

SCHEDULE 2

Rule 16

PART 67

PROCEEDINGS RELATING TO SOLICITORS

**Scope and interpretation**

**67.1.**—(1) This Part contains rules about the following types of proceedings relating to solicitors—

- (a) proceedings to obtain an order for a solicitor to deliver a bill or cash account and proceedings in relation to money or papers received by a solicitor (rule 67.2);
- (b) proceedings under Part III of the Solicitors Act 1974(1) relating to the remuneration of solicitors (rule 67.3); and
- (c) proceedings under Schedule 1 to the Solicitors Act 1974(2) arising out of the Law Society’s intervention in a solicitor’s practice (rule 67.4).

(2) In this Part—

“the Act” means the Solicitors Act 1974; and

“LLP” means limited liability partnership.

(Part 48 and Section 56 of the Costs Practice Direction contain provisions about the procedure and basis for the detailed assessment of solicitor and client costs under Part III of the Act)

(The practice direction supplementing Part 52 contains provisions about appeals to the High Court from the Solicitors Disciplinary Tribunal under section 49 of the Act)

**Power to order solicitor to deliver cash account etc.**

**67.2.**—(1) Where the relationship of solicitor and client exists or has existed, the orders which the court may make against the solicitor, on the application of the client or his personal representatives, include any of the following—

- (a) to deliver a bill or cash account;
- (b) to pay or deliver up any money or securities;
- (c) to deliver a list of the moneys or securities which the solicitor has in his possession or control on behalf of the applicant;
- (d) to pay into or lodge in court any such money or securities.

(2) An application for an order under this rule must be made—

- (a) by Part 8 claim form; or
- (b) if the application is made in existing proceedings, by application notice in accordance with Part 23.

(3) If the solicitor alleges that he has a claim for costs against the applicant, the court may make an order for—

- (a) the detailed assessment and payment of those costs; and

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(1) 1974 c. 47.

(2) 1974 c. 47. The relevant provisions of Schedule 1 to the Solicitors Act 1974 were amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46; the Administration of Justice Act 1985 (c. 61), section 8 and paragraph 13 of Schedule 1; and the Postal Service Act 2000 (Consequential Modifications No. 1) Order 2001 (S.I.2001/1149), article 3 and paragraph 39 of Schedule 1.

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- (b) securing the payment of the costs, or protecting any solicitor's lien.

### **Proceedings under Part III of the Act**

**67.3.—**(1) A claim for an order under Part III of the Act for the assessment of costs payable to a solicitor by his client—

- (a) which—
  - (i) relates to contentious business done in a county court; and
  - (ii) is within the financial limit of the county court's jurisdiction specified in section 69(3) of the Act<sup>(3)</sup>,  
may be made in that county court;
- (b) in every other case, must be made in the High Court.

(Rule 30.2 makes provision for any county court to transfer the proceedings to another county court for detailed assessment of costs)

(Provisions about the venue for detailed assessment proceedings are contained in rule 47.4, Section 31 of the Costs Practice Direction and the Costs Pilot Scheme Practice Direction supplementing Part 47)

- (2) A claim for an order under Part III of the Act must be made—
  - (a) by Part 8 claim form; or
  - (b) if the claim is made in existing proceedings, by application notice in accordance with Part 23.

(A model form of claim form is annexed to the Costs Practice Direction)

- (3) A claim in the High Court under Part III of the Act may be determined by—
  - (a) a High Court judge;
  - (b) a Master, a costs judge or a district judge of the Principal Registry of the Family Division;  
or
  - (c) a district judge, if the costs are for—
    - (i) contentious business done in proceedings in the district registry of which he is the district judge;
    - (ii) contentious business done in proceedings in a county court within the district of that district registry; or
    - (iii) non-contentious business.

### **Proceedings under Schedule 1 to the Act**

**67.4.—**(1) Proceedings in the High Court under Schedule 1 to the Act must be brought—

- (a) in the Chancery Division; and
- (b) by Part 8 claim form, unless paragraph (4) below applies.

(2) The heading of the claim form must state that the claim relates to a solicitor and is made under Schedule 1 to the Act.

(3) Where proceedings are brought under paragraph 6(4) or 9(8) of Schedule 1 to the Act, the court will give directions and fix a date for the hearing immediately upon issuing the claim form.

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(3) The limit in section 69(3) of the Act was amended by the High Court and County Courts Jurisdiction Order 1991 (S.I. 1991/724), article 2(7) and (8) and Part I of the Schedule.

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(4) If the court has made an order under Schedule 1 to the Act, any subsequent application for an order under that Schedule which has the same parties may be made by a Part 23 application in the same proceedings.

(5) The table below sets out who must be made a defendant to each type of application under Schedule 1.

### Defendants to applications under Schedule 1 to the Act

<i>Paragraph of Schedule 1 under which the application is made</i>	<i>Defendant to application</i>
Paragraph 5	if the application relates to money held on behalf of an individual solicitor, the solicitor  if the application relates to money held on behalf of a firm, every partner in the firm  if the application relates to money held on behalf of a LLP or other corporation, the LLP or other corporation
Paragraph 6(4) or 9(8)	the Law Society
Paragraph 8, 9(4), 9(5) or 9(6)	the person against whom the Law Society is seeking an order
Paragraph 9(10)	the person from whom the Law Society took possession of the documents which it wishes to dispose of or destroy
Paragraph 10	if the application relates to postal packets addressed to an individual solicitor, the solicitor  if the application relates to postal packets addressed to a firm, every partner in the firm  if the application relates to postal packets addressed to a LLP or other corporation, the LLP or other corporation
Paragraph 11	the trustee whom the Law Society is seeking to replace and, if he is a co-trustee, the other trustees of the trust

(6) At any time after the Law Society has issued an application for an order under paragraph 5 of Schedule 1 to the Act, the court may, on an application by the Society—

- (a) make an interim order under that paragraph to have effect until the hearing of the application; and
- (b) order the defendant, if he objects to the order being continued at the hearing, to file and serve written evidence showing cause why the order should not be continued.