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## STATUTORY INSTRUMENTS

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# 1976 No. 582

## Solicitors (Northern Ireland) Order 1976

### [<sup>F1</sup>PART V

#### REMUNERATION OF SOLICITORS

##### *[<sup>F1</sup>Non#contentious business*

**F1** 1989 NI 14

#### **Orders as to remuneration of solicitors for non#contentious business**

**71.**—(1) For the purposes of this Article there shall be a committee to be known as the “Non#contentious Costs Committee” (in this Part referred to as “the Committee”) and consisting of the following persons—

- (a) two judges of the High Court or the Court of Appeal of whom the Lord Chief Justice may be one, appointed by the Lord Chief Justice;
- (b) the President of the Lands Tribunal;
- (c) two solicitors appointed by the Council; and
- (d) for the purpose only of prescribing and regulating the remuneration of solicitors in respect of business under the Land Registration Act (Northern Ireland) 1970, the Registrar of Titles.

(2) The Committee acting by any three or more of the members thereof (the Lord Chief Justice or another judge of the High Court or the Court of Appeal being one) may make orders prescribing and regulating in such manner as they think the remuneration of solicitors in respect of non#contentious business.

(3) The Lord Chief Justice may appoint an officer of the [<sup>F2</sup>Court of Judicature] to act as Clerk to the Committee.

(4) The Committee may refer any question arising in the exercise of their functions to any person appearing to them to be likely to assist them in reaching a conclusion thereon for advice, investigation or report and the Committee or any such person may receive evidence from any source appearing to the Committee or, as the case may be, to such person to be relevant.

(5) The costs of any reference made by the Committee under paragraph (4) shall be defrayed by the Society.

(6) Before any order is made under this Article, the Committee shall—

- (a) cause a draft of the order to be sent to the Council; and
- (b) consider any observations in writing submitted to them by the Council within three months of the sending of the draft;

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and the Committee may then make the order either in the form of the draft or with such alterations or additions as they may think fit.

(7) An order under this Article may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum, or by a fixed sum for each document prepared or perused, without regard to length, or in any other mode, or partly in one mode and partly in another, and may regulate the amount of 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 as vendor or purchaser, lessor or lessee, mortgagor or mortgagee, and the like;
- (b) the place where, and the circumstances in which, the business or any part thereof is transacted;
- (c) the amount of the capital money or rent to which the business relates;
- (d) the skill, labour, specialised knowledge and responsibility involved therein on the part of the solicitor;
- (e) the complexity, importance, difficulty, rarity or urgency of the questions raised;
- (f) the number and importance of the documents prepared or perused; and
- (g) the time expended by the solicitor.

(8) An order under this Article 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.

(9) So long as an order made under this Article is in operation, taxation of bills of costs of solicitors in respect of non-contentious business shall, subject to the provisions of Article 71A, be regulated by that order.

(10) All orders made by the Committee shall be laid before the Assembly by the Head of the Department of Finance and Personnel and shall be subject to negative resolution.

(11) In Part I of Schedule 1 to the Statutory Rules (Northern Ireland) Order 1979 for the reference to Article 64 of the Solicitors (Northern Ireland) Order 1976 there shall be substituted a reference to this Article.

**F2** Words in art. 71(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, art. 2(d)

### **Non-contentious business agreements**

**71A.—(1)** Subject to the provisions of this Article and to regulations, a solicitor may make an agreement in, or evidenced by, writing with his client respecting the amount and manner of payment for the whole or a part of any past or future services in respect of non-contentious business done or to be done by the solicitor, either by a gross sum or by commission or percentage, or by salary or otherwise, and either at the same rate as, or, subject to the provisions of regulations, at a rate different from, that at which he would otherwise be entitled to be remunerated.

(2) Any such agreement shall be limited to the conduct and completion of the non-contentious business in respect of which it is made and shall not extend to any other non-contentious business unless subsequently agreed upon in writing between the client and the solicitor.

(3) If it appears to the High Court upon an application made to the Court in that behalf that any such agreement is in all respects fair and reasonable between the parties, the Court may order the agreement to be enforced in such manner and subject to such conditions as to the costs of the application or otherwise as it thinks fit; but if the terms of the agreement do not appear to the Court to be fair and reasonable the Court may order the agreement to be set aside or varied and may direct that all or any costs incurred or chargeable in respect of the matters included in the agreement be taxed under this Part.

(4) Except as provided by paragraph (3), the bill of a solicitor for the amount due under any such agreement as is referred to in this Article shall not be subject to taxation or to the provisions of Article 71E.

(5) Articles 64(2) and 65(2) to (5) shall apply to a non-contentious business agreement as they apply to a contentious business agreement.

### **Certain stipulations and restrictions on purchasers to be void**

**71B.**—(1) Any stipulation made on the sale of any land after 1st September 1976 to the effect that any purchaser shall be liable for any costs of the vendor's solicitor shall be void.

(2) A grantor or lessor who grants or leases any property for ever or for any term of years may as a condition of the grant or lease lawfully require that it be prepared by his solicitor but may not require the grantee or lessee to pay any costs of such solicitor in connection therewith.

(3) Any stipulation made on the sale of any land after 1st September 1976 to the effect that the assurance to, or the registration of the assurance to, or the registration of the title of, the purchaser shall be prepared or carried out by a solicitor appointed by or acting for the vendor, and any stipulation which might restrict a purchaser in the selection of a solicitor to act on his behalf in relation to any land agreed to be purchased, shall, except as provided in paragraph (2), be void, but a stipulation requiring the purchaser to furnish to the vendor at the purchaser's expense, a duplicate or counterpart of the assurance shall be valid.

(4) For the purposes of this Article—

“sale” includes a transaction effected by a grant or sub-grant in fee farm and a demise or sub-demise, but does not include the compulsory acquisition of land by virtue of any enactment or the acquisition of land by agreement by a person or body authorised or capable of being authorised under an enactment in force at the date of the agreement to acquire that land compulsorily;

“assurance” includes a conveyance or transfer, a grant or sub-grant in fee farm, a lease or sub-lease, or a tenancy agreement;

“vendor” includes a vendor who is a transferor, grantor or sub-grantor in fee farm, a lessor or sub-lessor; and “purchaser” shall be construed accordingly.]

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