

SCHEDULE 1

The Rules of the Supreme Court (Northern Ireland) 1980 COURT OF APPEAL ETC.

ORDER 62

COSTS

PRELIMINARY

Interpretation

1.—(1) In this Order—

“certificate” includes allocatur;

“contentious business” and non-contentious business” have the same meanings respectively as in the Solicitors (Northern Ireland) Order 1976(1);

“costs” includes fees, charges, disbursements, expenses and remuneration;

“the Court” means the High Court, the Court of Appeal or any one or more judges thereof, whether sitting in court or in chambers, or any master;

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

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

(2) In this Order reference 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.

[E.r. 1]

Application

2.—(1) This Order shall have effect—

(a) subject to the provisions contained in any statutory provision passed subsequent to the Act and to the provisions of any other statutory provision save in so far as such last mentioned provisions are inconsistent with the rules of this Order;

(b) in relation to all civil proceedings in the High Court and Court of Appeal;

(c) in relation to all criminal proceedings in the Queen's Bench Division or Court of Appeal other than trial at bar in the Queen's Bench Division of an indictment or inquisition or the trial of an information filed ex officio by the Attorney General.

(2) Where by virtue of any statutory provision the costs of or accidental to 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, the following provisions of this Order, that is to say, rule 7(4) and (5), rule 8(6), rules 14(1) and 15, rule 16(1), rule 17, rule 20 (except paragraph (3)), rules 21 to 25 and rules 35 to 37, shall have effect in relation to proceedings for taxation of those costs as they have effect in relation to proceedings for taxation of the costs of or arising out of the proceedings in the Supreme Court.

(1) [S.I. 1976 No. 582 \(N.I. 12\)](#)

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(3) This Order shall have effect subject to rules 29 and 30 (which limit the costs recoverable in relation to certain proceedings).

(4) The powers and discretion of the Court as to costs under section 59 of the Act (which provides, subject as therein, that the costs of and incidental to all proceedings in the High Court and the Court of Appeal shall be in the discretion of the Court) shall be exercised subject to and in accordance with these Rules.

[E.r. 2]

ENTITLEMENT TO COSTS

When costs follow the event

3.—(1) Subject to the following provisions of this Order, no party shall be entitled to recover any costs of or incidental to any proceedings from any other party to the proceedings except under an order of the Court.

(2) If the Court in the exercise of its discretion sees fit to make any order as to the costs of or incidental to any proceedings, the Court shall, subject to this Order, 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.

(3) The costs of and occasioned by any amendment made without leave in the writ of summons or any pleading shall be borne by the party making the amendment, unless the Court otherwise orders.

(4) The costs of and occasioned by any application to extend the time fixed by these rules, or any direction or order thereunder, for serving or filing any document or doing any other act (including the costs of any order made on the application) shall be borne by the party making the application, unless the Court otherwise orders.

(5) 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 7 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 paid by him, unless the Court otherwise orders.

(6) If a party—

- (a) on whom a list of documents is served in pursuance of any provision 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 paid by him, unless the Court otherwise orders.

(7) Where a defendant by notice in writing and without leave discontinues his counterclaim against any party or withdraws any particular claim made by him therein against any party, that party shall, unless the Court otherwise directs, be entitled to his costs of the 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.

(8) Where a plaintiff accepts money paid into court by a defendant who counterclaimed against him, then, if the notice of payment given by that defendant stated that he had taken into account and satisfied the cause of action or, as the case may be, all the causes of action in respect of which he counterclaimed, that defendant shall, unless the Court otherwise directs, be entitled to his costs of the counterclaim incurred to the time of receipt of the notice of acceptance by the plaintiff of the money paid into court.

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

- (a) seeks to establish his 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, unless the Court otherwise directs, and, if his claim or any part of it fails, may be ordered to pay the costs of any person incurred in opposing it.

(10) Where a claimant is entitled to costs under paragraph (9), the amount of the costs shall be fixed by the Court unless it thinks fit to direct taxation and the amount fixed or allowed shall be added to the claimant's debt.

(11) Where a claimant (other than a person claiming to be a creditor), having established a claim to be entitled under a judgment or order in accordance with Order 44, has been served with notice of the judgment or order pursuant to rule 3 or 15 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, unless the Court otherwise directs; 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.

(12) Where an application is made in accordance with Order 24, rule 8, or Order 29, rule 8, for an order under section 21 of the Administration of Justice Act 1969⁽²⁾ or section 31 or 32 of the Administration of Justice Act 1970⁽³⁾, the person against whom the order is sought shall be entitled, unless the Court otherwise directs, to his costs of and incidental to the application and of complying with any order made thereon and he may, after giving the applicant 7 days' notice of his intention to do so, tax such costs and if they are not paid within 4 days after taxation, enter judgment for them.

(13) Subject to the Act, when issues in fact and law are raised upon a claim or counterclaim, the costs of the several issues respectively, both in law and fact, shall follow the event, unless the Court otherwise orders.

(14) Unless the Court shall otherwise direct, in any action on any judgment which might be registered under the Judgments Extension Act 1868⁽⁴⁾ in Northern Ireland the party bringing such action shall not be entitled to recover any costs.

[E.r. 3]

Stage of proceedings at which costs to be dealt with

4.—(1) Costs may be dealt with by the Court at any stage of the proceedings or after the conclusion of the proceedings; and any order of the Court for the payment of any costs may, if the Court thinks fit, and the person against whom the order is made is not an assisted person, require the costs to be paid forthwith notwithstanding that the proceedings have not been concluded.

(2) In the case of an appeal the costs of the proceedings giving rise to the appeal, as well as the costs of the appeal and of the proceedings connected with it, may be dealt with by the Court hearing the appeal; and in the case of any proceedings removed to the High Court from any other court, the costs, of the whole proceedings, both before and after the removal, may subject to any order of the court ordering the removal) be dealt with by the Court to which the proceedings are removed.

(3) Where under paragraph (2) the Court makes an order as to the costs of any proceedings before another court, rules 27, 33 and 34 shall not apply in relation to those costs, but, except in relation to costs of proceedings removed from a county court, the order—

- (a) shall specify the amount of the costs to be allowed, or
- (b) shall direct that the costs shall be assessed by the court before which the proceedings took place or taxed by an officer of that court, or

(2) 1969 c. 58
(3) 1970 c. 31
(4) 1868 c. 54

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- (c) if the order is made on appeal from a county court in relation to proceedings in that court, may direct that the costs shall be taxed by the Taxing Master.

[E.r. 4]

Special matters to be taken into account in exercising discretion

5. The Court in exercising its discretion as to costs shall to such extent, if any, as may be appropriate in the circumstances, take into account—

- (a) any such offer of contribution as is mentioned in Order 16, rule 10, which is brought to its attention in pursuance of a reserved right to do so;
- (b) any payment of money into court and the amount of such payment.

[E.r. 5]

Restriction of discretion to order costs

6.—(1) Notwithstanding anything in this Order or in section 59 of the Act—

- (a) the costs of every action, question and issue tried by a jury shall, subject to the following provisions of this rule, follow the event, unless upon the application of any party the Court at the trial shall for special cause shown in the order otherwise direct; any such direction may be discharged or varied by the Court of Appeal;
- (b) 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⁽⁵⁾;
- (c) unless the Court is of opinion that there was no reasonable ground for opposing the will, no order shall be made for the costs of the other side to be paid by the party opposing a will in a probate action who 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;
- (d) except in special circumstances, no order shall be made giving more than one set of costs among all the opponents of a petition or originating summons for extension of the term of a patent under section 23, 24 or 25 of the Patents Act 1949⁽⁶⁾, if the Court refuses the prayer of the petition or the relief sought by the summons.

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

[E.r. 6]

Costs arising from misconduct or neglect

7.—(1) Where in any cause or matter any thing is done or omission is made improperly or unnecessarily by or on behalf of a party, the Court may direct that any costs to that party in respect of it shall not be allowed to him and that any costs occasioned by it to other parties shall be paid by him to them.

⁽⁵⁾ 1943 c. 39

⁽⁶⁾ 1949 c. 87

(2) Without prejudice to the generality of paragraph (1), the Court shall for the purpose of that paragraph have regard in particular to the following matters, that is to say—

- (a) the omission to do any thing the doing of which would have been calculated to save costs;
- (b) the doing of any thing calculated to occasion, or in a manner or at a time calculated to occasion, unnecessary costs;
- (c) any unnecessary delay in the proceedings.

(3) The Court may, instead of giving a direction under paragraph (1) in relation to, any thing done or omission made, direct the Taxing Master to inquire into it and, if it appears to him that such a direction as aforesaid should have been given in relation to it, to act as if the appropriate direction had been given.

(4) The Taxing Master shall, in relation to any thing done or omission made in the course of taxation and in relation to any failure to procure taxation, have the same power to disallow or to award costs as the Court has under paragraph (1) to direct that costs shall be disallowed or paid by any party.

(5) Where a party entitled to costs fails to procure or fails to proceed with taxation, the Taxing Master in order to prevent any other parties being prejudiced by that failure, may allow the party so entitled a nominal or other sum for costs or may certify the failure and the costs of the other parties.

[E.r. 7]

Personal liability of solicitor for costs

8.—(1) Subject to the following provisions of this rule, where in any proceedings costs are incurred improperly or without reasonable cause or are wasted by undue delay or by any other misconduct or default, the Court may make against any solicitor whom it considers to be responsible (whether personally or through a servant or agent) an order—

- (a) disallowing the costs as between the solicitor and his client; and
- (b) directing the solicitor to repay to his client costs which the client has been ordered to pay to other parties to the proceedings; or
- (c) directing the solicitor personally to indemnify such other parties against costs payable by them.

(2) No order under this rule shall be made against a solicitor unless he has been given a reasonable opportunity to appear before the Court and show cause why the order should not be made, except where any proceeding in court or in chambers cannot conveniently proceed, and fails or is adjourned without useful progress being made,—

- (a) because of the failure of the solicitor to attend in person or by a proper representative; or
- (b) because of the failure of the solicitor 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 otherwise to proceed.

(3) Before making an order under this rule the Court may, if it thinks fit, refer the matter (except in the cases excepted from paragraph (2)) to the Taxing Master for inquiry and report and direct the solicitor in the first place to show cause before the Taxing Master.

(4) The Court may, if it thinks fit, direct or authorise the Official Solicitor to attend and take part in any proceedings or inquiry under this rule, and may make such order as it thinks fit as to the payment of his costs.

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

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(6) Where in any proceedings before the Taxing Master the solicitor representing any party is guilty of neglect or delay or puts any other party to any unnecessary expense in relation to those proceedings, the Taxing Master may direct the solicitor to pay costs personally to any of the parties to those proceedings; and where any solicitor fails to leave his bill of costs (with the documents required by this Order) for taxation within the time fixed by or under this Order or otherwise delays or impedes the taxation, then, unless the Taxing Master otherwise directs, the solicitor shall not be allowed the fees to which he would otherwise be entitled for drawing the bill and for attending the taxation.

(7) If, on the taxation of costs to be paid out of a fund, other than the legal aid fund, one-sixth or more of the amount of the bill for those costs is taxed off, the solicitor whose bill it is shall not be allowed the fees to which he would otherwise be entitled for drawing his bill of costs and for attending the taxation.

(8) In any proceedings in which the party by whom the fees prescribed by the Orders as to Court fees are payable is represented by a solicitor, if the fees or any part of the fees payable under the said Orders are not paid as therein prescribed, the Court may, on the application of the official solicitor by summons, order the solicitor personally to pay that amount in the manner so prescribed and to pay the costs of the official solicitor of the application.

[E.r. 8]

Fractional or gross sum in place of taxed costs

9.—(1) Subject to this Order, where by or under these rules or any order or direction of the Court costs are to be paid to any person, that person shall be entitled to his taxed costs.

(2) Paragraph (1) shall not apply to costs which by or under any order or direction of the Court—

- (a) 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; or
- (b) are to be assessed or settled by any master;

but rules 27, 28, 33 and 34 shall apply in relation to such assessment or settlement of costs which are to be assessed or settled as aforesaid as they apply in relation to the taxation of costs by the Taxing Master.

(3) Where a writ in an action is indorsed in accordance with Order 6, rule 2(1)(b), and judgment is entered in default of appearance or of defence for the amount claimed for costs (whether alone or together with any other amount claimed), paragraph (1) of this rule shall not apply to those 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 nevertheless be entitled to have those costs taxed.

(4) The Court in awarding costs to any person may direct that, instead of taxed costs, that person shall be entitled—

- (a) to a proportion specified in the direction of the taxed costs or to the taxed costs from or up to a stage of the proceedings so specified; or
- (b) to a gross sum so specified in lieu of taxed costs;

but where the person entitled to such a gross sum is a litigant in person, rule 28 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.

[E.r. 9, 10]

When a party may enter judgment for costs without an order

10.—(1) Where a plaintiff by notice in writing and without leave either wholly discontinues his action against any defendant or withdraws any particular claim made by him therein against

any defendant, the defendant may tax his costs of the action or his costs occasioned by the matter withdrawn, as the case may be, and, if the taxed costs are not paid within 4 days after taxation, may enter judgment for them.

(2) If a plaintiff accepts money paid into court in satisfaction of the cause of action, or all the causes of action, in respect of which he claims, or if he accepts a sum or sums paid in respect of one or more specified causes of action and gives notice that he abandons the others, then subject to paragraph (4), he may, after 4 days from payment out and unless the Court otherwise orders, tax his costs incurred to the time of receipt of the notice of payment into court and 48 hours after taxation may enter judgment for his taxed costs.

(3) Where a plaintiff in an action for libel or slander against several defendants sued jointly accepts money paid into court by one of the defendants, he may, subject to paragraph (4), tax his costs and enter judgment for them against that defendant in accordance with paragraph (2).

(4) Where money paid into court in an action is accepted by the plaintiff after the trial or hearing has begun, the plaintiff shall not be entitled to tax his costs under paragraph (2) or (3).

[E.r. 10]

When order for taxation of costs not required

11.—(1) Where an action, petition or summons is dismissed with costs, or a motion is refused with costs, or an order of the Court directs the payment of any costs, or any party is entitled Under rule 10 to tax his costs, no order directing the taxation of those costs need be made.

(2) Where a summons is taken out to set aside any proceeding on the ground of irregularity and the summons is dismissed but no direction is given as to costs, the summons is to be taken as having been dismissed with costs.

[E.r. 11]

Application for order for taxation under the Solicitors (Northern Ireland) Order 1976 or the Solicitors (Ireland) Act 1849

12.—(1) An application under Article 66(1) of the Solicitors (Northern Ireland) Order 1976 or, subject to paragraph (2), an application under the Solicitors (Ireland) Act 1849(7) may be made by originating summons; and the Court may on such application, if the Court thinks fit, refer any bill of costs (the subject of such application) for taxation, with such directions and subject to such conditions as the Court may think proper.

(2) An application for an order under Article 66(2) of the Solicitors (Northern Ireland) Order 1976 or, subject to paragraph (3), an application for an order for delivery of a bill of costs and for the taxation thereof or for the taxation of a bill of costs already delivered under the Solicitors (Ireland) Act 1849 shall be made to the Taxing Master in accordance with the provisions of this rule.

(3) No application under the provisions of the Solicitors (Ireland) Act 1849 shall be made pursuant to paragraph (2) where—

- (a) the retainer of the solicitor is disputed; or
- (b) the bill of costs has been paid by the party chargeable therewith; or
- (c) in any other case where special circumstances must be shown before an order for delivery of a bill of costs or for taxation of that bill or of any bill already delivered may be made.

(4) An application under paragraph (2) shall be in Form 1 or 2 in Appendix 5 to this Order and shall be served, together with an affidavit of facts, at least 4 clear days prior to the time specified therein for the hearing of the application.

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(5) Where the bill of costs to which the application relates has already been delivered, a copy of that bill with the particulars of delivery to the person chargeable therewith indorsed thereon shall be lodged in the Supreme Court Taxing Office at the time the notice of the application is issued.

(6) Subject to any statutory provision, to any order or direction of the Court and to review under rules 35 to 37, the costs of all proceedings before the Taxing Master under this rule shall be in his discretion.

(7) The same proceedings as nearly as possible shall be had in relation to an appeal under Article 68(6) of the Solicitors (Northern Ireland) Order 1976 as on a review of a taxation pursuant to an order of the Court and, accordingly, the provisions of rules 35 to 37 shall apply.

POWERS OF TAXING MASTER

Powers of Taxing Master

13.—(1) The Taxing Master shall have power to tax—

- (a) the costs of or arising out of any cause or matter in the Supreme Court,
- (b) the costs directed by an award made on a reference to arbitration under any statutory provision or pursuant to an arbitration agreement to be paid,
- (c) any other costs the taxation of which is directed by an order of the Court, and
- (d) any costs which are directed to be taxed or settled by the Taxing Master of the Supreme Court under any statutory provision.

(2) Where by or under any statutory provision or an order of the Court any costs are directed to be taxed or settled only the Taxing Master shall have power to tax or settle those costs.

[E.r. 12]

Supplementary powers of Taxing Master

14.—(1) 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 directs;
- (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;
- (d) direct the production of any document which may be relevant in connection with those proceedings;
- (e) request any master to transmit to him any books, papers or documents relating to the cause or matter and to certify any proceedings before such master the costs of which may be comprised in the bill of costs under taxation.

(2) Where the taxation of costs relates to a solicitor's bill of costs to his own client in respect of any contentious business, the Taxing Master shall ascertain the credits, if any, to which the client is entitled and for this purpose the solicitor shall, at the time of lodging his bill of costs for taxation, annex thereto or indorse thereon a certificate in the form prescribed by the Taxing Master, signed by him, showing what money has been received by him or his firm from any person and the manner in which such money has been dealt with.

[E.r. 14]

Extension, etc. of time

15.—(1) The Taxing Master may—

- (a) extend the period within which a party is required by or under this Order to begin proceedings for taxation or to do anything in or in connection with proceedings before him;
- (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) Where an order of the Court specifies a period within which anything is to be done by or before the Taxing Master, then, unless the Court otherwise directs, the Taxing Master may from time to time extend the period so specified on such terms (if any) as he thinks just.

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

[E.r. 16]

Interim certificates

16.—(1) The Taxing Master may from time to time in the course of the taxation of any costs by him issue an interim certificate for any part of those costs which has been taxed.

(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) Unless the amount specified in an interim certificate issued under paragraph (2) is paid within 4 days from the date of the certificate the party entitled to payment may take the same proceedings to enforce payment as if payment was to be made pursuant to a final certificate.

[E.r. 17]

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

17. 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 he is entitled to be paid until he has paid or tendered the amount he is liable to pay.

[E.r. 18]

Taxation of bill of costs comprised in account

18.—(1) Where the Court directs 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 tax the costs in accordance with the direction and shall return the bill of costs, after taxation thereof, together with his report thereon to the Court.

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

[E.r. 19]

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Taxing Master to fix certain fees payable to conveyancing counsel, etc.

19.—(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 the decision of the Taxing Master under this rule shall lie to the Court, and the decision of the Court thereon shall be final.

[E.r. 20]

PROCEDURE ON TAXATION

Mode of beginning proceedings for taxation

20.—(1) A party entitled to require any costs to be taxed must begin proceedings for the taxation of those costs by producing the requisite document and leaving a copy thereof at the Taxing Office.

(2) The requisite document for the purposes of this rule shall be ascertained in accordance with the provisions of Appendix 1 to this Order.

(3) Subject to paragraph (4) where a party is entitled to require any costs to be taxed by virtue of—

- (a) a judgment, direction or order given or made in proceedings in the Supreme Court, or
- (b) rule 10,

he must begin proceedings for the taxation of those costs within 6 months after the judgment, direction or order was entered, signed or otherwise perfected or, as the case may be, within 6 months after service of the notice given to him under Order 21, rule 2 (where he is so entitled by virtue of rule 10(1)) or given by him under Order 22, rule 3 (where he is so entitled by virtue of rule 10(2) or (3)).

(4) In relation to the taxation of costs pursuant to an order under the Solicitors (Ireland) Act 1849 paragraph (3) shall have effect as if for the period of 6 months first mentioned in that paragraph there were substituted a reference to 21 days.

(5) A party who begins proceedings for taxation must at the same time lodge in the Taxing Office :—

- (a) a statement containing the following particulars, that is to say—
 - (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 the 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 appears in person and the name or firm and business address of the solicitor of any party who does not appear, and
- (b) unless the Taxing Master otherwise directs, the bill of costs together with all necessary papers and vouchers.

[E.r. 21]

Notification of time appointed for taxation

21.—(1) Where proceedings for taxation have been dilly begun in accordance with rule 20, then, subject to paragraphs (2) and (3) of this rule and rule 23, the proper officer shall give to the party beginning the proceedings and to any other party entitled to be heard in the taxation proceedings, not less than 7 days' notice of the day and time appointed for taxation.

(2) A notice under this rule need not be given to any party who has not entered an appearance or taken any part in the proceedings which gave rise to the taxation proceedings :

Provided that this paragraph shall not apply where an order for the taxation of a solicitor's bill of costs made under rule 12 at the instance of the solicitor gave rise to the taxation proceedings.

[E.r. 22]

Delivery of bills, etc.

22.—(1) Where a party has begun proceedings for taxation in accordance with rule 20, then, subject to rule 23, 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.

(2) A party whose costs are to be taxed in any taxation proceedings, except a solicitor whose costs are to be taxed by virtue of an order made under rule 12, must within 4 days after beginning the proceedings or, as the case may be, receiving notice under paragraph (1) send a copy of his bill of costs to every other party entitled to be heard in the proceedings unless that party has not entered an appearance or taken any part in the proceedings which gave rise to the taxation proceedings.

[E.r. 23]

Short and urgent taxation proceedings

23.—(1) Where a party entitled to require taxation of any costs of or arising out of proceedings in the Supreme Court begins proceedings for the taxation of those costs in accordance with rule 20, 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 taxation to the party whose costs are to be taxed.

(2) A party whose costs are to be taxed in proceedings entered for taxation in the list referred to in paragraph (1) must, subject to paragraph (3), not less than 2 days before the day appointed for taxation send a copy of his bill of costs to every other party entitled to be heard in the proceedings with a notice of the day and time appointed for taxation.

(3) A notice under paragraph (2) need not be given to any party who has not entered an appearance or taken any part in the proceedings which gave rise to the taxation proceedings.

[E.r. 24]

Provisions as to bills of costs

24.—(1) In any solicitor's bill of costs the professional charges and the disbursements must be entered in separate columns and every column must be cast before the bill is left for taxation.

(2) Before a solicitor's bill of costs is left for taxation it must be endorsed with the name or firm and business address of the solicitor whose bill it is.

[E.r. 25]

Provisions as to taxation proceedings

25.—(1) If any party entitled to be heard in any taxation proceedings does not attend within a reasonable time after the time appointed for the taxation, the Taxing Master, if satisfied by affidavit or otherwise that the party had due notice of the time appointed, may proceed with the taxation.

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(2) The Taxing Master may, if he thinks necessary to do so; adjourn any taxation proceedings from time to time.

[E.r. 26]

Powers of Taxing Master taxing costs payable out of 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, if he thinks fit, adjourn the taxation for a reasonable period and 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 time appointed by the Taxing Master at which the taxation will be continued; and
- (c) such other information, if any, as the Taxing Master may direct.

[E.r. 27]

ASSESSMENT OF COSTS

Costs payable to one party by another or out of a fund

27.—(1) This rule applies to costs which by or under these Rules or any order or direction of the Court are to be paid to a party to any proceedings either by another party to those proceedings or out of any fund (other than a fund which the party to whom the costs are to be paid holds as trustee or personal representative) and shall have effect subject to rule 28.

(2) Subject to the following provisions of this rule, costs to which this rule applies shall be taxed on the party and party basis, and on a taxation on that basis there shall be allowed all such costs as were necessary or proper for the attainment of justice or for enforcing or defending the rights of the party whose costs are being taxed.

(3) Subject to paragraph (6) the Court in awarding costs to which this rule applies may in any case in which it thinks fit to do so order or direct that the costs shall be taxed on the common fund basis.

(4) On a taxation on the common fund basis, being a more generous basis than that provided for by paragraph (2), there shall be allowed a reasonable amount in respect of all costs reasonably incurred, and paragraph (2) shall not apply; and accordingly in all cases where costs are to be taxed on the common fund basis the ordinary rules applicable on a taxation as between solicitor and client where the costs are to be paid out of a common fund in which the client and others are interested shall be applied, whether or not the costs are in fact to be so paid.

(5) The Court in awarding costs to which this rule applies to any person may if it thinks fit and if:—

- (a) the costs are to be paid out of a fund, or
- (b) the person to whom the costs are to be paid is or was a party to the proceedings in the capacity of trustee or personal representative,

order or direct that the costs shall be taxed as if that person were a trustee of the fund or as if the costs were to be paid out of a fund held by that person, as the case may be, and where the Court so orders

or directs rule 33(2) shall have effect in relation to the taxation in substitution for paragraph (2) of this rule.

(6) Paragraph (3) shall riot apply to any proceeding for the recovery of a penalty.

[E.r. 28]

Costs of a litigant in person

28.—(1) On a taxation of the costs of a litigant in person there may, subject to the provisions of this rule, 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 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 in the opinion of the Taxing Master the litigant has not suffered any pecuniary loss in doing any work to which the costs relate, he shall not be allowed in respect of the time reasonably spent by him on the work more than £2 an hour.

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

(5) Nothing in Order 6, rule 2(b), or rule 34(4) 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. 28A]

Limitations on the amount of costs recoverable where proceedings could have been brought in the county court

29.—(1) This rule applies to costs which by or under these Rules are to be taxed in accordance with the provisions of rule 27(2).

(2) Subject to the provisions of any statutory provision and save in cases within Order 14 or rule 34(5), in any proceedings which were commenced in the High Court but which, having regard to the subject matter thereof, to the amount recovered or relief awarded, could have been brought in the county court the plaintiff shall not be entitled to any more costs than those which he could have recovered if the proceedings had been brought in the county court unless the parties otherwise agree or, by reason of the question of law or issues of fact involved or the extent of the right to property affected or the full amount of the claim or other circumstances, the judge shall otherwise direct.

(3) In cases to which paragraph (2) 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 (2), be entitled to recover one-half of his costs.

(4) For the purposes of paragraph (2) 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.

(5) 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.

(6) 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.

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Further limitations on the amount of costs recoverable

30.—(1) 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.

(2) In any action for libel where the jury shall give damages under £2 the plaintiff shall not be entitled to more costs than damages.

(3) Unless the Court otherwise directs the plaintiff who brings more than one action upon a negotiable instrument shall not be entitled to recover more than one half of his costs in such second or subsequent action.

(4) In any action for words spoken under the Slander of Women Act 1891⁽⁸⁾ a plaintiff shall not recover more costs than damages unless the Court shall certify that there was reasonable ground for bringing the action.

(5) Paragraph (1) shall only apply to taxations pursuant to rule 27(2) and (4).

(6) Paragraphs (2), (3) and (4) of this rule shall only apply to taxations pursuant to rule 27(2).

Costs payable to a solicitor by his own client

31.—(1) On the taxation of a solicitor's bill to his own client (except a bill to be paid out of the legal aid fund under the Legal Aid and Advice Act (Northern Ireland) 1965⁽⁹⁾, or a bill with respect to non-contentious business) all costs shall be allowed except in so far as they are of an unreasonable amount or have been unreasonably incurred.

(2) For the purposes of paragraph (1), all costs incurred with the express or implied approval of the client shall, subject to paragraph (3), be conclusively presumed to have been reasonably incurred and, where the amount thereof has been expressly or impliedly approved by the client, to have been reasonable in amount.

(3) For the purposes of paragraph (1), any costs which in the circumstances of the case are of an unusual nature and such that they would not be allowed on a taxation of costs in a case to which rule 27(Z) applies shall, unless the solicitor expressly informed his client before they were incurred that they might not be so allowed, be presumed, until the contrary is shown, to have been unreasonably incurred.

(4) In paragraphs (2) and (3) the references to the client shall be construed—

(a) if the client was at the material time incapable by reason of mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961⁽¹⁰⁾ of managing and administering his property and affairs and represented by a person acting as guardian ad litem or next friend, as references to that person acting, where necessary, with the authority of the authority having jurisdiction under that Act;

(b) if the client was at the material time an infant and represented by a person acting as guardian ad litem or next friend, as references to that person.

[E.r. 29]

Costs payable to solicitor where money recovered by or on behalf of minor, etc.

32.—(1) This rule applies to—

⁽⁸⁾ 1891 c. 51
⁽⁹⁾ 1965 c. 8 (N.I.)
⁽¹⁰⁾ 1961 c. 15 (N.I.)

- (a) any proceedings in which 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 person who is a minor or incapable, by reason of mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961 of managing or administering his property and affairs or in which money paid into court is accepted by or on behalf of such a person, and
 - (b) any proceedings under the Fatal Accidents (Northern Ireland) Order 1977⁽¹¹⁾ in which money is recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, the widow of the person whose death gave rise to the proceedings in satisfaction of a claim under the said Order or in which money paid into court is accepted by her on her behalf in satisfaction of such a claim, if the proceedings were for the benefit also of a person who, when the money is recovered, or adjusted or ordered or agreed to be paid, or accepted, is a minor, and
 - (c) any proceedings in the Court of Appeal on an application or appeal made in connection with any proceedings to which this rule applies by virtue of the foregoing provisions of this paragraph.
- (2) Unless the Court otherwise directs the costs payable to his solicitor by any plaintiff in any proceedings to which this rule applies by virtue of paragraph (1)(a) or (b), being the costs of those proceedings or incidental to the claim therein or consequent thereon, shall be taxed under rule 31; and no costs shall be payable to the solicitor or any plaintiff in respect of those proceedings except such amount of costs as may be certified in accordance with this rule on the taxation under rule 31 of the solicitor's bill to that plaintiff.
- (3) On the taxation under rule 31 of a solicitor's bill to any plaintiff in any proceedings to which this rule applies by virtue of paragraph 1(a) or (b) who is his own client, 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 under rule 31, the amount allowed on the taxation of any costs payable to that plaintiff in those proceedings and the amount (if any) by which the first-mentioned amount exceeds the other, and
 - (b) where necessary, the proportion of the amount of the excess payable respectively by, or out of money belonging to, any party to the proceedings who is a minor or incapable, by reason of mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961, of managing and administering his property and affairs or the widow of the person whose death gave rise to the proceedings and any other party.
- (4) Paragraphs (2) and (3) shall apply in relation to any proceedings to which this rule applies by virtue Of paragraph (1)(c) as if for references to a plaintiff there were substituted references to the party, whether appellant or respondent, who was the plaintiff in the proceedings which gave rise to the first-mentioned proceedings.
- (5) Nothing in the foregoing provisions of this rule shall prejudice a solicitor's lien for costs.
- (6) Where in any proceedings to which this rule applies directions given by the Court under Order 80, rule 10, provide for the transfer or payment of money to or into county court for the payment to the solicitor of any plaintiff in the proceedings of an amount in respect of costs out of the money so transferred or paid, the Taxing Master shall send a copy of his certificate to the county court.
- (7) Nothing in this rule shall prejudice the power of the Court to order the payment of a specified gross sum for costs as part of the terms upon which the settlement of the claim is approved.
- (8) 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 incapable, by reason of mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961; of managing and administering his property and affairs and a counterclaim consisting of or

⁽¹¹⁾ S.I. 1977 No. 1251 (N.I. 18)

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including a claim under the Fatal Accidents (Northern Ireland) Order 1977 by or on behalf of the widow of the person whose death gave rise to the claim, and

- (b) a claim made by or on behalf of a person who is an infant or incapable as aforesaid in an action by any other person for relief under section 504 of the Merchant Shipping Act 1894⁽¹²⁾; and a claim consisting of or including a claim under the Fatal Accidents (Northern Ireland) Order 1977 made by or on behalf of that widow in such an action;

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

[E.r. 30]

Costs payable to a trustee out of the trust fund, etc.

33.—(1) This rule applies to every taxation of the costs which a person who is or has been a party to any proceedings in the capacity of trustee or personal representative is entitled to be paid out of any fund which he holds in that capacity.

(2) On any taxation to which this rule applies, no costs shall be disallowed except in so far, as those costs or any part of their amount should not, in accordance with the duty of the trustee or personal representative as such, have been incurred or paid, and should for that reason be borne by him personally.

[E.r. 31]

Scales of costs

34.—(1) Subject to the foregoing rules and the following provisions of this rule, the scale of costs contained in Appendix 2 to this Order, together with the notes and general provisions contained in that Appendix, shall apply to the taxation of all costs incurred in relation to contentious business done on or after 1st January 1981.

(2) On a taxation in relation to which rule 31 or rule 33(2) has effect and in other special cases costs may at the discretion of the Taxing Master be allowed—

- (a) in relation to items not mentioned in the said scale; or
- (b) of an amount higher than that prescribed by the said scale.

(3) Where the amount of a solicitor's remuneration in respect of non-contentious business connected with sales, purchases, leases, mortgages and other matters of conveyancing or in respect of any other 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 in the scales contained in Appendix 2 to this Order.

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

[E.r. 32]

REVIEW

Application to Taxing Master for review

35.—(1) Any party to any taxation proceedings who is dissatisfied with the allowance or disallowance in whole or in part of any item by the Taxing Master, or with the amount allowed by

(12) 1894 c. 60

the Taxing Master in respect of any item, may apply to the Taxing Master to review his decision in respect of that item.

(2) An application under this rule for review of the Taxing Master's decision may be made at any time within 14 days after that decision.

Provided that no application under this rule for review of a decision in respect of any item, may be made after the signing of the Taxing Master's certificate dealing finally with that item.

(3) Every applicant for review under this rule must at the time of making his application deliver to the Taxing Master objections in writing specifying by a list the items or parts of items the allowance or disallowance of which or the amount allowed in respect of which, 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 each other party (if any) who attend on the taxation of those items or to whom the Taxing Master directs that a copy of the objections shall be delivered

(4) Any party to whom a copy of the objections is delivered under this rule may, within 14 days after delivery of the copy to him or such shorter 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 the review and to each other party (if any) to whom a copy of the objections has been delivered or to whom the Taxing Master directs that a copy of the answers shall be delivered.

(5) An application under this rule for review of the Taxing Master's decision in respect of any item shall not prejudice the power of the Taxing Master under rule 16 to issue an interim certificate in respect of items his decision as to which is not objected to.

[E.r. 33]

Review by Taxing Master

36.—(1) On reviewing any decision in respect of any item, the Taxing Master may receive further evidence and may exercise all the powers which he might exercise on an original taxation in respect of that item, including the power to award costs of and incidental to 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.

(2) On a hearing of a review under rule 35 a party to whom a copy of objections was delivered under paragraph (4) of that rule shall be entitled to be heard in respect of any item to which the objections relate notwithstanding that he did not deliver written answers to the objections under that paragraph.

(3) The Taxing Master who has reviewed a decision in respect of any item shall issue his certificate accordingly and, if requested to do so by any party to the proceedings before him, shall state in his certificate or otherwise in writing by reference to the objections to that decision the reasons for his decision on the review, and any special facts or circumstances relevant to it.

A request under this paragraph must be made within 14 days after the review.

[E.r. 34]

Review of Taxing Master's certificate by a judge

37.—(1) Any party who is dissatisfied with the decision of the Taxing Master to allow or disallow any item in whole or in part on review under rule 36, or with the amount allowed in respect of any item by the Taxing Master on any such review, may apply to a judge for an order to review the taxation as to that item or part of an item if, but only if, one of the parties to the proceedings before the Taxing Master requested him in accordance with rule 36(3) to state the reasons for his decision in respect of that item or part on the review.

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(2) An application under this rule for review of the Taxing Master's decision in respect of any item may be made at any time within 14 days after the Taxing Master's certificate in respect of that item is signed, or such longer time as the Taxing Master at the time when he signs the certificate, or the Court at any time, may allow.

(3) An application under this rule shall be made by summons and shall, except where the judge thinks fit to adjourn 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 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.

(6) In this rule “judge” means a judge in person.

[E.r. 35]

APPENDIX 1

REQUISITE DOCUMENT FOR PURPOSES OF RULE 20

1. Where a party is entitled to require any costs to be taxed by virtue of a judgment or order given or made in proceedings in the Supreme Court or by virtue of a direction of the Court given under these Rules, the requisite document for the purposes of rule 20 is the judgment, order or direction, as the case may be.

2. Where a party is entitled by virtue of rule 10 to require any costs to be taxed, the requisite document for the purposes of rule 20 is—

- (a) where he is so entitled by virtue of rule 10(1), the notice given to him under Order 21, rule 2;
- (b) where he is so entitled by virtue of rule 10(2) or (3), 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 the costs directed by an award made on an arbitration under any statutory provision or pursuant to an arbitration agreement to be paid and no order of the Court for the enforcement of the award has been made, the requisite document for the purposes of rule 20 is the award.

4. 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 20 is the order, award or other determination, as the case may be.

5. Where a party is entitled by virtue of rule 3(13) to require any costs to be taxed, the requisite document for the purposes of rule 20 is a copy of the notice given by him pursuant to rule 3(13).

[E. App. 1]

APPENDIX 2
SCALE OF COSTS

PART 1

PREPARATION OF DOCUMENTS

Note. The following items shall not apply to any cause or matter to which Part 2 or 5 applies.

Item

1. *Institution of proceedings:*

- (a) Preparing, issuing, filing and service of writ of summons, including statement of claim indorsed thereon, originating summons, notice of originating motion, or third party notice £4-£14
- (b) Preparing, presenting, and issuing any petition, case or special case stated Discretionary
- (c) Preparing and issuing concurrent writ of summons or originating summons, renewing writ of summons or originating summons £3

2. *Interlocutory proceedings and proceedings in chambers:*

Preparing, issuing, filing and service of any summons or application or notice of motion (other than an originating motion), notice of interlocutory appeal £2-£14

3. *Other Documents:* Preparing (including where necessary filing, serving or delivering) any document not otherwise provided for, including—

- (a) any documents to renew a writ of summons or originating summons, to amend any document or to obtain an order for substituted service or giving leave to serve out of the jurisdiction,
- (b) statement of claim, if not indorsed on writ, and other pleadings, answer to petition, particulars of pleadings, requests for such particulars, interrogatories, affidavits and lists of documents, notice to produce, admit or inspect documents and amendments to any documents,
- (c) any affidavit or other document for use in connection with items 1 or 2,
- (d) any brief to counsel or case to counsel to advise in writing or in conference,
- (e) any instructions to counsel to settle any document except where an allowance for the preparation of that document is recoverable under items 1, 2 or 3
for first 5 A4 pages £3 per page (or proportionately)
for each A4 page thereafter £1 (or proportionately)

Note: Items 1, 2 and 3 include engrossing and one copy for service. Any additional copies required are to be charged under item 4. Item 3(a) and (e) include the copy for counsel.

4. *Copy documents:*

- (a) Typed top copy

A5 (quarto)	20p per page
A4 (foolscap)	35p per page
A3 (brief)	50p per page

- (b) Photographic, printed and carbon copies

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A5 and A4	15p per page
A3	30p per page

PART 2

BLOCK ALLOWANCE

5. In any action for damages for personal injuries, and, subject to Part 5, in any other cause or matter as the party entitled to receive the costs may elect, a block allowance shall be made in place of the items prescribed in Part 1 unless, in any such case, the Taxing Master otherwise directs; and the allowance shall be £20—£100

PART 3

ATTENDANCES

6. *Interlocutory attendances:* Attending the hearing of any summons or other application at court or in chambers or elsewhere, attending to settle draft minutes or any order in the Chancery Division; attending to draw up and enter any order or judgment, attending to obtain appointment to examine witnesses and attending on such appointment £2—£17

7. *Counsel:* Attending counsel in consultation or conference including attending to appoint the same

for each half hour or part thereof	£4
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8. *Trial or hearing:* Attending the trial or hearing of a cause or matter, or an appeal from an interlocutory or final order or judgment, or to hear a deferred judgment

per day or part of a day	£5-£21
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9. *Accountant General:* Attendance at Courts Funds Office or at the Bank of Ireland for any necessary purpose, including, the preparation of certificate Discretionary

PART 4

PREPARATION FOR TRIAL

10. Instructions for trial or hearing of any cause or matter, whatever the mode of trial or hearing, or for the hearing of any appeal

Discretionary

Note to item 10

This item is intended to cover:—

- (a) the doing of any work not otherwise provided for and which was properly done in preparing for the trial, hearing or appeal, or before a settlement of the matters in dispute, including—
 - (i) *the client:* taking instructions to sue, defend, counterclaim, appeal or oppose etc.; attending upon and corresponding with client;

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- (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 Inquiries*: making searches in the Public Record Office 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*: Consideration of pleadings, affidavits, cases and instructions to and advice from counsel, any law involved and any other relevant documents, including collating;
- (x) *Negotiations*: Work done in connection with negotiations with a view to settlement;
- (xi) *Agency*: Correspondence with and attendance upon or other work done by agents;
- (xii) *Interest*: Where relevant the calculation of interest on damages;
- (xiii) *Notices*: Preparation and service of miscellaneous notices, including notices to witnesses to attend court.

(b) The general care and conduct of the proceedings.

Note: The sums sought under each sub-paragraph (i) to (xiii) of paragraph (a) should be shown separately against each item followed by the total of all items under paragraph (a); the sum charged under paragraph (b) should be shown separately; and the total of the items under (a) and (b) should then follow.

PART 5
ADMIRALTY

11.

(a) Obtaining arrest or release of property	£9
(b) Entry or withdrawal of any caveat	£2
(c) Obtaining bail or guarantee or undertaking in lieu of bail	£5
(d) Giving bail	
(i) one surety	£10
(ii) two sureties	£11

Note to item 11(d)

This item includes drawing the bail bond, affidavits and other documents required in connection with the giving of bail and any attendances required to procure the signing of the bond, the swearing of any such affidavit and the service of any such document.

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(e) Giving guarantee or undertaking in lieu of £6 bail

Note to item 11(e)

This item includes preparing the guarantee or undertaking and any attendances required to procure the signing and stamping thereof.

(f) Issuing commission of appraisement or £5 appraisement and sale

(g) Lodging a preliminary act Discretionary

Note to items 11(a) to 11(g)

These items include where applicable the preparation, filing, lodging, service and perusal of documents; the swearing of any affidavit; the obtaining or giving of consent and the provision of any undertaking in writing to the Marshal

(h) Attendance at the Marshal's Office not £2 otherwise provided for

PART 6

TAXATION OF COSTS

(a) (a) *Taxation*

Obtaining the reference, preparing bill of costs and copies and attending to lodge; attending taxation; vouching and completing bill; paying taxing fee and lodging for certificate or order

Discretionary

(b) *Review*

Preparing and delivering objections to decision on taxation; or answers to objections, including copies for service and lodging, considering opponent's answers or objections, as the case may be, attending hearing of review Discretionary

[E. App. 2]

REGULATIONS

Discretionary costs

1.—(1) Where in the foregoing provisions of this Appendix there is entered against any item either an upper and a lower sum of money or the word “Discretionary”, the amount of costs to be allowed in respect of that item shall (subject to rule 27 and any order of the Court fixing the costs to be allowed) be in the discretion of the Taxing Master, within the limits of the sums so entered, if any.

(2) In exercising his discretion under this paragraph or under rule 34(2) in relation to any item, the Taxing Master shall have regard to all 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.

[E. App. 2 Part X para. 1]

Fees to counsel

2.—(1) Except in the case of taxations under the Legal Aid and Advice Act (Northern Ireland) 1965, 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 to him.

(2) No retaining fee to counsel shall be allowed on any taxation of costs in relation to which rule 27(2) has effect.

(3) The costs in respect of one counsel attending before a judge in chambers may be allowed, unless the judge otherwise directs.

(4) No costs shall be allowed in respect of more than one counsel attending before a judge in chambers or in respect of counsel attending before a master, unless the judge or the master, as the case may be, has certified such attendance as being proper in the circumstances of the case.

(5) A refresher fee, the amount of which shall be in the discretion of the Taxing Master, shall be allowed to counsel, either for each period of five hours (or part thereof), after the first, during which a trial or hearing is proceeding or, 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 is necessary.

[E. App. 2 Part X para. 2]

Consultations

3. On a taxation pursuant to rule 27(2) the costs of a consultation with counsel prior to the settlement of the statement of claim or defence, as the case may be, may be allowed in cases of difficulty or importance.

Items to be authorised, certified, etc.

4.—(1) In an action arising out of an accident on land due to a collision or apprehended collision, 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 the plan for use at the trial.

(2) The costs of calling an expert witness with regard to any question as to which a scientific adviser is appointed under Order 104, rule 11, shall not be allowed on a taxation of costs in relation to which rule 27(2) or (3) has effect unless the Court at the trial has certified that the calling of the witness was reasonable.

(3) If any action or counterclaim for the infringement of a patent or any petition for revocation of a patent under section 32 of the Patents Act 1949 or any counterclaim for the revocation of a patent under section 61 of that Act, 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 in so far as those issues or particulars have been certified by the Court to have been proven or to have been reasonable and proper.

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[E. App. 2 Part X para. 4]

Certificate of Court to be taken into account

5. Where on any hearing in chambers in the Chancery Division the Court certifies that the speedy and satisfactory disposal of the proceedings required and received from the solicitor engaged in them exceptional skill and labour in the preparation for the hearing, the Taxing Master in taxing the costs to be allowed for instructions in relation to the summons or application shall take the certificate into account.

[E. App. 2 Part X para. 5]

Copies of documents

6.—(1) There shall be allowed for printing copies of any document the amount properly paid to the printer; and where any part of a document is properly printed in a foreign language or as a facsimile or in any unusual or special manner, or where any alteration becomes necessary after the first proof of the document, there shall be allowed such an amount as the Taxing Master thinks reasonable, such amount to include any attendances on the printer.

(2) The solicitor for a party entitled to take printed copies of any documents shall be allowed the amount he pays for such number of copies as he necessarily or properly takes.

(3) The allowances under this Appendix for preparing any writ, pleading, summons, affidavit or other document shall be taken to include an allowance—

- (a) for preparing any necessary copies up to four in number but in reckoning such number no account shall be taken of brief copies or copies for the client;
- (b) for drawing, engrossing and completing and attendance on the client or other person to sign, execute or deliver;
- (c) for attending on counsel in connection therewith or on any officer of the Court to issue, file, lodge or bespeak.

[E. App. 2 Part X para. 7]

Allowances to expert witnesses

7. The allowances which may be made to expert witnesses shall include—

- (a) a fee for attending at and time spent travelling to and from Court;
- (b) travelling and subsistence expenses necessarily incurred;
- (c) a reasonable fee for qualifying to give evidence;
- (d) a reasonable fee for attending at one pre-trial consultation held after the close of pleadings and prior to the day of the hearing or trial provided—
 - (i) that the case is one which having regard to the amount recovered or paid in settlement, or the relief awarded, could not have been brought in the county court or a judge has certified that it was fit to be tried in the High Court, and
 - (ii) that the senior or only counsel has certified that such attendance was necessary.

Uncompleted work

8. Where for any reason all the work contemplated by any of the items in this Appendix has not been completed an appropriate proportionate allowance shall be made.

**APPENDIX 3
FIXED COSTS**

PART 1

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 of summons therein was issued on or after 1st January 1981 and was indorsed in accordance with Order 6, rule 2(1)(b), with a claim for a debt or liquidated demand only of £350 upwards, that is to say—

- (a) cases in which the defendant pays the amount claimed or a sum of not less than £350 within the time and in the manner required by the indorsement 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 £350 or upwards;
- (c) cases in which the plaintiff obtains judgment under Order 14, for a sum of £350 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 £1,200, 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

	Amount to be allowed in cases under the following sub-paragraphs of paragraph 1 of this Appendix		
	(a) £ p	(b) £ p	(c) £ p
If the amount recovered is :—			
not less than £350 but less than £1,000			
(i) where the writ was served by post	9.25	12.25	15.25
(ii) where the writ was served on the defendant personally	10.00	13.00	16.00
not less than £1,000 but less than £1,200			
(i) where the writ was served by post	13.40	18.40	24.40
(ii) where the writ was served on the defendant personally	15.00	20.00	26.00

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	Amount to be allowed in cases under the following sub-paragraphs of paragraph 1 of this Appendix		
	(a)	(b)	(c)
not less than £1,200	£ p 17.25	£ p 27.50	£ p 40.85

B. ADDITIONAL COSTS

	Amount to be allowed where the amount recovered is—	
	(i) not less than £350 but less than £1,200 £ p	(ii) not less than £1,200 £ p
(1) Where there is more than one defendant, in respect of each additional defendant served	1.00	2.05
(2) Where substituted service is ordered and effected, in respect of each defendant served	3.50	7.75
(3) Where the plaintiff's solicitor has no place of business within 5 miles of the Royal Courts of Justice, or where he has a place of business within that area but any defendant is served outside that area	1.00	2.05
(4) 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	8.00	11.15
(b) in any other place out of the jurisdiction	12.00	17.20
(5) 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)	1.25	3.40
(6) In the case of judgment under Order 14 where an affidavit of service of the summons is required	1.25	3.40
(7) In the case of judgment under Order 14 for each adjournment of the summons	1.25	2.05
		Costs to be allowed
£ p		
(8) Where the amount recovered is not less than £1,200 and there is no available solicitor carrying on business within 2 miles of the place where the defendant is served, a mileage allowance in respect of each mile after the first two miles		0.15

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£ p	Costs to be allowed
between that place and the nearest place of business of an available solicitor	

PART 2

COSTS ON JUDGMENT WITHOUT TRIAL FOR POSSESSION OF LAND

1.—(1) Where the writ of summons is indorsed with a claim for the possession of land and 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 indorsed with a claim for a debt or liquidated demand only of £350 or upwards and judgment for not less than £350 but less than £1,200 had been obtained.

PART 3

MISCELLANEOUS

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

Costs of the judgment	£2·15
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2. Where a certificate of a judgment or decree is registered in the High Court in the Register for English Judgments or the Register for Scottish Judgments under the Judgments Extension Act 1868, within 12 months of the date of the judgment and without an order, there shall be allowed—

Costs of registration	£9·45
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3. Where proceedings are taken pursuant to Order 111, there shall be marked on the judgment summons in respect of the cost thereof £5·00

[E. App. 3]

APPENDIX 4

NON-CONTENTIOUS PROBATE COSTS

1. For work done in respect of business to which the provisions of this Appendix apply a solicitor shall be entitled to charge and be paid such sums as may be fair and reasonable having regard to, all the circumstances of the case and in particular to—

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- (1) the complexity of the matter or the difficulty or novelty of the questions raised;
- (2) the skill, labour; specialised knowledge and responsibility involved on the, part, of the solicitor;
- (3) the number and importance of the documents prepared or perused, without regard to length;
- (4) the place where and circumstances in which the business or any part thereof is transacted;
- (5) the time expended by the solicitor;
- (6) the nature and value of the property involved;
- (7) the importance of the matter to the client.

Provided that—

- (a) without prejudice to the provisions of the Solicitors (Northern Ireland) Order 1976 (which relate to the taxation of costs), the client may require the solicitor to obtain a certificate from the Incorporated Law Society of Northern Ireland (hereinafter called “the Society”) certifying that the sum charged is fair and reasonable or, if it is not, what is a fair and reasonable sum, and the sum so certified (if less than that charged) shall, in the absence of taxation under the said Act, be the sum payable;
- (b) before the solicitor brings proceedings to recover costs in respect of business to which the provisions of this Appendix apply, he must, unless the costs have been taxed under the Solicitors (Northern Ireland) Order 1976, have drawn the attention of the client in writing—
 - (i) to his right under paragraph (a) of the proviso to require the solicitor to obtain a certificate from the Society, and
 - (ii) to the provisions of the Solicitors (Northern Ireland) Order 1976;
- (c) the client shall not be entitled to require the solicitor to obtain a certificate from the Society under paragraph (a) of this proviso after the bill has been taxed under the Solicitors (Northern Ireland) Order 1976, or has been paid;
- (d) on any taxation of a bill in respect of business to which the provisions of this Appendix apply it shall be the duty of the solicitor to satisfy the Taxing Master as to the fairness and reasonableness of his charge; and
- (e) if the Taxing Master allows less than one half of the amount charged, he shall bring the facts of the case to the attention of the Society.

2. The provisions of this Appendix apply to all non-contentious or common form probate business for which instructions are accepted on or after 1st January 1981.

APPENDIX 5

FORM 1 FORM OF APPLICATION FOR TAXATION OF A BILL OF COSTS ALREADY DELIVERED

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(rule 12(4))

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
THE TAXING OFFICE

In contentious matters

IN THE MATTER of the SOLICITORS (IRELAND) ACT 1849
AND IN THE MATTER of A.B., a solicitor of the Supreme Court

C.D., Applicant;
v.
E.F., Respondent.

In non-contentious matters

IN THE MATTER of the SOLICITORS (NORTHERN IRELAND) ORDER 1976

A.B., Applicant;
v.
C.D., Respondent.

TAKE NOTICE that the above-named
the applicant, will apply to the Master on the _____ day of
19 _____ at the hour of _____ a.m./p.m. for an order pursuant to Order 62
rule 12—

1. For the taxation of the bill of costs delivered to/by the above-named
the respondent, a copy whereof indorsed
with particulars of delivery is hereto annexed.
2. The application is grounded on the affidavit of the applicant.

Dated _____ 19 _____ .

.....
Applicant or Solicitor for Applicant.

FORM 2FORM OF APPLICATION FOR DELIVERY OF A BILL OF COSTS AND FOR
TAXATION OF A BILL OF COSTS SO DELIVERED

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(rule 12(4))

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
THE TAXING OFFICE

In contentious matters

IN THE MATTER of the SOLICITORS (IRELAND) ACT 1849
AND IN THE MATTER of A.B., a solicitor of the Supreme Court

C.D., Applicant;
v.
E.F., Respondent.

In non-contentious matters

IN THE MATTER of the SOLICITORS (NORTHERN IRELAND) ORDER 1976

A.B., Applicant;
v.
C.D., Respondent.

TAKE NOTICE that the above-named
the applicant, will apply to the Master on the _____ day of
19 _____ at the hour of _____ a.m./p.m. for an order pursuant to Order 62,
rule 12—

1. For the delivery of a bill of costs and for the Taxation thereof,
2. The application is grounded on the affidavit of

Dated _____ 19 _____ .

.....
Applicant or Solicitor for Applicant.