1956 No. 552 (L. 8)

The Rules of the Supreme Court (Non-Contentious Probate Costs) 1956

Made - - - -	*12th April*, 1956
Laid before Parliament	*16th April*, 1956
Coming into Operation	*1st May*, 1956

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

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

(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 sections 66, 67 and 68 of the Solicitors Act, 1932, (which relate to taxation of costs) the client may require the solicitor to obtain a certificate from The Law 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 these Rules apply, he must, unless the costs have been taxed under the Solicitors Act, 1932, have drawn the attention of the client in writing—

(i) to his right under paragraph (*a*) of this proviso to require the solicitor to obtain a certificate from The Law Society, and

(ii) to the provisions of the Solicitors Acts, 1932 to 1950, with regard to taxation of costs;

(*c*) the client shall not be entitled to require the solicitor to obtain a certificate from The Law Society under paragraph (*a*) of this proviso after the bill has been taxed under the Solicitors Act, 1932, or has been paid;

(*d*) on any taxation of a bill in respect of business to which these Rules 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 Law Society.

2. These Rules apply to all non-contentious or common form probate business for which instructions are accepted on or after the date on which these Rules come into operation.

3. The Order dated the 11th February, 1874(**a**), made by the Judge of Her Majesty's Court of Probate (which prescribes the fees to be taken by solicitors in respect of non-contentious business in the principal and district probate registries) is hereby revoked, so however that the fees prescribed by the said Order as amended shall continue to be taken in respect of non-contentious or common form probate business for which instructions are accepted before these Rules come into operation.

4. These Rules may be cited as the Rules of the Supreme Court (Non-Contentious Probate Costs) 1956 and shall come into operation on the first day of May, 1956.

Dated the 12th day of April, 1956.

Kilmuir, C.
Goddard, C.J.
Evershed, M.R.
Merriman, P.
A. T. Denning, L.J.
H. B. Vaisey, J.
Frederic Sellers, J.
L. S. Holmes.
E. Milner Holland.
W. Charles Norton.

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

These Rules enable a solicitor to charge for non-contentious probate business such sum as may be fair and reasonable, having regard in particular to the considerations mentioned in sub-paras. (1) to (7) of paragraph 1, subject to the client's right to have the solicitor's bill taxed or to require The Law Society to certify what is a fair and reasonable charge: the latter, if less than the amount of the bill, will, unless the bill is taxed, be the amount payable by the client. The Rules apply the system of charging in other matters of non-contentious business (except those governed by the conveyancing scales) introduced by the Solicitors' Remuneration Order, 1953.

(**a**) Rev. XXII, p. 242.