words:—

“and to any statutory provision to the contrary, costs shall be taxed for the purposes of this Schedule on the standard basis within the meaning of the Rules of the Supreme Court (Northern Ireland) 1980.”.

Transitional provisions

5. Where the judgment or the event giving rise to a right to an immediate taxation of costs was given, made or occurred before the commencement of these Rules, rule 3(4), 7, 12, 13 and 17 of, and Appendix 2 to, Order 62 as substituted by these Rules shall not apply and in any such case the costs shall be taxed in accordance with rules 3(10), 9, 28 and 34 of, and Appendix 2 to, Order 62 as in force immediately before the commencement of these Rules.

Dated 16th December 1987.

Lowry
John MacDermott
Donald Murray
J. B. E. Hutton
R. D. Carswell
W. A. Campbell
Aidan A. Canavan

I concur,

Mackay of Clashfern, C.

Dated 7th March 1988.

SCHEDULE

ORDER 62

Costs

PART I

PRELIMINARY

Interpretation

1.—(1) Except where it is otherwise expressly provided, or the context otherwise requires, the following provisions of this rule shall apply for the interpretation of this Order.

(2) “Certificate” includes allocatur;

“contentious business” and “non-contentious business” have the same meanings respectively as in the Solicitors (Northern Ireland) Order 1976;

“party” in relation to a cause or matter includes a party who is treated as being a party to that cause or matter by virtue of Order 4, rule 5;

“patient” means a person who, by reason of mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986, is incapable of managing and administering his property and affairs;

“the standard basis” and “the indemnity basis” have the meanings assigned to them by rule 12(1) and (2) respectively;

“taxed costs” means costs taxed in accordance with this Order;

“taxing master” means the Master (Taxing Office).

(3) References to a fund, being a fund out of which costs are to be paid or which is held by a trustee or personal representative, include references to any estate or property, whether real or personal, held for the benefit of any person or class of persons; and references to a fund held by a trustee or personal representative include references to any fund to which he is entitled (whether alone or together with any other person) in that capacity, whether the fund is for the time being in his possession or not.

(4) References to costs shall be construed as including references to fees, charges, disbursements, expenses and remuneration and, in relation to proceedings (including taxation proceedings), also include references to costs of or incidental to those proceedings.

[*E.r. 1*]

Application

2.—(1) In addition to the civil proceedings to which this Order applies by virtue of Order 1, rule 2(1) and (2), this Order applies to all criminal proceedings in the High Court and in the Court of Appeal.

(2) This Order shall have effect, with such modifications as may be necessary, where by virtue of any statutory provision the costs of any proceedings before an arbitrator or umpire or before a tribunal or other body constituted by or under any statutory provision not being proceedings in the Supreme Court, are taxable in the High Court.

(3) This Order shall have effect subject to the provisions of any statutory provision which limits the costs recoverable in proceedings to which that provision applies.

(4) The powers and discretion of the Court under section 59 of the Act (which provides that the costs of and incidental to proceedings in the Supreme Court shall be in the discretion of the Court and that the Court shall have full power to determine by whom and to what extent the costs are to be paid) and under the enactments relating to the costs of criminal proceedings to which this Order applies shall be exercised subject to and in accordance with this Order.

[E.r. 2]

PART II

ENTITLEMENT TO COSTS

General principles

3.—(1) This rule shall have effect subject only to the following provisions of this Order.

(2) No party to any proceedings shall be entitled to recover any of the costs of those proceedings from any other party to those proceedings except under an order of the Court.

(3) If the court in the exercise of its discretion sees fit to make any order as to the costs of any proceedings, the Court shall order the costs to follow the event, except when it appears to the Court that in the circumstances of the case some other order should be made as to the whole or any part of the costs.

(4) The amount of his costs which any party shall be entitled to recover is the amount allowed after taxation on the standard basis where—

- (a) an order is made that the costs of one party to proceedings be paid by another party to those proceedings, or
- (b) an order is made for the payment of costs out of any fund (including the legal aid fund), or
- (c) no order for costs is required

unless it appears to the Court to be appropriate to order costs to be taxed on the indemnity basis.

(5) Subject to rule 8, a term mentioned in the first column of the table below, when used in an order for costs, shall have the effect indicated in the second column of that table.

<i>Term</i>	<i>Effect</i>
“Costs”	<ul style="list-style-type: none"> (a) Where this order is made in interlocutory proceedings, the party in whose favour it is made shall be entitled to his costs in respect of those proceedings whatever the outcome of the cause or matter in which the proceedings arise; and (b) where this order is made at the conclusion of a cause or matter, the party in whose favour it is made shall be entitled to have his costs taxed forthwith;

“Costs reserved”	(Except in proceedings in the Family Division) the party in whose favour an order for costs is made at the conclusion of the cause or matter in which the proceedings arise shall be entitled to his costs of the proceedings in respect of which this order is made unless the court orders otherwise;
“Costs in any event”	This order has the same effect as an order for “costs” made in interlocutory proceedings;
“Costs here and below”	The party in whose favour this order is made shall be entitled not only to his costs in respect of the proceedings in which it is made but also to his costs of the same proceedings in any lower court.
“Costs in the cause” or “costs in application”	The party in whose favour an order for costs is made at the conclusion of the cause or matter in which the proceedings arise shall be entitled to his costs of the proceedings in respect of which such an order is made;
“Plaintiff’s costs in the cause” or “Defendant’s costs in the cause”	The plaintiff or defendant, as the case may be, shall be entitled to his costs of the proceedings in respect of which such an order is made if judgment is given in his favour in the cause or matter in which the proceedings arise, but he shall not be liable to pay the costs of any other party in respect of those proceedings if judgment is given in favour of any other party or parties in the cause or matter in question;
“Costs thrown away”	Where proceedings or any part of them have been ineffective or have been subsequently set aside, the party in whose favour this order is made shall be entitled to his costs of those proceedings or that part of the proceedings in respect of which it is made.

[E.r. 3]

Cases where no order for costs is to be made

4.—(1) No order shall be made directing one party to pay to the other any costs of or incidental to an appeal or application for leave to appeal under section 6(2) of the Pensions Appeal Tribunals Act 1943.

(2) No order shall be made for costs to be paid by or to any person (other than the registration officer) who is respondent to an appeal to the Court of Appeal from the

decision of a county court on the hearing of an appeal from the registration officer under section 56 of the Representation of the People Act 1983, unless that person appears in support of the decision of the county court.

(3) In a probate action where a defendant has given notice with his defence to the party setting up the will that he merely insists upon the will being proved in solemn form of law and only intends to cross-examine the witnesses produced in support of the will, no order for costs shall be made against him unless it appears to the Court that there was no reasonable ground for opposing the will.

[E.r. 4]

Cases where no order for costs is required

5.—(1) No order for costs is required in the circumstances mentioned in this rule.

(2) Where a summons is taken out to set aside any proceedings on the ground of irregularity and the summons is dismissed, the party who issued the summons shall pay the costs of every other party.

(3) Where a party by notice in writing and without leave discontinues an action or counterclaim or withdraws any particular claim made by him as against any other party, that other party shall be entitled to his costs of the action or counterclaim or his costs occasioned by the claim withdrawn, as the case may be, incurred to the time of receipt of the notice of discontinuance or withdrawal.

(4) Where a plaintiff by notice in writing in accordance with Order 22, rule 3(1) accepts money paid into court in satisfaction of the cause of action or of all the causes of action in respect of which he claims, or accepts money paid in satisfaction of one or more specified causes of action and gives notice that he abandons the others, he shall be entitled to his costs of the action incurred up to the time of giving notice of acceptance.

(5) Where, in an action for libel or slander against several defendants sued jointly, a plaintiff by notice in writing in accordance with Order 22, rule 3(1) accepts money paid into court by one of the defendants he shall be entitled to his costs of the action against that defendant incurred up to the time of giving notice of acceptance.

(6) A defendant who has counterclaimed shall be entitled to the costs of the counterclaim if—

(a) he pays money into Court and his notice of payment in states that he has taken into account and satisfied the cause or causes of action in respect of which he counterclaims, and

(b) the plaintiff accepts the money paid in;

but the costs of such counterclaim shall be limited to those incurred up to the time when the defendant received notice of acceptance by the plaintiff of the money paid into court.

[E.r. 5]

Cases where costs do not follow the event

6.—(1) The provisions of this rule shall apply in the circumstances mentioned in this rule unless the court orders otherwise.

(2) Where a person is or has been a party to any proceedings in the capacity of trustee, personal representative or mortgagee, he shall be entitled to the costs of those proceedings, insofar as they are not recovered from or paid by any other person, out of the fund held by him in that capacity or out of the mortgaged property, as the case may be, and the Court may order otherwise only on the ground that he has acted

unreasonably or, in the case of a trustee or personal representative, has in substance acted for his own benefit rather than for the benefit of the fund.

(3) Where any person claiming to be a creditor—

(a) seeks to establish any claim to a debt under any judgment or order in accordance with Order 44, or

(b) comes in to prove his title, debt or claim in relation to a company in pursuance of any such notice as is mentioned in Order 102, Rule 12,

he shall, if his claim succeeds, be entitled to his costs incurred in establishing it; and, if his claim or any part of it fails, he may be ordered to pay the costs of any person incurred in opposing it.

(4) Where a claimant (other than a person claiming to be a creditor) has established a claim to be entitled under a judgment or order in accordance with Order 44, and has been served with notice of the judgment or order pursuant to rule 2 of that Order, he shall, if he enters an appearance, be entitled as part of his costs of action (if allowed) to costs incurred in establishing his claim; and where such a claimant fails to establish his claim or any part of it he may be ordered to pay the costs of any person incurred in opposing it.

(5) The costs of any amendment made without leave in the writ or any pleadings shall be borne by the party making the amendment.

(6) The costs of any application to extend the time fixed by these rules or by any direction or order thereunder shall be borne by the party making the application.

(7) If a party on whom a notice to admit facts is served under Order 27, rule 2, refuses or neglects to admit the facts within 14 days after the service on him of the notice or such longer time as may be allowed by the Court, the costs of proving the facts shall be borne by him.

(8) If a party—

(a) on whom a list of documents is served in pursuance of Order 24, or

(b) on whom a notice to admit documents is served under Order 27, rule 5, gives notice of non-admission of any of the documents in accordance with Order 27, rule 4(2) or 5(2), as the case may be, the costs of proving that document shall be borne by him.

(9) Where an application is made in accordance with Order 24, rule 6 or Order 29, rule 9 for an order under section 31 or 32(1) of the Administration of Justice Act 1970 the person against whom the order is sought shall be entitled to his costs of the application, and of complying with any order made thereon.

[E.r. 6]

Special circumstances in which costs shall not or may not be taxed

7.—(1) The provisions of this rule shall apply in the circumstances mentioned in this rule.

(2) Costs which by or under any direction of the Court are to be paid to a receiver appointed by the High Court under section 91(1) of the Act, in respect of his remuneration, disbursements or expenses, shall be allowed in accordance with Order 30, rule 3 and shall not be taxed.

(3) Where a writ in an action is indorsed in accordance with Order 6, rule 2(b), and judgment is entered on failure to enter an appearance or in default of defence for the amount claimed for costs (whether alone or together with any other amount claimed), the plaintiff is not entitled to tax his costs; but if the amount claimed for

costs as aforesaid is paid in accordance with the indorsement (or is accepted by the plaintiff as if so paid) the defendant shall be entitled to have those costs taxed.

(4) In awarding costs to any person the Court may order that, instead of his taxed costs, that person shall be entitled—

(a) to a proportion (specified in the order) of those costs from or up to a stage of the proceedings so specified; or

(b) to a gross sum so specified in lieu of those costs,

but where the person entitled to such a gross sum is a litigant in person, rule 18 shall apply with the necessary modifications to the assessment of the gross sum as it applies to the taxation of the costs of a litigant in person.

(5) Where a claimant is entitled to costs under rule 6(3) the amount of the costs shall be assessed by the Court unless it thinks fit to order taxation and the amount so assessed or taxed shall be added to the debt due to the claimant.

[E.r. 7]

Stage of proceedings at which costs to be taxed

8.—(1) Subject to paragraph (2), the costs of any proceedings shall not be taxed until the conclusion of the cause or matter in which the proceedings arise.

(2) If it appears to the Court when making an order for costs that all or any part of the costs ought to be taxed at an earlier stage it may, except in a case to which paragraph (3) applies, order accordingly.

(3) No order may be made under paragraph (2) in a case where the person against whom the order for costs is made is an assisted person within the meaning of the statutory provisions relating to legal aid.

(4) In the case of an appeal, the costs of the proceedings giving rise to the appeal, as well as the costs of the appeal, may be dealt with by the Court hearing the appeal.

(5) In the case of any proceedings transferred or removed to the High Court from any other court, the High Court may (subject to any order of the court ordering the transfer or removal) deal with the costs of the whole proceedings (including the costs before the transfer or removal).

(6) Notwithstanding anything in Part III of this Order, but subject to paragraph (7) below, where the Court makes an order as to the costs of any proceedings before another court under paragraphs (4) or (5), the order—

(a) shall specify the amount of the costs to be allowed; or

(b) shall direct that the costs be assessed by the court before which the proceedings took place or be taxed by an officer of that court; or

(c) may, in the case of an appeal from a county court, direct that the costs be taxed by the Taxing Master.

(7) Paragraph (6) shall not apply in relation to the costs of proceedings transferred or removed from a county court.

(8) Where it appears to the Taxing Master on application that there is no likelihood of any further order being made in a cause or matter, he may tax forthwith the costs of any interlocutory proceedings which have taken place.

[E.r. 8]

Matters to be taken into account in exercising discretion

9. The Court in exercising its discretion as to costs shall take into account—

(a) any offer of contribution brought to its attention in accordance with Order 16, rule 10;

(b) any payment of money into court and the amount of such payment;

Misconduct or neglect in the conduct of any proceedings

10.—(1) Where it appears to the Court in any proceedings that anything has been done, or that any omission has been made, unreasonably or improperly by or on behalf of any party, the Court may order that the costs of that party in respect of the act or omission, as the case may be, shall not be allowed and that any costs occasioned by it to any other party shall be paid by him to that other party.

(2) Instead of making an order under paragraph (1) the Court may refer the matter to the Taxing Master, in which case the Taxing Master shall deal with the matter under rule 28(1).

[E.r. 10]

Personal liability of solicitor for costs

11.—(1) Subject to the following provisions of this rule, where it appears to the Court that costs have been incurred unreasonably or improperly in any proceedings or have been wasted by failure to conduct proceedings with reasonable competence and expedition, the Court may—

(a) order—

- (i) the solicitor whom it considers to be responsible (whether personally or through a servant or agent) to repay to his client costs which the client has been ordered to pay to any other party to the proceedings; or
- (ii) the solicitor personally to indemnify such other parties against costs payable by them; and
- (iii) the costs as between the solicitor and his client to be disallowed; or

(b) direct the Taxing Master to enquire into the matter and report to the Court, and upon receiving such a report the Court may make such order under sub-paragraph (a) as it thinks fit.

(2) When conducting an enquiry pursuant to a direction under paragraph (1)(b) the Taxing Master shall have all the powers and duties of the Court under paragraphs (4), (5), (6) and (8) of this rule.

(3) Instead of proceeding under paragraph (1) of this rule the Court may refer the matter to the Taxing Master, in which case the Taxing Master shall deal with the matter under paragraphs (2) and (3) of rule 28.

(4) Subject to paragraph (5), before an order may be made under paragraph (1)(a) of this rule the Court shall give the solicitor a reasonable opportunity to appear and show cause why an order should not be made.

(5) The Court shall not be obliged to give the solicitor a reasonable opportunity to appear and show cause where proceedings fail, cannot conveniently proceed or are adjourned without useful progress being made because the solicitor—

- (a) fails to attend in person or by a proper representative;
- (b) fails to deliver any document for the use of the Court which ought to have been delivered or to be prepared with any proper evidence or account; or
- (c) otherwise fails to proceed.

(6) The Court may direct the Official Solicitor to attend and take part in any proceedings or inquiry under this rule and the Court shall make such order as to the payment of the Official Solicitor's costs as it thinks fit.

(7) If in any proceedings a party who is represented by a solicitor fails to pay the fees or any part of the fees prescribed by the Orders as to Court fees then, on the

application of the Official Solicitor by summons, the Court may order the solicitor personally to pay that amount in the manner so prescribed and to pay the Official Solicitor's costs of the application.

(8) The Court may direct that notice of any proceedings or order against a solicitor under this rule be given to his client in such a manner as may be specified in the direction.

[E.r. 11]

PART III

TAXATION AND ASSESSMENT OF COSTS

Basis of Taxation

12.—(1) On a taxation of costs on the standard basis there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the Taxing Master may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party; and in these rules the term "the standard basis" in relation to the taxation of costs shall be construed accordingly.

(2) On a taxation on the indemnity basis all costs shall be allowed except insofar as they are of an unreasonable amount or have been unreasonably incurred and any doubts which the Taxing Master may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party; and in these rules the term "the indemnity basis" in relation to the taxation of costs shall be construed accordingly.

(3) Where the Court makes an order for costs without indicating the basis of taxation or an order that costs be taxed on any basis other than the standard basis or the indemnity basis, the costs shall be taxed on the standard basis.

[E.r. 12]

Assessment or settlement of costs by master

13. Where the Court orders that costs are to be assessed or settled by a master rules 3(4), 12, 14, 17 and 18 shall apply in relation to such assessment or settlement by a master as they apply in relation to a taxation of costs by the Taxing Master.

[E.r. 13]

Costs payable to a trustee or personal representative out of any fund

14.—(1) This rule applies to every taxation of a trustee's or personal representative's costs where—

- (a) he is or has been a party to any proceedings in that capacity; and
- (b) he is entitled to be paid his costs out of any fund which he holds in that capacity.

(2) On a taxation to which this rule applies, costs shall be taxed on the indemnity basis, but shall be presumed to have been unreasonably incurred if they were incurred contrary to the duty of the trustee or personal representative as such.

[E.r. 14]

Costs payable to a solicitor by his own client

15.—(1) This rule applies to every taxation of a solicitor's bill to his own client except a bill which is to be paid out of the legal aid fund under the Legal Aid Advice and Assistance (Northern Ireland) Order 1981.

(2) On a taxation to which this rule applies costs shall be taxed on the indemnity basis but shall be presumed—

- (a) to have been reasonably incurred if they were incurred with the express or implied approval of the client, and
- (b) to have been reasonable in amount if their amount was expressly or impliedly approved by the client, and
- (c) to have been unreasonably incurred if in the circumstances of the case they are of an unusual nature unless the solicitor satisfies the Taxing Master that prior to their being incurred he informed his client that they might not be allowed on a taxation of costs *inter partes*.

[E.r. 15]

Costs payable to solicitor where money claimed by or on behalf of a minor or a patient

16.—(1) This rule applies to any proceedings (including proceedings in the Court of Appeal) in which:

- (a) money is claimed or recovered by or on behalf of, or adjudged, or ordered, or agreed to be paid to, or for the benefit of, a minor or a patient; or
- (b) money paid into court is accepted by or on behalf of a minor or patient.

(2) The costs of proceedings to which this rule applies which are payable by any plaintiff to his solicitor shall, unless the Court otherwise orders, be taxed under paragraphs (1) and (2) of rule 15.

(3) On a taxation under paragraph (2), the Taxing Master shall also tax any costs payable to that plaintiff in those proceedings and shall certify—

- (a) the amount allowed on the taxation of the solicitor's bill to his own client, and
- (b) the amount allowed on the taxation of any costs payable to that plaintiff in those proceedings, and
- (c) the amount (if any) by which the amount mentioned in sub-paragraph (a) exceeds the amount mentioned in sub-paragraph (b), and
- (d) where necessary, the proportion of the amount of such excess payable by, or out of money belonging to, respectively any claimant who is a minor or patient and any other party.

(4) Paragraphs (2) and (3) shall apply in relation to any proceedings in the Court of Appeal as if for references to the plaintiff there were substituted references to the party, whether appellant or respondent, who was the plaintiff in the proceedings which gave rise to the appeal proceedings.

(5) Nothing in the foregoing provisions of this rule shall prejudice a solicitor's lien for costs.

(6) The foregoing provisions of this rule shall apply in relation to—

- (a) a counterclaim by or on behalf of a person who is a minor or a patient, and
- (b) a claim made by or on behalf of a person who is a minor or a patient in an action by any other person for relief under section 504 of the Merchant Shipping Act 1894,

as if for references to a plaintiff there were substituted references to a defendant.

[E.r. 16]

Provisions for ascertaining costs on a taxation

17.—(1) Subject to the following provisions of this rule, the provisions contained in Appendix 2 to this Order for ascertaining the amount of costs to be allowed on a taxation of costs shall apply to the taxation of all costs with respect to contentious business.

(2) Where the amount of a solicitor's remuneration in respect of non-contentious business is regulated (in the absence of agreement to the contrary) by any general orders for the time being in force under the Solicitors (Northern Ireland) Order 1976, the amount of the costs to be allowed on taxation in respect of the like contentious business shall be the same notwithstanding anything contained in Appendix 2 to this Order.

(3) Notwithstanding paragraph (1), costs shall be allowed in the cases to which Appendix 3 to this Order applies in accordance with the provisions of that Appendix unless the Court otherwise orders.

(4) Save as otherwise provided by any statutory provision passed after the Act and save in cases to which paragraph (3) applies, if damages or other relief awarded could have been obtained in proceedings commenced on the County Court, the plaintiff shall not, except for special cause shown and mentioned in the judgment moving the award, recover more costs than would have been recoverable had the same relief been awarded by the County Court.

(5) In cases to which paragraph (7) applies where the full amount of the claim exceeds the amount which could have been claimed in proceedings brought in the county court, the plaintiff shall, unless the judge otherwise directs, and without prejudice to any direction under paragraph (4), be entitled to recover one-half of his costs.

(6) For the purposes of paragraph (5) the full amount of the claim shall be deemed to be the amount quantified by the Court for which judgment could have been entered if the Court had not made any deduction in respect of the claimant's own fault.

(7) Where a plaintiff is entitled to costs on a county court scale only, the Taxing Master shall have the same discretion to allow any item of costs as the judge of the county court would have had if the action had been brought in that court.

(8) The provisions of this rule shall not apply where any defendant has successfully opposed the remittal of the proceedings to the county court which was sought or concurred in by the plaintiff.

(9) Where in pursuance of any direction by the Court, draft documents are settled by any counsel appointed by the Court the costs of having those draft documents prepared or subsequently settled by other counsel on behalf of the same parties for whom such draft documents are settled by the counsel appointed by the Court shall not be allowed.

[E.r. 17]

Litigants in person

18.—(1) Subject to the provisions of this rule, on any taxation of the costs of a litigant in person there may be allowed such costs as would have been allowed if the work and disbursements to which the costs relate had been done or made by a solicitor on the litigant's behalf.

(2) The amount allowed in respect of any item shall be such sum as the Taxing Master thinks fit but not exceeding, except in the case of a disbursement, two-thirds of the sum which in the opinion of the Taxing Master would have been allowed in respect of that item if the litigant had been represented by a solicitor.

(3) Where it appears to the Taxing Master that the litigant has not suffered any pecuniary loss in doing any item of work to which the costs relate, he shall be allowed in respect of the time reasonably spent by him on that item not more than £6.50 an hour.

(4) A litigant who is allowed costs in respect of attending court to conduct his case shall not be entitled to a witness allowance in addition.

(5) Nothing in Order 6, rule 2(b), or in rule 17(3) of, or Appendix 3 to, this Order shall apply to the costs of a litigant in person.

(6) For the purposes of this rule a litigant in person does not include a litigant who is a practising solicitor.

[E.r. 18]

PART IV

POWERS OF TAXING MASTER

Who may tax costs

19.—(1) Subject to paragraph (2), the Taxing Master shall have power to tax—

- (a) the costs of or arising out of any proceedings to which this Order applies.
- (b) any other costs the taxation of which is ordered by the Court.

(2) Where by or under any statutory provision any costs are to be taxed by a master of the Supreme Court, only the Taxing Master shall tax those costs.

[E.r. 19]

Supplementary powers of the taxing master

20. The Taxing Master may, in the discharge of his functions with respect to the taxation of costs,—

- (a) take an account of any dealings in money made in connection with the payment of the costs being taxed, if the Court so orders;
- (b) require any party represented jointly with any other party in any proceedings before him to be separately represented;
- (c) examine any witness in those proceedings; and
- (d) order the production of any document which may be relevant in connection with those proceedings.

[E.r. 20]

Extension of time

21.—(1) The Taxing Master may—

- (a) extend the period within which a party is required by or under this Order or by the Court to begin proceedings for taxation or to do anything in or in connection with those proceedings on such terms (if any) as he thinks just; or
- (b) where no period is specified by or under this Order or by the Court for the doing of anything in or in connection with such proceedings, specify the period within which the thing is to be done.

(2) The Taxing Master may extend any such period as is referred to in paragraph (1) of this rule although the application for extension is not made until after the expiration of that period.

[E.r. 21]

Certificates

22.—(1) The Taxing Master—

- (a) shall, at the conclusion of taxation proceedings before him, issue a certificate for the costs allowed by him;
- (b) may from time to time in the course of the taxation issue an interim certificate for any part of the costs which have been taxed, or for any part, the amount of which is not in dispute;

- (c) may amend or cancel an interim certificate issued by him;
- (d) may correct any clerical mistake in any certificate issued by him or any error arising therein from any accidental slip or omission, and
- (e) may set aside a certificate issued by him in order to enable him to extend the period provided by rule 33(2).

(2) If in the course of the taxation of a solicitor's bill to his own client, it appears to the Taxing Master that in any event the solicitor will be liable in connection with that bill to pay money to the client, he may from time to time issue an interim certificate specifying an amount which in his opinion is payable by the solicitor to his client.

(3) On the filing of a certificate issued under paragraph (2) the Court may order the amount specified in it to be paid forthwith to the client or into court.

[E.r. 22]

Power of Taxing Master where party liable to be paid and to pay costs

23. Where a party entitled to be paid costs is also liable to pay costs, the Taxing Master may—

- (a) tax the costs which that party is liable to pay and set off the amount allowed against the amount he is entitled to be paid and direct payment of any balance; or
- (b) delay the issue of a certificate for the costs the party is entitled to be paid until he has paid or tendered the amount he is liable to pay.

[E.r. 23]

Taxation of bill of costs comprised in an account

24.—(1) Where the Court orders an account to be taken and the account consists in part of a bill of costs, the court may direct the Taxing Master to tax those costs and the Taxing Master shall after taxation of the bill of costs return it, together with his report on it, to the Court.

(2) The Taxing Master taxing a bill of costs in accordance with a direction under paragraph (1) shall have the same powers, and the same fee shall be payable in connection with the taxation, as if an order for taxation of the costs had been made by the Court.

[E.r. 24]

Taxing Master to fix certain fees payable to conveyancing counsel

25.—(1) Where the Court refers any matter to the conveyancing counsel of the Court or obtains the assistance of any other person under Order 32, rule 15, the fees payable to counsel or that other person in respect of the work done by him in connection with the reference or as the case may be, in assisting the Court shall be fixed by the Taxing Master.

(2) An appeal from a decision of the Taxing Master under paragraph (1) shall lie to the Court and the decision of the Court thereon shall be final.

[E.r. 25]

Powers of Taxing Master on taxation of costs out of a fund

26.—(1) Where any costs are to be paid out of a fund the Taxing Master may give directions as to the parties who are entitled to attend on the taxation of those costs and may disallow the costs of attendance of any party not entitled to attend by virtue of the directions and whose attendance he considers unnecessary.

(2) Where the Court has directed that a bill of costs be taxed for the purpose of being paid out of a fund, the Taxing Master may direct the party whose bill it is to send to any person having an interest in the fund a copy of the bill, or of any part thereof, free of charge together with a letter containing the following information, that is to say—

- (a) that the bill of costs, a copy of which or of part of which is sent with the letter, has been referred to the Taxing Master for taxation;
- (b) the address of the office at which the taxation is proceeding;
- (c) the time appointed by the Taxing Master at which the taxation will be continued; and
- (d) such other information, if any, as the Taxing Master may direct.

[E.r. 26]

Powers of Taxing Master in relation to costs of taxation proceedings

27.—(1) Subject to any statutory provision and this Order, the party whose bill is being taxed shall be entitled to his costs of the taxation proceedings.

(2) Where it appears to the Taxing Master that in the circumstances of the case some other order should be made as to the whole or any part of the costs, the Taxing Master shall have, in relation to the costs of taxation proceedings, the same powers as the Court has in relation to the costs of proceedings.

(3) Subject to paragraph (5), the party liable to pay the costs of the proceedings which gave rise to the taxation proceedings may make a written offer to pay a specific sum in satisfaction of those costs which is expressed to be “without prejudice save as to the costs of taxation” at any time before the expiration of 14 days after the delivery to him of a copy of the bill of costs under rule 30(3) and, where such an offer is made, the fact that it has been made shall not be communicated to the Taxing Master until the question of the costs of the taxation proceedings falls to be decided.

(4) The Taxing Master may take into account any offer made under paragraph (3) which has been brought to his attention.

(5) No offer to pay a specific sum in satisfaction of costs may be made in a case where the person entitled to recover his costs is an assisted person within the meaning of the statutory provisions relating to legal aid.

(6) In this rule any reference to the costs of taxation proceedings shall be construed as including a reference to any fee which is prescribed by the Orders as to court fees for the taxation of a bill of costs.

[E.r. 27]

Powers of Taxing Master in relation to misconduct, neglect etc.

28.—(1) Where, whether or not on a reference by the Court under rule 10(2), it appears to the Taxing Master that anything has been done, or that any omission has been made, unreasonably or improperly by or on behalf of any party in the taxation proceedings he may exercise the powers conferred on the Court by rule 10(1).

(2) Where, whether or not on a reference by the Court under rule 11(3), it appears to the Taxing Master that—

- (a) any costs have been incurred unreasonably or improperly in the taxation proceedings, or
- (b) any costs have been wasted by failure to conduct those proceedings with reasonable competence and expedition, or
- (c) there has been a failure to procure taxation,

he may, subject to paragraph (3) of this rule, exercise the powers conferred on the Court by rule 11(1)(a).

(3) In relation to the exercise by the Taxing Master of the powers of the Court under paragraph (2) of this rule, paragraphs (4) to (8) of rule 11 shall apply as if for references to the Court there were substituted references to the Taxing Master.

(4) Where a party entitled to costs—

(a) fails without good reason to commence or conduct proceedings for the taxation of those costs in accordance with this Order or any direction, or

(b) delays lodging a bill of costs for taxation,

the Taxing Master may allow the party so entitled less than the amount he would otherwise have allowed on taxation of the bill or may wholly disallow the costs,

[E.r. 28]

PART V

PROCEDURE ON TAXATION

Commencement of proceedings

29.—(1) Subject to paragraph (2), where a party is entitled to recover taxed costs or to require any costs to be taxed by the Taxing Master by virtue of—

(a) a judgment, direction or order given or made in proceedings in the High Court or in the Court of Appeal; or

(b) rule 5(3), (4) or (5); or

(c) an award made on an arbitration under any statutory provision or pursuant to an arbitration agreement under the Arbitration Act (Northern Ireland) 1937 which has been made a rule of Court; or

(d) an order, award or other determination of a tribunal or other body constituted by or under any statutory provision,

he must begin proceedings for the taxation of those costs either within 6 months after the judgment, direction, order, award or other determination was entered, signed or otherwise perfected or, in cases to which sub-paragraph (b) applies, within 6 months after service of the notice given to him under Order 21, rule 2 or Order 22, rule 3.

(2) Paragraph (1) shall have effect, in relation to the taxation of costs pursuant to an order under the Solicitors (Ireland) Act 1849 as if for the period of 6 months first mentioned in that paragraph there were substituted a reference to 21 days.

(3) Where a party entitled to costs fails to begin proceedings for taxation within the time limits specified in paragraph (1), any other party to the proceedings may with the leave of the Taxing Master begin taxation proceedings.

(4) Where leave has been granted under paragraph (3), the party to whom it has been granted shall proceed as if he were the person entitled to begin taxation proceedings.

(5) Proceedings for the taxation of costs shall be begun by producing the requisite document at the Supreme Court Taxing Office.

(6) For the purpose of this rule the requisite document shall be ascertained by reference to Appendix 1 to this Order.

(7) A party who begins proceedings for taxation must, at the same time, lodge in the Supreme Court Taxing Office—

(a) a copy of the requisite document produced under paragraph (5), and

(b) a statement containing the following particulars:—

- (i) the name of every party, and the capacity in which he is a party to the proceedings, his position on the record of the proceedings which gave rise to the taxation proceedings and, if any costs to which taxation proceedings relate are to be paid out of a fund, the nature of his interest in the fund; and
 - (ii) the address of any party to the proceedings who entered an appearance in person or who at the conclusion of the proceedings which gave rise to the taxation proceedings was acting in person and the name or firm and business address, telephone number and office reference of the solicitor of any party who did not so enter an appearance or was not so acting in person and also (if the solicitor is the agent of another) the name or firm and business address of his principal; and
- (c) unless the Taxing Master otherwise orders, a bill of costs—
- (i) in which the professional charges and the disbursements are set out in separate columns and each column is cast, and
 - (ii) which is indorsed with the name, or firm and business address of the solicitor whose bill it is and which is signed by that solicitor or if the costs are due to a firm, by a partner of that firm,
- (d) unless the Taxing Master otherwise orders, the papers and vouchers specified below in the order mentioned—
- (i) a bundle comprising all civil legal aid certificates and amendments thereto, notices of discharge or revocation thereof and specific legal aid authorities;
 - (ii) unless the relevant information is included in the judgment or order or the parties have agreed the times of the hearings, a certificate of times or a copy of the proper officer's certificate;
 - (iii) a bundle comprising fee notes of counsel and accounts for other disbursements;
 - (iv) one complete set of pleadings arranged in chronological order, with any interlocutory summonses and lists of documents annexed to it;
 - (v) cases to counsel to advise with his advice and opinions, and instructions to counsel to settle documents and briefs to counsel with enclosures, arranged in chronological order;
 - (vi) reports and opinions of medical and other experts arranged in chronological order;
 - (vii) the solicitor's correspondence and attendance notes; and
 - (viii) any other relevant papers duly bundled and labelled.
- (8) In this rule and in this Part of this Order — “party entitled to be heard on the taxation” means—
- (a) a person who has entered an appearance or taken any part in the proceedings which gave rise to the taxation proceedings and who is directly liable under an order for costs made against him, or
 - (b) a person who has begun proceedings for taxation in accordance with this rule, or
 - (c) a person who has given the party taxing and the Taxing Office written notice that he has a financial interest in the outcome of the taxation, or
 - (d) a person in respect of whom a direction has been given under rule 26.

[E.r. 29]

Subsequent procedure

30.—(1) Subject to rules 31 and 32, where a party has begun proceedings for taxation in accordance with rule 29, the proper officer shall give to that party and to

any other party entitled to be heard on the taxation not less than 14 days' notice of the day, time and place appointed for the taxation.

(2) Subject to rule 32, where a party has begun proceedings for taxation in accordance with rule 29, the proper officer shall as soon as practicable give notice to any other party whose costs are to be taxed in the proceedings of the period within which his bill of costs (together with all necessary papers and vouchers) are to be sent to the Taxing Master.

(3) A party whose costs are to be taxed (except a solicitor whose costs are to be taxed by virtue of an order made under Article 66 of the Solicitors (Northern Ireland) Order 1976) must within 7 days after beginning the proceedings for taxation or, as the case may be, receiving notice under paragraph (2),—

- (a) send a copy of his bill of costs to every other party entitled to be heard on the taxation, and
- (b) notify the proper officer that he has done so.

(4) Where in beginning or purporting to begin any taxation proceedings or at any stage in the course of or in connection with those proceedings, there has been a failure to comply with the requirements of this Order, whether in respect of time or in any other respect, the failure shall be treated as an irregularity and shall not nullify the taxation proceedings or any step taken in those proceedings.

(5) The Taxing Master may, on the ground that there has been such a failure as is mentioned in paragraph (4), and on such terms as he thinks just, set aside either wholly or in part the taxation proceedings or exercise his powers under this Order to make such order (if any) dealing with the taxation proceedings generally as he thinks fit.

(6) Order 3, rule 6 shall not apply to taxation proceedings.

[E.r. 30]

Provisional taxation

31.—(1) Where in taxation proceedings duly begun in accordance with rule 29, only the party who commenced the proceedings is entitled to be heard on the taxation, the proper officer shall, unless the Taxing Master otherwise directs, send to that party a notice specifying the amount which the Taxing Master proposes to allow in respect of the bill of costs and requiring him to inform the proper officer within 14 days after receipt of the notice, if he wishes to be heard on the taxation.

(2) If the party referred to in paragraph (1) informs the proper officer within the time limited that he wishes to be heard on the taxation, the proper officer shall fix a day and time for the taxation and give not less than 14 days' notice thereof to that party.

(3) Except on the taxation of a solicitor's bill to his own client or where paragraph (1) applies, where in taxation proceedings begun in accordance with rule 29—

- (a) the party lodging the bill so requests and the Taxing Master considers it to be appropriate, or
- (b) the Taxing Master so decides,

the Taxing Master may, instead of proceeding under rule 30(1), proceed under paragraphs (4) to (7) of this rule.

(4) Where the Taxing Master decides to proceed under this and the following paragraphs of this rule, the proper officer shall send to each party entitled to be heard on the taxation (except the party whose bill it is) a notice requiring him to inform the proper officer within 14 days after receipt of the notice if he wishes to be heard on the taxation.

(5) If any party to whom notice has been given under paragraph (4) informs the proper officer within the time limited that he wishes to be heard on the taxation, the proper officer shall fix an appointment for the taxation and give not less than 14 days' notice of the appointment to every party entitled to be heard.

(6) If no party to whom notice has been given under paragraph (4) informs the proper officer within the time limited that he wishes to be heard on the taxation, the proper officer shall, unless the Taxing Master otherwise directs, send to the party lodging the bill a notice specifying the amount which the Taxing Master proposes to allow in respect of the bill and requiring that party to inform the proper officer within 14 days after receipt of the notice if he wishes to be heard on the taxation.

(7) If the party lodging the bill informs the proper officer within the time limited under paragraph (6) that he wishes to be heard on the taxation, the proper officer shall fix an appointment for the taxation and give not less than 14 days' notice of the appointment to that party.

[E.r. 31]

Short and urgent taxations

32.—(1) Where a party entitled to require the taxation of any costs of or arising out of proceedings to which this Order applies begins proceedings for the taxation of those costs in accordance with rule 29 then if, when he begins such proceedings, he satisfies the proper officer—

- (a) that, in view of the amount of any bill of costs to be taxed, the time required for taxation is likely to be short, and
- (b) that the speedy completion of the taxation is necessary in the interests of any person concerned in the taxation,

the proper officer shall enter the proceedings for taxation in a list kept for the purposes of this rule and shall forthwith give notice of the day and time appointed for the taxation to the party whose costs are to be taxed.

(2) A party whose costs are to be taxed in proceedings entered in the list referred to in paragraph (1) must not less than 4 days before the day appointed for the taxation send a copy of his bill of costs to every other party entitled to be heard on the taxation with a notice of the day and time appointed for the taxation.

[E.r. 32]

PART VI

REVIEW OF TAXATION

Application to Taxing Master for review

33.—(1) Any party to any taxation proceedings who is dissatisfied with any decision of the Taxing Master (other than a decision on a provisional taxation) may apply to the Taxing Master to review his decision.

(2) An application under this rule for review of the Taxing Master's decision must be made within 21 days after that decision or within such other period as may be fixed by the Taxing Master.

(3) Every applicant for review under this rule must at the time of making his application deliver to the Taxing Master his objections in writing specifying what is objected to and stating concisely the nature and grounds of the objection in each case, and must deliver a copy of the objections to any other party who was entitled to receive notice of the appointment for the taxation pursuant to rules 30 and 31.

(4) Any party to whom a copy of the objections is delivered under this rule may, within 21 days after delivery of the copy to him or such other period as may be fixed

by the Taxing Master, deliver to the Taxing Master answers in writing to the objections stating concisely the grounds on which he will oppose the objections, and must at the same time deliver a copy of the answers to the party applying for review and to any other party who was entitled to receive notice of the appointment for the taxation pursuant to rules 30 and 31.

[E.r. 33]

Review by Taxing Master

34.—(1) A review under rule 33 shall be carried out by the Taxing Master.

(2) On a review under rule 33, the Taxing Master may receive further evidence and may exercise all the powers which he might exercise on an original taxation, including the power to award costs of the proceedings before him; and any costs awarded by him to any party may be taxed by him and may be added to or deducted from any other sum payable to or by that party in respect of costs.

(3) On a hearing of a review under rule 33 a party to whom a copy of objections was delivered under paragraph (3) of that rule shall be entitled to be heard in respect of all or any of the objections notwithstanding that he did not deliver written answers to the objections under paragraph (4) of that rule.

(4) The Taxing Master who issues his certificate pursuant to rule 22(1)(a) or (b) after he has considered a review under this rule, if requested to do so by any party to the proceedings before him, shall state in the certificate or otherwise in writing by reference to the objections the reasons for his decision on the review, and any special facts or circumstances relevant to it.

(5) A request under paragraph (4) must be made within 14 days after the review or such other period as may be fixed by the Taxing Master.

[E.r. 34]

Review by a judge

35.—(1) Any party who is dissatisfied with the decision of the Taxing Master on a review under rule 33 may apply to a judge for an order to review that decision either in whole or in part, provided that one of the parties to the taxation proceedings has requested the Taxing Master to state the reasons for his decision in accordance with rule 34(4).

(2) An application under this rule may be made at any time within 14 days after the Taxing Master has issued a certificate in accordance with rule 34(4).

(3) An application under this rule shall be made by summons and shall, unless the judge thinks fit to adjourn it into Court, be heard in chambers.

(4) Unless the judge otherwise directs, no further evidence shall be received on the hearing of an application under this rule and no ground of objection shall be raised which was not raised on the review by the Taxing Master but save as aforesaid, on the hearing of any such application the judge may exercise all such powers and discretion as are vested in the Taxing Master in relation to the subject matter of the application.

(5) On an application under this rule the judge may make such order as the circumstances may require and in particular may order the Taxing Master's certificate to be amended or, except where the dispute as to the item under review is as to amount only, order the item to be remitted to the Taxing Master for taxation.

[E.r. 35]

APPENDIX 1

Requisite document for purposes of rule 29

1.—(1) Where a party is entitled to require any costs to be taxed by virtue of a judgment or order given or made in any proceedings in the High Court or in the Court of Appeal, the requisite document for the purposes of rule 29 is the judgment or order as the case may be.

(2) Where the entitlement arises by virtue of a direction of the Court given under these rules, the requisite document is that direction.

2. Where a party is entitled by virtue of rule 5(3), (4) or (5) to require any costs to be taxed, the requisite document for the purposes of rule 29 is:—

- (a) where he is so entitled by virtue of rule 5(3), the notice given to him under Order 21, rule 2;
- (b) where he is so entitled by virtue of rule 5(4) or (5), a certified copy of the notice given by him under Order 22, rule 3.

3. Where a party is entitled to require taxation by the Taxing Master of any costs directed to be taxed or paid by an order, award or other determination of a tribunal or other body constituted by or under any statutory provision, the requisite document for the purposes of rule 29 is the order, award or other determination, as the case may be.

4.—(1) Where a party is entitled by virtue of rule 6(9) to require any costs to be taxed, the requisite document for the purposes of rule 29 is the order made under section 31 or 32 of the Administration of Justice Act 1970, as the case may be.

(2) The costs of calling an expert witness with regard to any question as to which a court expert is appointed under Order 40, or a scientific adviser is appointed under Order 104, rule 11, shall not be allowed on a taxation of costs on the standard basis, unless the Court at the trial has certified that the calling of the witness was reasonable.

(3) Where—

- (a) an action or counterclaim for the infringement of a patent, or
- (b) a petition for revocation of a patent under section 32 of the Patents Act 1949, or
- (c) an application for revocation of a patent under section 72 of the Patents Act 1977, or
- (d) a counterclaim for the revocation of a patent under section 61 of the Patents Act 1949, or
- (e) a counterclaim in proceedings for the infringement of a patent under section 61 of the Patents Act 1977,

proceeds to trial, no costs shall be allowed to the parties serving any particulars of breaches or particulars of objection in respect of any issues raised in those particulars and relating to that patent except insofar as those issues or particulars have been certified by the Court to have been proven or to have been reasonable.

[E. App. 1]

APPENDIX 2

PART I

Amount of costs

1.—(1) The amount of costs to be allowed shall (subject to rule 18 and to any order of the Court fixing the costs to be allowed) be in the discretion of the Taxing Master.

(2) In exercising his discretion the Taxing Master shall have regard to all the relevant circumstances, and in particular to:—

- (a) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;
- (b) the skill, specialised knowledge and responsibility required of, and the time and labour expended by, the solicitor or counsel;
- (c) the number and importance of the documents (however brief) prepared or perused;
- (d) the place and circumstances in which the business involved is transacted;
- (e) the importance of the cause or matter to the client;
- (f) where money or property is involved, its amount or value;
- (g) any other fees and allowances payable to the solicitor or counsel in respect of other items in the same cause or matter, but only where work done in relation to those items has reduced the work which would otherwise have been necessary in relation to the item in question.

(3) The bill of costs shall consist of such of the items specified in Part II as may be appropriate, set out, except for item 4, in chronological order; each such item (other than an item relating only to time spent in travelling or waiting) may include an allowance for general care and conduct having regard to such of the circumstances referred to in paragraph (2) above as may be relevant to that item.

Fees to counsel

2.—(1) Except in the case of taxations under the Legal Aid Advice and Assistance (Northern Ireland) Order 1981 no fee to counsel shall be allowed unless before the Taxing Master issues his certificate a receipt for the fees signed by counsel is produced.

(2) Except in taxations under rules 14 and 15:—

- (a) no costs shall be allowed in respect of counsel attending before a master in chambers or of more counsel than one attending before a judge in chambers unless the master or judge, as the case may be, has certified the attendance as being proper in the circumstances of the case;
- (b) a refresher fee, the amount of which shall be in the discretion of the Taxing Master, shall be allowed to counsel either
 - (i) for each period of 5 hours (or part thereof) after the first, during which a trial or hearing is proceeding, or
 - (ii) at the discretion of the Taxing Master, in respect of any day after the first day, on which the attendance of counsel at the place of trial was necessary.

Items to be authorised, certified, etc

3.—(1) In an action arising out of an accident on land, the costs of preparing a plan (other than a sketch plan) of the place where the accident happened shall not be allowed unless the Taxing Master is satisfied that it was reasonable to prepare that plan for use at the trial.

PART II

1. *Interlocutory attendances*

- (a) (i) Attending the hearing of any summons or other application at Court or appointment in chambers or elsewhere.
- (ii) Care and conduct.
- (b) Travelling and waiting.

2. *Consultations with counsel*

- (a) (i) Attending counsel in consultation.
- (ii) Care and conduct.
- (b) Travelling and waiting.

3. *Attendance at trial or hearing*

- (a) (i) Attending the trial or hearing of a cause or matter, or an appeal or to hear a deferred judgment.
- (ii) Care and conduct.
- (b) Travelling and waiting.

4. *Preparation*

PART A

The doing of any work which was reasonably done arising out of or incidental to the proceedings, including:—

- (i) The Client: taking instructions to sue, defend, counterclaim, appeal or oppose etc, attending upon and corresponding with client; taking and preparing proofs of evidence;
- (ii) Witnesses: interviewing and corresponding with witnesses and potential witnesses, taking and preparing proofs of evidence and, where appropriate, arranging attendance at Court, including issue of subpoena;
- (iii) Expert Evidence: obtaining and considering reports or advice from experts and plans, photographs and models: where appropriate arranging their attendance at Court, including issue of subpoena;
- (iv) Inspections: inspecting any property or place material to the proceedings;
- (v) Searches and Enquiries: making searches at offices of public records and elsewhere for relevant documents: searches in the Companies' Registry and similar matters;
- (vi) Special Damages: obtaining details of special damages and making or obtaining any relevant calculations;
- (vii) Other Parties: attending upon and corresponding with other parties or their solicitors;
- (viii) Discovery: perusing, considering or collating documents for affidavit or list of documents: attending to inspect or produce for inspection any documents required to be produced or inspected by order of the Court or by virtue of Order 24;
- (ix) Documents: preparation and consideration of pleadings and affidavits, cases and instructions to and advice from counsel, any law involved and any other relevant documents including collating and service;
- (x) Negotiations: work done in connection with negotiations with a view to settlement;
- (xi) Agency: correspondence with and attendances upon agents and work done by them;

- (xii) Interest: where relevant, the calculation of interest;
- (xiii) Notices: preparation and service of miscellaneous notices, including notices to witnesses to attend court.

PART B

The general care and conduct of the proceedings.

PART C

Travelling and waiting time in connection with the above matters.

NOTE: the sums sought under each sub-paragraph (i) to (xiii) of Part A should be shown separately against each item followed by the total of all items under Part A; the sums charged under Part B and C should each be shown separately, and the total of the items under Parts A, B and C should then follow.

5. *Taxation*

(a) Taxation of Costs

- (i) preparing the bill (where allowable) and preparing for and attending the taxation;
- (ii) Care and conduct;
- (iii) Travelling and waiting;

(b) Review

- (i) preparing and delivering objections to the decision of the Taxing Master on taxation or answers to objections, and considering opponent's answers or objections, as the case may be; attending hearing of review;
- (ii) Care and conduct;
- (iii) Travelling and waiting.

[E. App. 2]

APPENDIX 3

FIXED COSTS

PART I

Costs on recovery of a liquidated sum without trial

1. The scale of costs following paragraph 2 of this Part of this Appendix shall apply in relation to the following cases if the writ therein was issued on or after 1 June 1982 and was endorsed in accordance with Order 6, rule 2(b), with a claim for a debt or liquidated demand only of £600·00 or upwards, that is to say—

- (a) cases in which the defendant pays the amount claimed or a sum of £600·00 or upwards within the time and in the manner required by the endorsement of the writ;
- (b) cases in which the plaintiff obtains judgment in default of appearance under Order 13, rule 1, or under that rule by virtue of Order 83, rule 4, or judgment in default of defence under Order 19, rule 2, being in any case judgment for a sum of £600·00 or upwards;
- (c) cases in which the plaintiff obtains judgment under Order 14, for a sum of £600·00 or upwards, either unconditionally or unless that sum is paid into court or to the plaintiff's solicitors.

2. There shall be added to the basic costs set out in the said scale—
- (i) if the amount recovered is less than £3,000·00, the fee payable on an Ordinary Civil Bill process in the county court for that amount, and
 - (ii) in any other case, the fee paid on the issue of the writ and where applicable, on the final judgment.

SCALE OF COSTS

A. *Basic Costs*

	<i>Amount to be allowed in cases under following sub-paragraphs of paragraph 1 of this Appendix</i>					
	<i>(a)</i>		<i>(b)</i>		<i>(c)</i>	
	<i>£</i>	<i>p</i>	<i>£</i>	<i>p</i>	<i>£</i>	<i>p</i>
If the amount recovered is:						
not less than £600·00						
but less than £2,000·00						
(i) where the writ was served by post	42·00		54·50		96·00	
(ii) where the writ was served on the defendant personally	46·00		58·50		100·00	
not less than £2,000·00						
but less than £3,000·00						
(i) where the writ was served by post	46·00		60·50		100·00	
(ii) where the writ was served on the defendant personally	50·00		64·00		104·00	
not less than £3,000·00	60·50		86·75		124·00	

B. *Additional Costs*

	<i>Amount to be allowed where the amount recovered is—</i>			
	<i>(i)</i>		<i>(ii)</i>	
	<i>not less than £600·00 but less than £3,000·00</i>		<i>not less than £3,000·00</i>	
	<i>£</i>	<i>p</i>	<i>£</i>	<i>p</i>
(1) Where there is more than one defendant, in respect of each additional defendant served	6·50		8·25	
(2) Where substituted service is ordered and effected, in respect of each defendant served	15·00		31·50	
(3) Where service outside the jurisdiction is ordered and effected, in the case of service—				
(a) in England and Wales, Scotland, the Isle of Man or the Channel Islands	23·50		41·75	
(b) in any other place out of the jurisdiction	27·50		46·50	
(4) In the case of judgment in default of defence or judgment under Order 14, where notice of appearance is not given on the day on which				

appearance is entered, and the plaintiff makes an affidavit of service for the purpose of a judgment in default of appearance (the allowance to include the service)	11·00	12·00
(5) In the case of judgment under Order 14 where an affidavit of service of the summons is required	11·00	12·00
(6) In the case of judgment under Order 14 for each adjournment of the summons	8·25	15·25

3. Nothing in the preceding provisions of this Part shall apply in relation to a writ of summons issued before 1st June 1982, unless judgment in default of appearance or default of defence or under Order 14 is obtained after that date.

PART II

Costs on judgment without trial for possession of land

1.—(1) Where the writ is endorsed with a claim for the possession of land the plaintiff obtains judgment—

- (a) under Order 13, rule 4 or 5, in default of appearance, or
- (b) under Order 19, rule 5 or 6, in default of defence, or
- (c) under Order 14,

for possession of the land and costs, then subject to sub-paragraph (2), there shall be allowed the costs prescribed by paragraph 2 of this Part of this Appendix.

(2) Where the plaintiff is also entitled under the judgment to damages to be assessed, or where the plaintiff claims any relief of the nature specified in Order 88, rule 1, this part of this Appendix shall not apply.

2. The costs to be allowed under this Part of this Appendix shall be the costs which would be allowed under Part I (together with the fee paid on the writ) if judgment had been obtained in the same circumstances, that is to say, in default of appearance or defence or under Order 14 but the writ has been endorsed with a claim for a debt or liquidated demand only of £600·00 or upwards and judgment for not less than £3,000·00 has been obtained.

PART III

Miscellaneous

1. Where the plaintiff or defendant signs judgment for costs under rule 10, there shall be allowed—

Costs of the judgment £ 6·00

2. Where a certificate of judgment or decree is registered in the High Court in the Register for United Kingdom Judgments under Schedule 6 to the Civil Jurisdiction and Judgments Act 1982, there shall be allowed—

Costs of registration £24·00

3. Where proceedings are taken pursuant to Order 3, there shall be marked on the judgment summons in respect of the costs thereof £ 8·50

[E. App. 3]

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court (Northern Ireland) 1980 so as to revise the provisions relating to costs.