

PART 11 : COSTS

CHAPTER 1: COSTS — GENERAL

11.1 Definitions and application (43.2-3)

(1) In this Part —

‘charges’ includes an advocate’s fees;

‘costs’ includes charges, disbursements, expenses, remuneration, and reimbursement allowed to a litigant in person under rule 11.45;

‘detailed assessment’ means the procedure by which the amount of costs is decided by a costs officer in accordance with Chapter 4, and ‘detailed assessment proceedings’ means proceedings for such an assessment;

‘fixed costs’ means the amounts which are to be allowed in respect of advocates’ charges in the circumstances set out in Chapter 2;

‘fund’ includes any estate or property held for the benefit of any person or class of person and any fund to which a trustee or personal representative is entitled in his capacity as such;

‘receiving party’ means a party entitled to be paid costs;

‘paying party’ means a party liable to pay costs;

‘summary assessment’ means the procedure by which the court, when making an order about costs, orders payment of a sum of money instead of fixed costs or detailed assessment;

‘wasted costs order’ means an order under section 53(3) of the High Court Act 1991 (court’s power to disallow, or order advocate to meet, wasted costs).

(2) The costs to which this Part applies include —

(a) the following costs where those costs may be assessed by the court —

(i) costs of proceedings before an arbitrator or umpire;

(ii) costs of proceedings before a tribunal or other statutory body; and

(iii) costs payable by a client to his advocate; and

(b) costs which are payable by one party to another party under the terms of a contract, where the court makes an order for an assessment of those costs.

(3) The following table sets out the effect of certain orders for costs commonly made —

<i>Term</i>	<i>Effect</i>
Costs in any event	The party in whose favour the order is made is entitled to the costs in respect of the part of the proceedings to which the order relates, whatever other costs orders are made in the proceedings.
Costs in the case Costs in the application	The party in whose favour the court makes a costs order at the end of the proceedings is entitled to his costs of the part of the proceedings to which the order relates.
Costs reserved	The decision about costs is deferred to a later occasion, but if no later order is made the costs will be costs in the case.

<i>Term</i>	<i>Effect</i>
[Claimant's][Defendant's] costs in the [case][application]	If the party in whose favour the order is made is awarded costs at the end the proceedings, that party is entitled to his costs of the part of the proceedings to which the order relates. If any other party is awarded costs at the end of the proceedings, the party in whose favour the final costs order is made is not liable to pay the costs of any other party in respect of the part of the proceedings to which the order relates.
Costs thrown away	Where, for example, a judgment or order is set aside, the party in whose favour the costs order is made is entitled to the costs which have been incurred as a consequence. This includes the costs of —
	(a) preparing for and attending any hearing at which the judgment or order which has been set aside was made;
	(b) preparing for and attending any hearing to set aside the judgment or order in question;
	(c) preparing for and attending any hearing at which the court orders the proceedings or the part in question to be adjourned;
	(d) any steps taken to enforce a judgment or order which has subsequently been set aside.
Costs of and caused by	Where, for example, the court makes this order on an application to amend a statement of case, the party in whose favour the costs order is made is entitled to the costs of preparing for and attending the application and the costs of any consequential amendment to his own statement of case.
Costs here and below	The party in whose favour the costs order is made is entitled not only to his costs in respect of the proceedings in which the court makes the order but also to his costs of the proceedings in the lower Division, court or tribunal
No order as to costs Each party to pay his own costs	Each party is to bear his own costs of the part of the proceedings to which the order relates, whatever costs order the court makes at the end of the proceedings.

11.2 Advocate's duty to notify client (44.2)

Where —

- (a) the court makes a costs order against a legally represented party; and
- (b) the party is not present when the order is made,

the party's advocate must notify his client in writing of the costs order no later than 7 days after the advocate receives notice of the order.

11.3 Court's discretion as to costs (44.3)

- (1) The court has discretion as to —
 - (a) whether costs are payable by one party to another;
 - (b) the amount of those costs; and
 - (c) when they are to be paid.
- (2) If the court decides to make an order about costs —
 - (a) the general rule is that the unsuccessful party shall be ordered to pay the costs of the successful party; but
 - (b) the court may make a different order.
- (3) The general rule does not apply to the following proceedings —
 - (a) family proceedings;
 - (b) proceedings in the Appeal Division on an application or appeal made in connection with family proceedings; or
 - (c) proceedings in the Appeal Division from a judgment, direction, decision or order given or made in probate proceedings or family proceedings.
- (4) In paragraph (3)—

‘family proceedings’ means —

 - (a) any proceedings under any inherent jurisdiction of the court in relation to wardship, maintenance or the upbringing of children;
 - (b) any proceedings under any of the following enactments —
 - (i) Part 1, 2, 4 or 5 or section 89 of the Children and Young Persons Act 2001;
 - (ii) the Adoption Act 1984;
 - (iii) Part 1, 2, 3, 4 or 5 of the Matrimonial Proceedings Act 2003;

‘probate proceedings’ means proceedings relating to —

 - (a) the grant of probate of the will, or letters of administration of the estate, of a deceased person;
 - (b) the revocation of such a grant; or
 - (c) a declaration as to the validity of an alleged will;

not being non-contentious or common form probate business.
- (5) In deciding what order (if any) to make about costs, the court must have regard to all the circumstances, including —
 - (a) the conduct of all the parties;
 - (b) whether a party has succeeded on part of his case, even if he has not been wholly successful; and
 - (c) any payment into court or admissible offer to settle made by a party which is drawn to the court's attention and which is not an offer to which costs consequences under Chapter 6 of Part 7 apply.
- (6) The conduct of the parties includes —
 - (a) conduct before, as well as during, the proceedings and in particular the time when and the extent to which each party has disclosed his case to the other party or parties;
 - (b) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;

- (c) the manner in which a party has pursued or defended his case or a particular allegation or issue; and
 - (d) whether a claimant who has succeeded in his claim, in whole or in part, exaggerated his claim.
- (7) The orders which the court may make under this rule include an order that a party must pay —
- (a) a proportion of another party's costs;
 - (b) a stated amount in respect of another party's costs;
 - (c) costs from or until a certain date only;
 - (d) costs incurred before proceedings have begun;
 - (e) costs relating to particular steps taken in the proceedings;
 - (f) costs relating only to a distinct part of the proceedings; and
 - (g) interest on costs from or until a certain date, including a date before judgment.
- (8) Where the court would otherwise consider making an order under paragraph (7)(f), it must instead, if practicable, make an order under paragraph (7)(a) or (c).
- (9) Where the court has ordered a party to pay costs, it may order an amount to be paid on account before the costs are assessed.
- (10) Where a party entitled to costs is also liable to pay costs the court may assess the costs which that party is liable to pay and either —
- (a) set off the amount assessed against the amount the party is entitled to be paid and direct him to pay any balance; or
 - (b) delay the issue of a certificate for the costs to which the party is entitled until he has paid the amount which he is liable to pay.

11.4 Basis of assessment (44.4)

(1) Where the amount of costs is to be assessed (whether by summary or detailed assessment) they shall be assessed either —

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

but in either case costs which have been unreasonably incurred or are unreasonable in amount shall not be allowed.

(2) Where the amount of costs is to be assessed on the standard basis —

- (a) only costs which are proportionate to the matters in issue shall be allowed; and
- (b) any doubt which it may have as to whether costs were reasonably incurred or reasonable and proportionate in amount shall be resolved in favour of the paying party.

(3) Where the amount of costs is to be assessed on the indemnity basis, any doubt which it may have as to whether costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party.

(4) 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 the standard basis or the indemnity basis,

the costs shall be assessed on the standard basis.

(5) Where the amount of an advocate's remuneration in respect of any proceedings would (apart from any order about costs) be limited by section 20(1)(b) of the Advocates Act 1995, the amount of the costs to be allowed in respect of the proceedings shall not exceed the amount chargeable in accordance with that section.

(6) Where the amount of an advocate's remuneration in respect of non-contentious business is prescribed by regulations under section 21 of the Advocates Act 1995, the amount of the costs to be allowed in respect of any such business which falls to be assessed by the court shall be decided in accordance with those regulations rather than this rule and rule 11.5.

11.5 Factors to be taken into account in deciding the amount of costs (44.5)

(1) The court shall have regard to all the circumstances in deciding whether costs were —

- (a) if it is assessing costs on the standard basis —
 - (i) proportionately and reasonably incurred; or
 - (ii) proportionate and reasonable in amount, or

(b) if it is assessing costs on the indemnity basis —

- (i) unreasonably incurred; or
- (ii) unreasonable in amount.

(2) In particular the court must give effect to any orders which have already been made.

(3) The court must also have regard to —

- (a) the conduct of all the parties, including in particular —
 - (i) conduct before, as well as during, the proceedings; and
 - (ii) the efforts made, if any, before and during the proceedings in order to try to resolve the dispute;
- (b) the amount or value of any money or property involved;
- (c) the importance of the matter to all the parties;
- (d) the particular complexity of the matter or the difficulty or novelty of the questions raised;
- (e) the skill, effort, specialised knowledge and responsibility involved;
- (f) the time spent on the case; and
- (g) the place where and the circumstances in which work or any part of it was done.

11.6 Fixed costs (44.6)

A party may recover the fixed costs specified in Chapter 2 in accordance with that Chapter.

11.7 Procedure for assessing costs (44.7)

Where the court orders a party to pay costs to another party (other than fixed costs) it may either —

- (a) make a summary assessment of the costs; or
- (b) order detailed assessment of the costs by a costs officer,

unless any rule or other enactment provides otherwise.

11.8 Summary assessment (PD 44.13)

(1) Whenever a court makes an order about costs which does not provide for fixed costs to be paid, the court shall consider whether to make a summary assessment of costs.

(2) The general rule is that the court shall make a summary assessment of the costs —

- (a) at the conclusion of the trial of a claim allocated to the summary procedure, in which case the order shall deal with the costs of the whole claim, and
- (b) at the conclusion of any other hearing which has lasted not more than one day, in which case the order shall deal with the costs of the application or matter to which the hearing related;

unless there is good reason not to do so, eg. where —

- (i) the paying party shows substantial grounds for disputing the sum claimed for costs that cannot be dealt with summarily, or
- (ii) there is insufficient time to carry out a summary assessment.

(3) If the hearing referred to in paragraph (2)(b) disposes of the claim, the order may deal with the costs of the whole claim;

(4) Schedule 11.1 provides for the summary assessment of costs.

11.9 Time for complying with a costs order (44.8)

A party must comply with an order for the payment of costs within 14 days of —

- (a) the date of the judgment or order if it states the amount of those costs;
- (b) if the amount of those costs (or part of them) is decided later in accordance with Chapter 4, the date of the certificate which states the amount; or
- (c) in either case, such later date, or the happening of such later event, as the court may specify.

11.10 Costs following re-allocation (44.11)

Where the court transfers a claim from one procedure to another, then unless the court orders otherwise —

- (a) any special rules about costs applying to the first procedure shall apply to the claim up to the date of transfer; and
- (b) any special rules about costs applying to the second procedure shall apply from the date of transfer.

11.11 Cases where costs orders deemed to have been made (44.12)

(1) Where a right to costs arises under —

- (a) rule 2.60 (claim etc. struck out for non-payment of fee);
- (b) rule 7.61(1) or (2) (acceptance of offer to settle); or
- (c) rule 7.78 (discontinuance),

a costs order shall be deemed to have been made on the standard basis.

(2) Interest payable pursuant to section 9 of the Administration of Justice Act 1981 on the costs deemed to have been ordered under paragraph (1) shall begin to run from the date on which the event which gave rise to the entitlement to costs occurred.

11.12 Costs-only proceedings (44.12A)

(1) This rule sets out a procedure which may be followed where —

- (a) the parties to a dispute have reached an agreement on all issues (including which party is to pay the costs) which is made or confirmed in writing; but

- (b) they have failed to agree the amount of those costs; and
- (c) no proceedings have been started.
- (2) Either party to the agreement may start proceedings under this rule by issuing a claim form.
- (3) The claim shall be allocated to the chancery procedure.
- (4) The claim form must contain or be accompanied by the agreement or confirmation.
- (5) The court may either —
 - (a) make an order for costs to be determined by detailed assessment; or
 - (b) dismiss the claim.

11.13 Special situations (44.13)

- (1) Where the court makes an order which does not mention costs —
 - (a) subject to paragraphs (2) and (3), the general rule is that no party is entitled to costs in relation to that order; but
 - (b) this does not affect any entitlement of a party to recover costs out of a fund held by him as trustee or personal representative, or pursuant to any lease, mortgage or other security.
- (2) Where the court makes —
 - (a) an order giving permission to appeal; or
 - (b) any other order or direction sought by a party on an application without notice,

and the order does not mention costs, it shall be deemed to include an order for applicant's costs in the case.

(3) Any party affected by a deemed costs order under paragraph (2) may apply at any time to vary the order.

(4) The court hearing an appeal may, unless it dismisses the appeal, make orders about the costs of the proceedings giving rise to the appeal as well as the costs of the appeal.

11.14 Court's powers in relation to misconduct (44.14)

- (1) The court may make an order under this rule where —
 - (a) a party or his advocate, in connection with a summary or detailed assessment, fails to comply with a rule, practice direction or court order; or
 - (b) it appears to the court that the conduct of a party or his advocate, before or during the proceedings which gave rise to the assessment proceedings, was unreasonable or improper.
- (2) The court may —
 - (a) disallow all or part of the costs which are being assessed; or
 - (b) order the party at fault or his advocate to pay costs which he has caused any other party to incur.
- (3) Where —
 - (a) the court makes an order under paragraph (2) against a legally represented party; and
 - (b) the party is not present when the order is made,

the party's advocate must notify his client in writing of the order no later than 7 days after the advocate receives notice of the order.

11.15 Legal aid (44.17)

This Part does not apply to the assessment of costs in proceedings to the extent that

- (a) regulations under Part I of the Legal Aid Act 1986, or
- (b) any order under Schedule 2 to that Act,

makes different provision.

CHAPTER 2: FIXED COSTS

11.16 Fixed costs — general (45.1)

- (1) This Chapter sets out the amounts which, unless the court otherwise orders (and subject to rule 11.15), are to be allowed in respect of advocates' charges in the cases to which this Chapter applies.
- (2) This Chapter applies where —
 - (a) the only claim is a claim for a specified sum of money and —
 - (i) judgment in default is obtained under rule 10.25(1);
 - (ii) judgment is obtained under rule 10.38(2)(b)(i) after a statement of case is struck out;
 - (iii) judgment on admission of the whole of the claim is obtained under rule 10.41(2);
 - (iv) judgment on admission on part of the claim is obtained under rule 10.41(3);
 - (v) summary judgment is given under Chapter 6 of Part 10 without a hearing;

[Subs (v) amended by SD 686/09]

- (vi) the court has made an order to strike out a defence under rule 7.3(2)(a) as disclosing no reasonable grounds for defending the claim; or
 - (vii) rule 11.18 applies; or
 - (b) the only claim is a claim where the court gave a fixed date for the hearing when it issued the claim and judgment is given for the delivery of goods, and in either case the value of the claim exceeds £25.
- (3) The following shall be allowed in addition to the costs set out in this Chapter —
 - (a) any appropriate court fee;
 - (b) any coroner's fee for service of the claim form.

11.17 Amount of fixed costs for starting claim (45.2)

- (1) The claim form may include a claim for fixed costs for starting the claim.
- (2) The amount of fixed costs for starting the claim which the claim form may include shall be calculated by reference to the following table (Table 1).
- (3) Additional costs may also be claimed in the circumstances specified in Table 3 in rule 11.20.
- (4) The amount claimed, or the value of the goods claimed if specified, in the claim form is to be used for determining the band in the table that applies to the claim.

TABLE 1 FIXED COSTS FOR STARTING CLAIM		
<i>Where claim form is to be served —</i>	<i>within the jurisdiction</i>	<i>outside the jurisdiction</i>
Where value of claim exceeds £25 but does not exceed £1,000	£100	£125
Where value of the claim exceeds £1,000 but does not exceed £3,000	£250	£300
Where value of the claim exceeds £3,000 but does not exceed £5,000; or the only claim is for delivery of goods and no value is specified or stated on claim form	£400	£450
Where value of claim exceeds £5,000 but does not exceed £10,000	£450	£500
Where value of the claim exceeds £10,000 but does not exceed £50,000	£600	£650
Where value of the claim exceeds £50,000 but does not exceed £100,000	£800	£850
Where value of the claim exceeds £100,000 but does not exceed £150,000	£1,000	£1,050
Where value of the claim exceeds £150,000 but does not exceed £200,000	£1,200	£1,250
Where value of the claim exceeds £200,000 but does not exceed £250,000	£1,400	£1,450
Where value of the claim exceeds £250,000 but does not exceed £300,000	£1,600	£1,650
Where value of the claim exceeds £300,000	£1,800	£1,850

[table 1 updated by SD222/10]

11.18 When defendant liable only for fixed costs for starting claim (45.3)

Where —

- (a) the only claim is for a specified sum of money; and
- (b) the defendant pays the money claimed within 14 days after service of particulars of claim on him, together with the fixed costs for starting the claim as stated in the claim form,

the defendant is not liable for any further costs unless the court orders otherwise.

11.19 Costs on entry of judgment (45.4)

Where —

- (a) the claimant has claimed fixed costs for starting the claim under rule 11.17; and
- (b) judgment is entered in the circumstances specified in the table in this rule (Table 2),

the amount to be included in the judgment in respect of the claimant’s advocate’s charges is the aggregate of —

- (i) the fixed costs; and
- (ii) the relevant amount shown in Table 2.

TABLE 2 FIXED COSTS ON ENTRY OF JUDGMENT		
<i>Amount of judgment exceeds — but does not exceed —</i>	<i>£25 £5,000</i>	<i>£5,000 —</i>
Where claim is for money only and judgment in default of acknowledgement of service is entered under rule 10.24(1)	£30	£50
Where claim is for money only and judgment in default of a defence is entered under rule 10.24(2)	£40	£60
Where judgment is obtained under rule 10.38(2)(b)(i) (statement of case struck out)	£125	£175
Where judgment is entered under rule 10.40 (admission) with or without an instalment order, but court does not decide date or times of payment	£30	£50
Where judgment is entered under rule 10.40 (admission) with or without an instalment order, and court decides date or times of payment	£50	£75
Where summary judgment is given under rule 10.46 on application	£125	£175

11.20 Miscellaneous fixed costs (45.5)

The table in this rule (Table 3) shows the amount to be allowed in respect of an advocate’s charges in the circumstances mentioned.

TABLE 3 MISCELLANEOUS FIXED COSTS	
For service by a party of any document required to be served personally, including preparing and copying a certificate of service	£25 for the first or only person served £10 for each additional person served
Where service by an alternative method is permitted by an order under rule 2.30	£75 for each person served

Where a document is served out of the jurisdiction — (a) in England and Wales, Scotland, Northern Ireland or the Channel Islands (b) in any other place	(a) £75 (b) £90
Where an arrestment order is made under rule 12.27 in respect of a judgment for an amount — (a) exceeding £25 but not exceeding £5,000 (b) exceeding £5,000	(a) £125 (b) £175

CHAPTER 3: SMALL CLAIMS PROCEDURE

11.21 Restriction on allowance of costs (27.14)

(1) This rule applies to any claim which is allocated to the small claims procedure, unless paragraph (4) applies.

(2) The court may not order a party to pay a sum to another party in respect of that other party's costs, fees and expenses, except —

- (a) the fixed costs attributable to issuing the claim which are payable under Chapter 2, or would be payable under that Chapter if it applied to the claim;
- (b) in proceedings which included a claim for an injunction or an order for specific performance, a sum determined under paragraph (3) for legal advice and assistance relating to that claim;
- (c) in proceedings which included a claim for personal injuries, a sum determined under paragraph (3) for legal advice and assistance relating to that claim;
- (d) any court fees paid by that other party;
- (e) expenses which a party or witness has reasonably incurred in travelling to and from a hearing or in staying away from home for the purposes of attending a hearing;
- (f) a sum not exceeding £50 per day for any loss of earnings or loss of leave by a party or witness due to attending a hearing;
- (g) a sum determined under paragraph (3A) for the fees of an expert; and
- (h) such further costs as the court may determine by summary assessment and order to be paid by a party who has behaved unreasonably.

(3) The sums referred to in paragraph (2)(b) and (c) shall be determined in accordance with the following formula —

$$H \times L$$

where —

H = such number of the hours actually spent in giving legal advice and assistance relating to the claim as the court may determine by summary assessment to be reasonable

L = the appropriate hourly rate prescribed under section 19(3) of the Legal Aid Act 1986¹ for work done at the time the legal advice and assistance were given.

(3A) The sum referred to in paragraph (2)(g) is —

¹1986c.23

- or
- (a) that directed by the court to be paid in the special circumstances of the case,
 - (b) if no such direction is given, the amount of the fee actually and necessarily incurred, not exceeding —
 - (i) £500, in the case of a medical expert; or
 - (ii) £300, in the case of any other expert.
- [subs (3) and (3A) amended by SD954/11]
- (3B) A party's rejection of an offer in settlement does not of itself constitute unreasonable behaviour under paragraph (2)(h) but the court may take it into consideration when deciding whether he has behaved unreasonably.
- [subs (3B) added by SD954/11]
- (4) Where —
- (a) the financial value of a claim exceeds the small claims limit; but
 - (b) the claim has been allocated to the small claims procedure in accordance with rule 5.5(3),

the costs provisions applicable to the small claims procedures shall apply unless the parties agree that costs provisions applicable to the summary procedure are to apply.

(5) Where the parties agree that the costs provisions applicable to the summary procedure are to apply, the claim and any appeal will be treated for the purposes of costs as if it were allocated to the summary procedure.

CHAPTER 4: DETAILED ASSESSMENT

11.22 Time when detailed assessment may be carried out (47.1)

(1) The general rule is that the costs of any proceedings or any part of the proceedings are not to be assessed by the detailed procedure until the conclusion of the proceedings, but the court may order them to be assessed immediately.

(2) The court shall not, unless in the circumstances it considers it just to do so, order the costs of an application to be assessed immediately.

(3) Paragraph (2) does not apply to an application —

- (a) under Part 10 for —
 - (i) judgment on admission;
 - (ii) summary judgment; or
 - (iii) an instalment order; or
- (b) under Part 12.

(4) No order for costs to be assessed immediately may be made where the paying party is an assisted person.

11.23 No stay of detailed assessment where there is an appeal (47.2)

Detailed assessment is not stayed pending an appeal unless the court so orders.

11.24 Powers of costs officer (47.3)

A costs officer has all the powers of the court when making a detailed assessment.

11.25 Start of detailed assessment proceedings (47.6)

(1) Detailed assessment proceedings are started by the receiving party filing and serving on the paying party —

- (a) notice of the proceedings; and
- (b) a copy of the bill of costs.

- (2) The receiving party must also serve a copy of the notice and the bill on —
 - (a) any person who has taken part in the proceedings which gave rise to the assessment and who is directly liable under a costs order made against him;
 - (b) any other person whom the court orders to be treated as a party to the detailed assessment proceedings.
- (3) A person on whom a copy of the notice is served under paragraph (2) is a party to the detailed assessment proceedings (in addition to the paying party and the receiving party).
- (4) Schedule 11.2 provides for the form and content of a bill of costs.

11.26 Period for starting detailed assessment proceedings (47.7)

The following table shows the period for starting detailed assessment proceedings.

TABLE 4	
<i>Source of right to detailed assessment</i>	<i>Time by which detailed assessment proceedings are to be started</i>
Judgment, direction, order, award or other determination	3 months after the date of the judgment etc. Where detailed assessment is stayed pending an appeal, 3 months after the date of the order lifting the stay
Acceptance of offer to settle under Chapter 6 of Part 7	3 months after the date when the right to costs arose
Discontinuance under Chapter 8 of Part 7	3 months after the date of service of notice of discontinuance under rule 7.75; or 3 months after the date of the dismissal of application to set the notice of discontinuance aside under rule 7.76

11.27 Sanction for delay in starting detailed assessment proceedings (47.8)

(1) Where the receiving party fails to commence detailed assessment proceedings within the period specified —

- (a) in rule 11.26; or
- (b) by any direction of the court,

the paying party may apply for an order requiring the receiving party to commence detailed assessment proceedings within such time as the court may specify.

(2) On an application under paragraph (1), the court may direct that, unless the receiving party commences detailed assessment proceedings within the time specified by the court, all or part of the costs to which the receiving party would otherwise be entitled shall be disallowed.

- (3) If —
 - (a) the paying party has not made an application in accordance with paragraph (1); and
 - (b) the receiving party commences the proceedings later than the period specified in rule 11.26,

the court may disallow all or part of the interest otherwise payable to the receiving party under section 9 of the Administration of Justice Act 1981, but must not impose any other sanction except in accordance with rule 11.14 (powers in relation to misconduct).

(4) Where the costs to be assessed in a detailed assessment are payable by the Treasury under Part I of the Legal Aid Act 1986, this rule applies as if the receiving party were the advocate to whom the costs are payable and the paying party were the Treasury.

11.28 Points of dispute and consequence of not serving (47.9)

(1) The paying party and any other party to the detailed assessment proceedings may dispute any item in the bill of costs by filing points of dispute and serving them on —

- (a) the receiving party, and
- (b) every other party to the detailed assessment proceedings.

(2) The period for serving points of dispute is 21 days after the date of service of the notice under rule 11.25.

(3) If a party serves points of dispute after the period set out in paragraph (2), he may not be heard further in the detailed assessment proceedings unless the court or costs officer gives permission.

11.29 Procedure where costs are agreed (47.10)

If the paying party and the receiving party agree the amount of costs, either party may apply for a costs certificate (either interim or final) in the amount agreed.

11.30 Default costs certificate (47.9, 47.11)

(1) Where —

- (a) the period set out in rule 11.28(2) for serving points of dispute has expired; and
- (b) he has not been served with any points of dispute,

the receiving party may file a request for a default costs certificate.

(2) On the filing of a request under paragraph (1) the court shall issue a default costs certificate to the receiving party, unless any party (including the paying party) serves points of dispute before it is issued.

(3) A default costs certificate shall include an order to pay the costs to which it relates.

(4) Where a receiving party obtains a default costs certificate, the costs payable to him for the start of detailed assessment proceedings shall be £150.

11.31 Setting aside default costs certificate (47.12)

(1) The court must set aside a default costs certificate if the receiving party was not entitled to it.

(2) In any other case, the court may set aside or vary a default costs certificate if it appears to the court that there is some good reason why the detailed assessment proceedings should continue.

(3) Where —

- (a) the receiving party has purported to serve the notice under rule 11.25 on the paying party;
- (b) a default costs certificate has been issued; and
- (c) the receiving party subsequently discovers that the notice did not reach the paying party at least 21 days before the default costs certificate was issued,

the receiving party must —

- (i) file a request for the default costs certificate to be set aside; or
- (ii) apply to the court for directions.

(4) Where paragraph (3) applies, the receiving party may take no further step in

—

- (a) the detailed assessment proceedings; or
- (b) the enforcement of the default costs certificate,

until the certificate has been set aside or the court has given directions.

11.32 Optional reply (47.13)

(1) Where any party to the detailed assessment proceedings serves points of dispute, the receiving party may serve a reply on the other parties to the assessment proceedings.

(2) He may do so within 21 days after service on him of the points of dispute to which his reply relates.

11.33 Detailed assessment hearing (47.14)

(1) Where points of dispute are served in accordance with rule 11.28, the receiving party must file —

- (a) a request for a detailed assessment hearing,
- (b) the bill of costs,
- (c) a copy of the points of dispute and any reply, and
- (d) a file or series of files comprising the following documents, arranged in chronological order —
 - (i) all statements of case, with any orders or directions of the court in the proceedings;
 - (ii) all legal aid certificates and amendments to them, notices of discharge or revocation and specific legal aid authorisations;
 - (iii) accounts for disbursements;
 - (iv) reports and opinions of medical and other experts;
 - (v) the advocate's correspondence and attendance notes;
 - (vi) any relevant terms of business agreement between the advocate and his client; and
 - (vii) any other relevant papers.

(2) Items (i) and (iv) in paragraph (1)(d) may, and shall if a costs officer so directs, be lodged as separate bundles, arranged in chronological order.

(3) Where the receiving party fails to file a request under paragraph (1)(a) and the documents specified in paragraph (1)(b) to (d) within 3 months of the expiry of the period for commencing detailed assessment proceedings as specified —

- (a) in rule 11.26; or
- (b) by any direction of the court or costs officer,

the paying party may apply for an order requiring the receiving party to file the request within such time as the court may specify.

(4) On an application under paragraph (3), the court may direct that, unless the receiving party requests a detailed assessment hearing within the time specified by the court, all or part of the costs to which the receiving party would otherwise be entitled shall be disallowed.

- (5) If —
 - (a) the paying party has not made an application in accordance with paragraph (3); and
 - (b) the receiving party files a request for a detailed assessment hearing later than the period specified in that paragraph,

the court may disallow all or part of the interest otherwise payable to the receiving party under section 9 of the Administration of Justice Act 1981, but must not impose any other sanction except in accordance with rule 11.14 (misconduct).

(6) Subject to any direction under paragraph (4), on the filing of a request and documents under paragraph (1), a costs officer shall hold a detailed assessment hearing.

(7) No party other than —

(a) the receiving party;

(b) the paying party; and

(c) any party who has served points of dispute under rule 11.28,

may be heard at the detailed assessment hearing unless the court or the costs officer gives permission.

(8) Only items specified in the points of dispute may be raised at the hearing, unless the court or the costs officer gives permission.

11.34 Power to issue interim certificate (47.15)

(1) A costs officer may, on application, at any time after the receiving party has filed a request for a detailed assessment hearing —

(a) issue an interim costs certificate for such sum as he considers appropriate;

(b) amend or cancel an interim certificate.

(2) An interim certificate shall include an order to pay the costs to which it relates, unless the costs officer orders otherwise.

(3) A costs officer may order the costs certified in an interim certificate to be paid into court.

11.35 Final costs certificate (47.16)

(1) In this rule a ‘completed bill’ means a bill calculated to show the amount due following the detailed assessment of the costs.

(2) The period for filing the completed bill is 14 days after the end of the detailed assessment hearing.

(3) When a completed bill is filed the court shall issue a final costs certificate and serve it on the parties to the detailed assessment proceedings.

(4) Paragraph (3) is subject to any order made by the court that a certificate is not to be issued until other costs have been paid.

(5) A final costs certificate shall include an order to pay the costs to which it relates, unless the costs officer orders otherwise.

(6) Where a court fee is payable for the detailed assessment of the costs, a final costs certificate shall not be issued unless the fee has been paid.

11.36 Liability for costs of detailed assessment proceedings (47.18)

(1) The receiving party is entitled to his costs of the detailed assessment proceedings except where —

(a) any rule or other statutory provision provides otherwise; or

(b) the costs officer makes some other order in relation to all or part of the costs of the detailed assessment proceedings.

(2) In deciding whether to make some other order, the costs officer must have regard to all the circumstances, including —

(a) the conduct of all the parties;

(b) the amount, if any, by which the bill of costs has been reduced; and

- (c) whether it was reasonable for a party to claim the costs of a particular item or to dispute that item.

11.37 Offers to settle without prejudice save as to costs of detailed assessment proceedings (47.19)

- (1) Where —
 - (a) a party (whether the paying party or the receiving party) makes a written offer to settle the costs of the proceedings which gave rise to the assessment proceedings; and
 - (b) the offer is expressed to be without prejudice save as to the costs of the detailed assessment proceedings,

the costs officer shall take the offer into account in deciding who should pay the costs of those proceedings.

(2) The fact of the offer must not be communicated to the costs officer until the question of costs of the detailed assessment proceedings falls to be decided.

(3) This rule does not apply where the receiving party is an assisted person, unless the court orders otherwise.

11.38 Action where more than half of charges are disallowed

(1) This rule applies where in detailed assessment proceedings the costs officer allows less than half of the total amount of the advocate's charges claimed in the bill of costs.

(2) The final costs certificate shall contain a statement to that effect, specifying the percentage of the amount claimed which has been allowed.

(3) The court or costs officer shall send a copy of the completed bill and a copy of the certificate to the Advocates Disciplinary Tribunal —

- (a) where an appeal is made against the decision of the costs officer, on the determination or withdrawal of the appeal (subject to any order made on appeal);
- (b) where no such appeal is made, on the expiry of the period specified in rule 11.39(3).

(4) Subject to any order made on appeal, the costs of the detailed assessment proceedings (including any court fee) shall be paid by the advocate.

11.39 Appeal from costs officer (47.20-23)

(1) This rule applies to an appeal against a decision of a costs officer in detailed assessment proceedings.

(2) An appeal shall be determined by a judge.

(3) The appellant must file an appeal notice within 21 days after the date of the decision he wishes to appeal against.

(4) On receipt of the appeal notice, the court shall —

- (a) serve a copy of the notice on the parties to the detailed assessment proceedings; and
- (b) give notice of the appeal hearing to those parties.

(5) On an appeal from a costs officer the court shall —

- (a) re-hear the proceedings which gave rise to the decision appealed against; and
- (b) make any order and give any directions as it considers appropriate.

(6) No appeal, except on a point of law, shall lie from the decision of the judge.

CHAPTER 5: SPECIAL CASES

11.40 Disclosure before start of proceedings etc. (48.1)

- (1) This rule applies where a person applies for an order under —
 - (a) section 34 of the High Court Act 1991 (powers exercisable before start of proceedings); or
 - (b) section 35 of that Act (order against a non-party for disclosure of documents, inspection of property etc.).
- (2) The general rule is that the court shall award the person against whom the order is sought his costs —
 - (a) of the application; and
 - (b) of complying with any order made on the application.
- (3) The court may however make a different order, having regard to all the circumstances, including the extent to which it was reasonable for the person against whom the order was sought to oppose the application.

11.41 Costs orders in favour of or against non-parties (48.2)

- (1) Where the court is considering whether to exercise its power under section 53 of the High Court Act 1991 to make a costs order in favour of or against a person who is not a party to proceedings —
 - (a) that person must be added as a party to the proceedings for the purposes of costs only; and
 - (b) he must be given a reasonable opportunity to attend a hearing at which the court shall consider the matter further.
- (2) This rule does not apply —
 - (a) where the court is considering whether —
 - (i) to make an order under section 6 of the Legal Aid Act 1986 (award of costs to unassisted party), or
 - (ii) to make a wasted costs order under rule 11.47; and
 - (b) in proceedings to which rule 11.40 applies (disclosure before start of proceedings etc.).

11.42 Amount of costs where costs are payable pursuant to a contract (48.3)

- (1) Where costs which are payable by the paying party to the receiving party under the terms of a contract are assessed (whether by summary or detailed assessment), the costs payable under those terms are, unless the contract expressly provides otherwise, to be presumed to be costs which —
 - (a) have been reasonably incurred; and
 - (b) are reasonable in amount,and shall be assessed accordingly.
- (2) This rule does not apply where the contract is between an advocate and his client.

11.43 Limitations on court's power to award costs in favour of trustee or personal representative (48.4)

- (1) This rule applies where —
 - (a) a person is or has been a party to any proceedings in the capacity of trustee or personal representative; and
 - (b) rule 11.42 does not apply.

(2) The general rule is that he is entitled to be paid the costs of those proceedings, insofar as they are not recovered from or paid by any other person, out of the relevant trust fund or estate.

(3) Where he is entitled to be paid any of those costs out of the fund or estate, those costs shall be assessed on the indemnity basis.

11.44 Costs where money is payable by or to a minor or patient (48.5)

(1) This rule applies to any proceedings where a party is a minor or patient and

- (a) money is ordered or agreed to be paid to, or for the benefit of, that party; or
- (b) money is ordered to be paid by him or on his behalf.

(2) The general rule is that —

- (a) the court must order a detailed assessment of the costs payable by, or out of money belonging to, any party who is a minor or patient to his advocate; and
- (b) on an assessment under paragraph (a), the costs officer must also assess any costs payable to that party in the proceedings, unless the costs officer has issued a default costs certificate in relation to those costs under rule 11.30.

(3) The court need not order detailed assessment of costs in the following cases

- (a) where there is no need to do so to protect the interests of the minor or patient or his estate;
 - (b) where another party has agreed to pay a specified sum in respect of the costs of the minor or patient and the advocate acting for the minor or patient has waived the right to claim further costs;
 - (c) where the court has decided the costs payable to the minor or patient by way of summary assessment and the advocate acting for the minor or patient has waived the right to claim further costs;
 - (d) where an insurer or other person is liable to discharge the costs which the minor or patient would otherwise be liable to pay to his advocate and the court is satisfied that the insurer or other person is financially able to discharge those costs.
- (4) Where —
- (a) a claimant is a minor or patient; and
 - (b) a detailed assessment has taken place under paragraph (2)(a),

the only amount payable by the minor or patient to his advocate is the amount which the costs officer certifies as payable.

11.45 Litigants in person (48.6)

(1) This rule applies where the court orders (whether by summary or detailed assessment) that the costs of a litigant in person are to be paid by any other person.

(2) The costs allowed under this rule must not exceed, except in the case of a disbursement, two-thirds of the amount which would have been allowed if the litigant in person had been represented by an advocate.

(3) The litigant in person shall be allowed —

- (a) costs for the same categories of —
 - (i) work; and
 - (ii) disbursements,

which would have been allowed if the work had been done or the disbursements had been made by an advocate on the litigant in person's behalf;

(b) the payments reasonably made by him for legal services relating to the conduct of the proceedings; and

(c) the costs reasonably incurred by him of obtaining expert assistance in assessing the costs claim.

(4) The amount of costs to be allowed to the litigant in person for any item of work claimed shall be —

(a) where the litigant can prove financial loss, the amount that he can prove he has lost for time reasonably spent on doing the work; or

(b) where the litigant cannot prove financial loss, an amount for the time reasonably spent on doing the work at the rate specified in paragraph (5).

(5) The rate referred to in paragraph (4)(b) is one-tenth of the rate for the time being prescribed under section 20(1)(b) of the Advocates Act 1995 (or, if 2 or more such rates are so prescribed, the lowest such rate).

(6) A litigant who is allowed costs for attending at court to conduct his case is not entitled to a witness allowance in respect of such attendance in addition to those costs.

(7) For the purposes of this rule, a litigant in person includes —

(a) a company or other corporation which is acting without an advocate; and

(b) an advocate or an advocate's employee who is acting for himself;

but does not include an advocate who, instead of acting for himself, is represented in the proceedings by his firm or by himself in his firm name.

11.46 Costs where court has made group litigation order (48.6A)

(1) This rule applies where the court has made a group litigation order under rule 3.33.

(2) In this rule —

'individual costs' means costs incurred in relation to an individual claim on the group register;

'common costs' means —

(a) costs incurred in relation to the group issues;

(b) individual costs incurred in a claim while it is proceeding as a test claim, and

(c) costs incurred by the lead advocate in administering the group litigation; and

'group litigant' means a claimant or defendant, as the case may be, whose claim is entered on the group register.

(3) Unless the court orders otherwise, any order for common costs against group litigants imposes on each group litigant several liability for an equal proportion of those common costs.

(4) The general rule is that where a group litigant is the paying party, he shall, in addition to any costs he is liable to pay to the receiving party, be liable for —

(a) the individual costs of his claim; and

(b) an equal proportion, together with all the other group litigants, of the common costs.

(5) Where the court makes an order about costs in relation to any application or hearing which involved —

(a) one or more group issues; and

(b) issues relevant only to individual claims,

the court shall direct the proportion of the costs that is to relate to common costs and the proportion that is to relate to individual costs.

(6) Where common costs have been incurred before a claim is entered on the group register, the court may order the group litigant to be liable for a proportion of those costs.

(7) Where a claim is removed from the group register, the court may make a costs order in that claim which includes a proportion of the common costs incurred up to the date on which the claim is removed from the group register.

11.47 Personal liability of advocate for costs — wasted costs orders (48.7)

(1) This rule applies where the court is considering whether to make a wasted costs order.

(2) The court must give the advocate a reasonable opportunity to attend a hearing to give reasons why it should not make such an order.

(3) When the court makes a wasted costs order, it must —

- (a) specify the amount to be disallowed or paid; or
- (b) direct a judge or costs officer to decide the amount of costs to be disallowed or paid.

(4) The court may direct that notice must be given to the advocate's client, in such manner as the court may direct —

- (a) of any proceedings under this rule; or
- (b) of any order made under it against his advocate.

(5) Before making a wasted costs order, the court may direct a judge or costs officer to inquire into the matter and report to the court.

(6) The court may refer the question of wasted costs to a judge or costs officer, instead of making a wasted costs order.

11.48 Basis of detailed assessment of advocate and client costs (48.8)

(1) This rule applies to every assessment of an advocate's bill to his client except a bill which is to be paid by the Treasury under section 5 of the Legal Aid Act 1986.

(2) Costs are to be assessed on the indemnity basis but are to be presumed —

- (a) to have been reasonably incurred if they were incurred with the express or implied approval of the client;
- (b) to be reasonable in amount if their amount was expressly or impliedly approved by the client;
- (c) to have been unreasonably incurred if —
 - (i) they are of an unusual nature or amount; and
 - (ii) the advocate did not tell his client that as a result he might not recover all of them from the other party.

(3) Where an advocate's fees are limited by section 20(1)(b) of the Advocates Act 1995, the amount of the fees allowed under this rule shall not exceed the fees chargeable in accordance with that section.

11.49 Assessment procedure (48.10)

(1) This rule sets out the procedure to be followed where an application is made under section 23(1)(a) of the Advocates Act 1995 for the assessment of costs payable to an advocate by his client.

(2) The application shall be made by letter addressed to the Chief Registrar.

(3) An application for permission under section 23(3) of the 1995 Act (application out of time) may be made by letter addressed to the Chief Registrar, setting out the grounds of the application, and shall be determined by a judge.

(4) The advocate must serve a breakdown of costs within 28 days of service of a copy of the letter of application under paragraph (2) on him.

(5) The client must serve points of dispute within 14 days after service on him of the breakdown of costs.

(6) If the advocate wishes to serve a reply, he must do so within 14 days of service on him of the points of dispute.

(7) Either party may file a request for a hearing date —

(a) after points of dispute have been served; but

(b) no later than 3 months after the date on which the application under paragraph (2) is made.

(8) This procedure applies subject to any contrary order made by the court.

SCHEDULE 11.1 — SUMMARY ASSESSMENT

(Rule 11.8(4))

1. *Duty of parties*

It is the duty of the parties and their advocates to assist the judge in making a summary assessment of costs in any case to which rule 11.8(2) applies, in accordance with the following paragraphs.

2. *Statement of costs*

(1) Each party who intends to claim costs must prepare a written statement of the costs he intends to claim showing separately in the form of a schedule:

- (a) the number of hours to be claimed,
- (b) the hourly rate to be claimed,
- (c) the grade of fee earner;
- (d) the amount and nature of any disbursement to be claimed;
- (e) the amount of costs claimed for preparing for and appearing at the hearing,
- (f) any value added tax (VAT) to be claimed on these amounts.

(2) The statement of costs must be filed and copies of it served on any party against whom an order for payment of those costs is intended to be sought. The statement of costs should be filed and the copies of it should be served as soon as possible and in any event not less than 24 hours before the date fixed for the hearing.

(3) The failure by a party, without reasonable excuse, to comply with this paragraph shall be taken into account by the court in deciding what order to make about the costs of the claim, hearing or application, and about the costs of any further hearing or detailed assessment hearing that may be necessary as a result of that failure.

3. *Adjournment*

(1) If a summary assessment of costs is appropriate but the court awarding costs is unable to do so on the day, the court shall give directions as to a further hearing before the same judge.

(2) The court may not make an order for a summary assessment of costs by a costs officer.

4. *Breakdown of costs*

Where the court makes a summary assessment of costs at the conclusion of proceedings, the court shall specify separately the advocate's charges, disbursements and any VAT.

5. *Special cases*

(1) The court may not make a summary assessment of the costs of a receiving party who is an assisted person.

(2) The court may not make a summary assessment of the costs of a receiving party who is a minor or patient unless the advocate acting for the minor or patient has waived the right to further costs.

(3) The court may make a summary assessment of costs payable by a minor or patient.

SCHEDULE 11.2 — FORM AND CONTENTS OF BILL OF COSTS (PD47)

(Rule 11.25(4))

6. *General*

(1) A bill of costs must consist of such of the following sections as may be appropriate —

- (a) a title page;
- (b) a summary of the claim and any additional claim;
- (c) background information;
- (d) items of costs claimed, arranged in chronological order and identified by reference to the headings specified in paragraph 5;
- (e) a summary showing the total costs claimed on each page of the bill; and
- (f) schedules of time spent on attendances.

(2) In this Schedule —

‘communications’ means letters in and out and telephone calls made and received;

‘letters’ includes faxes, telex messages and e-mails;

‘routine communications’ means communications which by reason of their simplicity should not be regarded as letters of substance or telephone calls which properly amount to an attendance.

7. *Division of bill into parts*

(1) Where it is necessary or convenient to do so, a bill of costs may be divided into 2 or more parts, each part containing sections (b), (c) and (d) above. A division into parts is necessary or convenient in the following circumstances —

- (a) where the receiving party acted in person during the course of the proceedings (whether or not he also had an advocate at that time) the bill should be divided into different parts so as to distinguish between —
 - (i) the costs claimed for work done by the advocate; and
 - (ii) the costs claimed for work done by the receiving party in person;
- (b) where the receiving party was represented by different advocates during the course of the proceedings, the bill should be divided into different parts so as to distinguish between the costs payable in respect of each advocate;
- (c) where the receiving party obtained legal aid in respect of part of the proceedings the bill should be divided into separate parts so as to distinguish between —
 - (i) costs claimed before legal aid was granted;
 - (ii) costs claims when legal aid was granted; and
 - (iii) costs claimed after legal aid ceased.
- (d) where value added tax (VAT) is claimed and there was a change in the rate of VAT during the course of the proceedings, the bill should be divided into separate parts so as to distinguish between —
 - (i) costs claimed at the old rate of VAT; and
 - (ii) costs claimed at the new rate of VAT;
- (e) where the bill covers costs payable under 2 or more orders under which there are different paying parties the bill should be divided into parts so as to deal separately with the costs payable by each paying party.

8. *Title page*

(1) The title page of the bill of costs must set out —

- (a) the full title of the proceedings;
 - (b) the name of the party whose bill it is and a description of the document showing the right to assessment;
 - (c) if VAT is included as part of the claim for costs, the VAT number of the advocate or other person in respect of whom VAT is claimed.
 - (d) details of all legal aid certificates and amendment certificates in respect of which claims for costs are included in the bill.
- (2) Where the party whose bill it is is an assisted person, additional notes on the title page of the bill must clearly indicate —
- (a) the date of the court order under which the costs are to be assessed in accordance with Schedule 2 to the Legal Aid Act 1986, and
 - (b) where appropriate, details of any court order to the effect that any of the costs of the assisted person be paid by another party to the proceedings.

9. *Background information*

The background information included in the bill of costs should set out —

- (a) a brief description of the proceedings up to the date of the notice under rule 11.25(1)(a);
- (b) the status of the advocate or advocate's employee in respect of whom costs are claimed and (if those costs are calculated on the basis of hourly rates) the hourly rates claimed for each such person ;
- (c) a brief explanation of any agreement or arrangement between the receiving party and his advocates which affects the costs claimed in the bill.

10. *Heads of costs*

(1) The bill of costs may consist of items under such of the following heads as may be appropriate —

- (a) attendances on the court up to the date of the notice under rule 11.25(1)(a);
- (b) attendances on and communications with the receiving party;
- (c) attendances on and communications with witnesses including any expert witness;
- (d) attendances to inspect any property or place for the purposes of the proceedings;
- (e) searches and enquiries made at the General Registry or the Companies Registry and similar searches and enquiries;
- (f) attendances on and communications with other persons;
- (g) communications with the court;
- (h) work done in connection with arithmetical calculations of compensation or interest or both;
- (i) work done on documents: preparing and considering documentation which was of and incidental to the proceedings, including time spent before the start of proceedings where appropriate and time spent collating documents;
- (j) work done in connection with mediation, alternative dispute resolution and negotiations with a view to settlement if not already covered in the heads listed above;
- (k) other work done which was of or incidental to the proceedings and which is not already covered in the heads listed above.

(2) In respect of each of the heads of costs:-

- (a) communications which are not routine communications must be set out in chronological order;
- (b) routine communications should be set out either —
 - (i) as a single item at the end of the bill, or
 - (ii) if they can conveniently be divided by reference to periods or stages in the claim, as a series of single items at the end of the parts of the bill relating to those periods or stages.

11. *Items*

- (1) Each item claimed in the bill of costs must be consecutively numbered.
- (2) In each part of the bill of costs which claims items under head (a) (attendances on court) a note should be made of —
 - (a) all relevant events, including events which do not constitute chargeable items;
 - (b) any orders for costs which the court made (whether or not a claim is made in respect of those costs in this bill of costs).
- (3) The numbered items of costs must be set out on paper divided into five columns, of which the last two columns should be left blank. The five columns should be headed as follows:

Item no. Description Time claimed Time deducted Time allowed

- (4) The bill of costs must not contain any claims in respect of costs or court fees which relate solely to the detailed assessment proceedings other than costs claimed for preparing and checking the bill.

12. *Summary*

- (1) The summary must show the total profit costs and disbursements claimed separately from the total VAT claimed. Where the bill of costs is divided into parts the summary must also give totals for each part. If each page of the bill gives a page total the summary must also set out the page totals for each page.

- (2) The summary must include the following certificate:

I certify that value added tax on the legal costs in this case [is] [is not] recoverable by the party in whose favour the costs order has been made.

13. *Work done by advocates*

- (1) The following provisions relate to work done by advocates.
- (2) Routine letters and telephone calls shall in general be allowed as follows —
 - (a) letters out and telephone calls made or received on a unit basis of 6 minutes each,
 - (b) perusing letters in on a unit basis of 3 minutes each,
 and the charge being calculated by reference to the appropriate hourly rate.

- (3) Local travelling expenses incurred by advocates shall not be allowed. The definition of ‘local’ is a matter for the discretion of the court, but ‘local’ shall in general be taken to mean within, or in the vicinity of, the town where the advocate practises.

- (4) The cost of postage, couriers, out-going telephone calls, fax and telex messages (except for the purpose of serving a document) will in general not be allowed but the court may exceptionally in its discretion allow such expenses in unusual circumstances or where the cost is unusually heavy.

- (5) The cost of making copies of documents (except documents for use by the court or witnesses at a trial or hearing) will not in general be allowed but the court may exceptionally in its discretion make an allowance for copying in unusual circumstances or

where the documents copied are unusually numerous in relation to the nature of the case. Where this discretion is invoked the number of copies made, their purpose and the costs claimed for them must be set out in the bill.

14. Costs of preparing the bill

In head (k) in paragraph 5(1) (other work done) a claim may be made for the reasonable costs of preparing and checking the bill of costs.