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STATUTORY INSTRUMENTS

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**2009 No. 1603**

**The Supreme Court Rules 2009**

**PART 7**

**Fees and costs**

**Fees**

**45.** Where a fee is prescribed by any order made under section 52 of the Act, the Registrar may refuse to accept a document or refuse to allow a party to take any step unless the relevant fee is paid.

**Orders for costs**

**46.—**(1) The Court may make such orders as it considers just in respect of the costs of any appeal, application for permission to appeal, or other application to or proceeding before the Court.

(2) The Court's powers to make orders for costs may be exercised either at the final determination of an appeal or application for permission to appeal or in the course of the proceedings.

(3) Orders for costs will not normally be made either in favour of or against interveners but such orders may be made if the Court considers it just to do so (in particular if an intervener has in substance acted as the sole or principal appellant or respondent).

**Submissions as to costs**

**47.—**(1) If a party wishes to defer making submissions as to costs until after judgment, the Court must be informed of this not later than at the close of the oral argument.

(2) If the Court accedes to the request it will give such directions as appear appropriate and it may, in particular, give directions—

- (a) for the hearing of oral submissions as to costs immediately after judgment;
- (b) for the simultaneous or sequential filing of written submissions as to costs within a specified period after judgment;
- (c) for the hearing of oral submissions after the filing of written submissions.

**Claim for costs**

**48.—**(1) Where the Court has made an order for costs, the claim for costs must be submitted to the Registrar within three months beginning with the date on which the costs order was made.

(2) The form and contents of a claim for costs must comply with the relevant practice direction and the receiving party must supply such further particulars, information and documents as the Registrar may direct.

(3) The receiving party must serve a copy of a claim for costs on the paying party.

(4) Within 21 days beginning with the day on which a claim for costs is served, the paying party may (or, in the circumstances specified in the relevant practice direction, must) file points of dispute and, if so, must serve a copy on the receiving party.

(5) Within 14 days beginning with the day on which points of dispute are served, the receiving party may file a response and, if so, must serve a copy on the paying party.

### **Assessment of costs**

**49.**—(1) Every detailed assessment of costs shall be carried out by two costs officers appointed by the President and—

- (a) one costs officer must be a Costs Judge (a Taxing Master of the Senior Courts), and
- (b) the second may be the Registrar.

(2) A disputed assessment shall be dealt with at an oral hearing.

(3) An assessment may provide for the costs of the assessment procedure.

(4) The Registrar will give the receiving party and the paying party written notice of the date of the assessment.

(5) Where one of the parties so requests or in the circumstances specified in the relevant practice direction, the Registrar may make a provisional assessment of costs without the attendance of the parties.

(6) The Registrar must inform the parties in writing of the outcome of a provisional assessment and, if a party is dissatisfied with the outcome, or if points of disagreement cannot be resolved in correspondence, the Registrar shall appoint a date for an oral hearing.

(7) Any request for an oral hearing following a provisional assessment of costs must be made within 14 days of the receipt of the Registrar's decision on the assessment.

### **Basis of assessment**

**50.**—(1) Where the Court is to assess the amount of costs it will assess those costs—

- (a) on the standard basis, or
- (b) on the indemnity basis,

in the manner specified by rule 51 or (where appropriate) on the relevant bases that apply in Scotland or Northern Ireland.

(2) Where—

- (a) the Court makes an order about costs without indicating the basis on which the costs are to be assessed, or
- (b) the Court makes an order for costs to be assessed on a basis other than one specified in paragraph (1),

the costs will be assessed on the standard basis.

(3) This rule applies subject to any order or direction to the contrary.

### **The standard basis and the indemnity basis**

**51.**—(1) Costs assessed on the standard basis are allowed only if they are proportionate to the matters in issue and are reasonably incurred and reasonable in amount.

(2) Any doubt as to whether costs assessed on the standard basis are reasonably incurred and are reasonable and proportionate in amount will be resolved in favour of the paying party.

(3) Costs assessed on the indemnity basis are allowed only if they are reasonably incurred and reasonable in amount.

(4) Any doubt as to whether costs assessed on the indemnity basis are reasonably incurred and are reasonable in amount will be resolved in favour of the receiving party.

#### **Amount of assessed costs to be specified**

**52.** The amount of any assessed costs will be inserted in the order made under rule 29 but, if that order is drawn up before the assessment has been completed, the amount assessed will be certified by the Registrar.

#### **Appeal from assessment**

**53.—(1)** A party who is dissatisfied with the assessment of costs made at an oral hearing may apply for that decision to be reviewed by a single Justice and any application under this rule must be made in the appropriate form and be filed within 14 days of the decision.

(2) The single Justice may (without an oral hearing) affirm the decision made on the assessment or may, where it appears appropriate, refer the matter to a panel of Justices to be decided with or without an oral hearing.

(3) An application may be made under this rule only on a question of principle and not in respect of the amount allowed on any item in the claim for costs.

#### **Payment out of security for costs**

**54.** Any security for costs lodged by an appellant will be dealt with by the Registrar in accordance with the directions of the Court.