



# 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—

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*Status: This is the original version (as it was originally enacted).*

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- (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.