SCHEDULE 3

PART II

II SECURITY FOR COSTS

25.12.—(1) A defendant to any claim may apply under this Section of this Part for security for his costs of the proceedings.

(Part 3 provides for the court to order payment of sums into court in other circumstances. Rule 20.3 provides for this Section of this Part to apply to Part 20 claims)

(2) An application for security for costs must be supported by written evidence.

(3) Where the court makes an order for security for costs, it will—

    (a) determine the amount of security; and

    (b) direct—

        (i) the manner in which; and

        (ii) the time within which

    the security must be given.

Conditions to be satisfied

25.13.—(1) The court may make an order for security for costs under rule 25.12 if—

    (a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order; and

    (b)   (i) one or more of the conditions in paragraph (2) applies, or

        (ii) an enactment permits the court to require security for costs.

(2) The conditions are—

    (a) the claimant is an individual—

        (i) who is ordinarily resident out of the jurisdiction; and

        (ii) is not a person against whom a claim can be enforced under the Brussels Conventions or the Lugano Convention, as defined by section 1(1) of the Civil Jurisdiction and Judgments Act 1982(**1**);

    (b) the claimant is a company or other incorporated body—

        (i) which is ordinarily resident out of the jurisdiction; and

        (ii) is not a body against whom a claim can be enforced under the Brussels Conventions or the Lugano Convention;

    (c) the claimant is a company or other body (whether incorporated inside or outside Great Britain) and there is reason to believe that it will be unable to pay the defendant's costs if ordered to do so;

    (d) the claimant has changed his address since the claim was commenced with a view to evading the consequences of the litigation;

    (e) the claimant failed to give his address in the claim form, or gave an incorrect address in that form;

(**1**)   1982 c. 27; section 1(1) was amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12), sections 2(2) and 2(3).

(f) the claimant is acting as a nominal claimant, other than as a representative claimant under Part 19, and there is reason to believe that he will be unable to pay the defendant's costs if ordered to do so;

(g) the claimant has taken steps in relation to his assets that would make it difficult to enforce an order for costs against him.

(Rule 3.4 allows the court to strike out a statement of case and Part 24 for it to give summary judgment)

Security for costs other than from the claimant

25.14.—(1) The defendant may seek an order against someone other than the claimant, and the court may make an order for security for costs against that person if—

(a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order; and

(b) one or more of the conditions in paragraph (2) applies.

(2) The conditions are that the person—

(a) has assigned the right to the claim to the claimant with a view to avoiding the possibility of a costs order being made against him; or

(b) has contributed or agreed to contribute to the claimant's costs in return for a share of any money or property which the claimant may recover in the proceedings; and

is a person against whom a costs order may be made.

(Rule 48.2 makes provision for costs orders against non-parties)

Security for costs of an appeal

25.15.—(1) The court may order security for costs of an appeal against—

(a) an appellant;

(b) a respondent who also appeals,

on the same grounds as it may order security for costs against a claimant under this Part.

(2) The court may also make an order under paragraph (1) where the appellant, or the respondent who also appeals, is a limited company and there is reason to believe it will be unable to pay the costs of the other parties to the appeal should its appeal be unsuccessful.