

RULES MADE UNDER SECTION 77 (C) OF THE SUPREME
COURT ORDINANCE. CHAPTER 7

We, JOSEPH ALEXANDER LUCKHOO, Acting Chief Justice, WILLIAM ADRIAN DATE, KEITH LYNDELL GORDON, ROBERT SYDNEY MILLER, Puisne Judges of the Supreme Court of British Guiana, with the advice and assistance of SIDNEY LYONS VAN BATENBURG STAFFORD, Queen's Counsel, and CARLOS GOMES, Solicitor, being a majority of the Rule-making Authority under the powers conferred by the Supreme Court of Judicature Ordinance and all powers and authorities thereunto enabling do hereby make the following Orders and Rules:--

1. These Rules may be cited as the Supreme Court (Amendment) Rules, 1960, and shall be construed and read as one with the Supreme Court Rules, 1955, hereinafter referred to as the Principal Rules and any rules amending the same.

2. The Principal Rules are hereby amended —

(a) by the insertion immediately after the definition of the term "solicitor" in Order 1, rule 4 of the following definition —

“ ‘solicitor on the record’ means the solicitor of or for a party, and includes, and shall be deemed always to have included, every solicitor named in the authority filed under Order 3 rule 8, Order 6 rule 5 or Order 10 rule 5;”;

(b) by the addition to Order 6 of the following rules —

“Power of
Solicitor on
record to act
through other
solicitor.

5. (1) A solicitor who is a partner or employer of, or who is employed by the solicitor on the record or any solicitor additional to him subsequently authorised in writing by any party shall be entitled to act for and on behalf of the solicitor on the record without giving notice of change of solicitor.

(2) The authority to an additional solicitor shall be filed in the Registry and shall thereupon become effective.

(3) A solicitor on the record may appoint another solicitor to act as his agent in any cause or matter, and any solicitor so appointed may do any act which the solicitor appointing him is authorised to do.

(4) Where any solicitor is acting for and on behalf of, or as agent of, another solicitor, he shall so state and shall add to his own name or firm and place of business the name or firm and place of business of the solicitor on the record in any writ, summons or document issued or signed by him.

Respon-
sibility of
solicitor on
record.

6. The solicitor on the record shall remain responsible and liable for all acts or defaults of any solicitor acting for him under the provisions of Rule 5 of this Order.

Disclosure
by solicitor
on record.

7. Every solicitor on the record shall on demand in writing made by or on behalf of any other party to the cause or matter declare forthwith in writing whether any act done in his name or by any other solicitor in that cause or matter has been done with his authority or privity; and if such solicitor on the record shall declare that the act was not done by him with his authority or privity all further proceedings in that cause or matter shall be stayed and no further proceedings shall be taken without leave of the Court or a Judge.

Removal of
solicitor from
the record.

8. (1) Where a solicitor on the record has died or become insolvent or cannot be found or has been struck off the Roll or has otherwise ceased to act and the party for whom he has acted has not given notice of change of solicitor or notice of intention to act in person in accordance with the provisions of Rules 3 and 4 of this Order, any other party to the cause or matter may, on notice to be served on the first-named party personally or by pre-paid post letter addressed to his last-known place of address, unless the Court or Judge otherwise directs, apply to the Court or Judge for an order declaring that the solicitor has ceased to be the solicitor acting for the first-named party in the cause or matter, and the Court or Judge may make an order accordingly.

(2) Where the order is made, the party applying for the order shall serve on every other party to the cause or matter (not being a party in default as to entry of appearance) a copy of the said order and also leave at the Registry a certificate signed by the applicant or his solicitor that the order has been duly served as aforesaid. Thereafter unless and until the first-named party shall either appoint another solicitor or else give such an address for service as is required of a party acting in person, and shall comply with the provisions of Rules 3 and 4 of this Order relating to notice of appointment of a solicitor or notice of intention to act in person, any documents in respect of which personal service is not requisite may be served on the party so in default by being filed in the Registry.

Crown
Solicitor.

9. The Crown Solicitor may issue any writ, summons or other document originating proceedings or enter appearance in any cause or matter in the name of

the Crown Solicitor without filing any written authority as required by Order 3 Rule 8 or Order 10 Rule 5.”;

(c) by the insertion after Order 59 of the following Order —

ORDER 60

Costs in Non-Contentious Business

1. In this Order except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say —

“client” includes any person who, as a principal or on behalf of another, or as a trustee or executor, or in any other capacity, has power, express or implied, to retain or employ, and retains or employs or is about to retain or employ, a solicitor, and any person for the time being liable to pay to a solicitor for his services any costs;

“contentious business” means business done or transacted as solicitor or for the purposes of proceedings instituted in any Court or in or for the purposes of proceedings instituted or carried on before any court, or before any arbitrator appointed under the Arbitration Ordinance or under these Rules not being non-contentious or common form probate business; Cap. 38-

“conveyance” means any assurance for transporting, transferring, leasing, assigning, surrendering or otherwise alienating or disposing of land or an interest in land;

“costs” includes fees, charges, disbursements, expenses and remuneration;

“non-contentious business” means any business done as a solicitor which is not contentious business and includes all dealings in registered land under the Land Registry Ordinance, 1959.

“solicitor” includes his personal representatives or assignees.

2. A solicitor and his client may, either before or after or in the course of the transaction of any non-contentious business by the solicitor make an agreement as to the remuneration of the solicitor in respect thereof.

3. The agreement may provide for the remuneration of the solicitor by a gross sum, or by commission or percentage, or by salary, or otherwise, and it may be made on the terms that the amount of the remuneration therein stipulated for either shall or shall not include all or any disbursements made by the solicitor in respect of searches, plans, travelling, stamps, fees or other matters.

4. The agreement shall be in writing and signed by the person to be bound thereby or his agent duly authorised in writing in that behalf.

5. The agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of a solicitor:

Provided that if on any taxation of costs the agreement is relied on by the solicitor and objected to by the client as unfair or unreasonable, the taxing officer may enquire into the facts and certify them to the Court, and if on that certificate it appears just to the Court that the agreement should be cancelled, or the amount payable thereunder reduced, the Court may order the agreement to be cancelled, or the amount payable thereunder to be reduced, and may give such consequential directions as it thinks fit.

6. Subject to the exception aforesaid, the remuneration of a solicitor in respect of non-contentious business is to be regulated as follows, namely :—

- (a) in respect of sales, purchases, mortgages, conveyances and leases and other matters of conveyancing completed, the remuneration of the solicitor having the conduct of the business, is to be that prescribed in Part I of Appendix Z to these Rules and to be subject to the Rules contained in this Order;
- (b) in respect of the preparation and submission of Estate Duty Inventory and Declaration and the obtaining or re-sealing of Probate or Letters of Administration and other matters relating thereto when the transactions shall have been completed, the remuneration of the solicitor having the conduct of the business is to be that prescribed in Part II of Appendix Z;
- (c) in respect of business not hereinbefore provided, and of all other non-contentious business the remuneration for which is not hereinbefore prescribed, and which is not unduly complex or of exceptional importance or the value of which does not exceed five thousand dollars, the remuneration is to be regulated in accordance with Part III of Appendix Z;
- (d) in respect of journeys from place of residence or business the remuneration of the solicitor is to be that prescribed in Part IV of Appendix Z;
- (e) in respect of business not hereinbefore provided for, connected with any transaction, the remuneration for which, if completed, is hereinbefore prescribed, but which is not, in fact, completed, the remuneration is to be one half of the said remuneration or is to be regulated in accordance with Part V of Appendix Z;
- (f) in respect of all other deeds or documents, and of all other non-contentious business, the remuneration for which is not hereinbefore prescribed the remuneration is to be regulated in accordance with Part V of Appendix Z.

7. The remuneration prescribed by Appendix Z . . . is not to include stamps, counsel's fees, auctioneer's or valuer's charges, travelling or hotel expenses, fees paid or searches to public officers, on registrations, costs of extracts from any register or record, or other disbursement reasonably and properly paid, nor any extra work occasioned by changes occurring in the course of any business, such as the death or insolvency of a party to the transaction, nor is it to include any business

of a contentious character, nor any proceedings in any Court, but it shall include stationer's charges (except printing or cyclo-styling) and allowances for time of the solicitor and his clerks, and for copying and stationery, and all other similar disbursements.

8. In respect of any business which is required to be, and is, by special exertion, carried through in an exceptionally short space of time, a solicitor may be allowed a proper additional remuneration for the special exertion, according to the circumstances.

9. In all cases to which the scales prescribed in Parts I to IV (inclusive) of Appendix Z shall apply, a Solicitor, may, before undertaking any business, by writing under his hand communicated to the client, elect that his remuneration shall be in accordance with Part V of the said Appendix, but if no such election shall be made, his remuneration shall be according to the scale prescribed in Parts I to IV aforesaid.

10. A solicitor may accept from his client, and a client may give to his solicitor, security for the amount to become due to the solicitor for business to be transacted by him.

11. Where a party to a conveyance or mortgage is represented by a separate solicitor who does not prepare the conveyance or mortgage or the document proving title and leading to the conveyance, the remuneration of such separate solicitor is to be one half of that prescribed in Part I of Appendix Z. Subject to any provision in the contract the vendor's solicitor shall prepare the conveyance or documents leading thereto.

12. Where a solicitor is acting for both parties to a conveyance (other than mortgages) he is to be entitled in any case of exceptional difficulty or importance, to charge in addition to the remuneration prescribed in Part I of Appendix Z the remuneration that would be payable to a separate solicitor representing one of the parties.

13. Where a property is sold subject to encumbrances, the amount of the encumbrances is to be deemed a part of the purchase-money.

14. The scale for conducting a sale by auction shall apply only in cases where no commission is paid by the client to an auctioneer.

15. Where a conveyance is partly in consideration of a money payment or premium, and partly of a rent, then, in addition to the remuneration prescribed in respect of the rent, there shall be paid a further sum equal to the remuneration on a purchase at a price equal to such money payment or premium.

16. The remuneration in respect of a corrective Estate Duty declaration and inventory shall be calculated as if such difference whether by way of increase or decrease were being declared as the original value of an estate, or shall be regulated in accordance with Part V of Appendix Z.

17. On the application, of the party chargeable, made within one month of the delivery of a solicitor's bill, and on the party paying the sum of \$5.00 in respect of Registrar's fees, the Court shall without

requiring any sum to be paid into court order that the bill shall be taxed and that no action shall be commenced thereon until the taxation is completed.

18. If no such application is made within the period mentioned in the last foregoing rule, then on the application either of the solicitor or of the party chargeable with the bill, the court may, upon such terms, if any, as it thinks fit (not being terms as to the costs of the taxation), order —

- (a) that the bill shall be taxed;
- (b) that, until the taxation is completed, no action shall be commenced on the bill, and any action already commenced be stayed;

Provided that —

- (i) if twelve months have expired from the delivery of the bill, or if the bill has been paid, or if judgment has been obtained in an action for the recovery of the costs covered thereby, no order shall be made on the application of the party chargeable with the bill except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the taxation as the court may think fit;
- (ii) in no event shall any such order be made after the expiration of twelve months from the payment of the bill.

19. Every order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of the taxation and to certify what is due to or by the solicitor in respect of the bill and in respect of the costs of the taxation. The provisions of Order 49 shall apply to such taxation so far as they are applicable.

20. If after due notice of any taxation either party thereto fails to attend, the taxing officer may proceed with the taxation *ex parte*.

21. Unless —

- (a) the order for taxation was made on the application of the solicitor and the party chargeable does not attend the taxation; or
- (b) the order for taxation otherwise provides, the costs of the taxation shall be paid according to the event of the taxation, that is to say, if one-sixth or if not less than one-half of the bill is in respect of costs for which there is no scale charge then one-fifth of the amount of the bill is taxed off, the solicitor shall pay the costs, but otherwise the party chargeable shall pay the costs:

PROVIDED THAT the taxing officer may certify any special circumstances relating to the bill or the taxation thereof to the court, and the court may make thereon any such order as it thinks fit respecting the payment of the costs of the taxation.

22. The court may on application of the party chargeable therewith or entitled thereto make an order for the delivery by a solicitor of a bill of costs and for the delivery up of, or otherwise in relation to, any

deeds, documents, or papers in his possession, custody or power, without requiring any sum to be paid into court and on payment of the sum of \$5.00 in respect of Registrar's fees.

23. The bill of costs of a solicitor may include costs payable in discharge of a liability properly incurred by the solicitor on behalf of the party to be charged with the bill (including Counsel's fees) notwithstanding that those costs have not been paid before the delivery to that party of that bill.

24. Subject to the provisions of this Order, no action shall be brought to recover any costs due to a solicitor until one month after a bill thereof has been delivered in accordance with the requirements set out in the next following rule:

PROVIDED that, if there is probable cause for believing that the party chargeable with the costs is about to quit British Guiana, or to become an insolvent, or to compound with his creditors, or to do any other act which would tend to prevent or delay the solicitor obtaining payment, the court may, notwithstanding that one month has not expired from the delivery of the bill, order that the solicitor be at liberty to commence an action to recover his costs and may order those costs to be taxed.

25. The requirements referred to in the foregoing rule are that a bill must —

- (a) be signed by the solicitor, or if the costs are due to a firm, either in his own name or in the name of the firm, or be enclosed in, or accompanied by, a letter which is so signed and refers to the bill; and
- (b) be delivered to the party to be charged therewith, either personally or by being sent to him by post to, or left for him at, his place of business, dwelling-house, or last known place of abode;

and where a bill is proved to have been delivered in compliance with those requirements, it shall not be necessary in the first instance for the solicitor to prove the contents of the bill and it shall be presumed, until the contrary is shown, to be a bill bona fide complying with this Order.

26. Every application for an order for the taxation of a solicitor's bill or for the delivery of such a bill and the delivery up of any deeds, documents and papers by a solicitor shall be made in the matter of that solicitor.

27. The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of the costs covered thereby, and the court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.

28. The fees specified in Part VI of Appendix Z shall be charged and demanded received retained or recovered by and shall be payable in advance to the Registrar in respect of the acts matters and things specified in the said Part.”;

(d) by the insertion after Appendix Y of the following
Appendix —

APPENDIX Z

PART I

Conveyancing

PART II

Estate Duty and Probate

PART III

Other non-contentious Business

PART IV

Travelling

PART V

Non-contentious Business

PART VI

Registry Fees

APPENDIX

PART I.

CONVEYANCING

| Item | | |
|------|--|--------------------------------------|
| 1. | Negotiating a sale or purchase of property by private contract .. | |
| | For the first \$30,000 of the consideration | three per centum |
| | For the next \$60,000 | two per centum |
| | For any further amount | one per centum |
| 2. | For negotiating a loan on mortgage — | |
| | For the first \$30,000 of the loan | two per centum |
| | For the next \$60,000 | one per centum |
| | For any further amount | one-half per centum. |
| 3. | For conducting a sale of property by the public auction including the conditions of sale. | |
| | When the property is sold | same percentages as under item 1 |
| | When the property is not sold then on the reserved price | one half percentages as under item 1 |
| 4. | Agreement or Memorandum of Sale From | \$10.00 |
| 5. | Transport or transfer on sale or otherwise and mortgage or charge | |
| | Where the amount or value of the consideration for the sale or the value of the property transported or transferred or the amount secured under the mortgage or charge | |
| | Does not exceed \$ 500 :— | \$15 :— |
| | ” ” ” \$1,000 :— | \$20 :— |
| | ” ” ” \$1,500 :— | \$30 :— |
| | ” ” ” \$2,000 :— | \$35 :— |
| | ” ” ” \$2,500 :— | \$40 :— |
| | ” ” ” \$3,000 :— | \$45 :— |
| | ” ” ” \$3,500 :— | \$50 :— |
| | ” ” ” \$4,000 :— | \$55 :— |
| | ” ” ” \$4,500 :— | \$60 :— |
| | ” ” ” \$5,000 :— | \$65 :— |

| | | |
|-----|---|---------------------------------|
| | Where it exceeds \$5,000 :— | |
| | For the next \$10,000.00 per \$500.00 or part thereof .. | \$5 :— |
| | For the next \$10,000.00 per \$500.00 or part thereof .. | \$3 :— |
| | For the next \$10,000.00 per \$500.00 or part thereof .. | \$2 :— |
| | For each subsequent \$500.00 or part thereof | \$1 :— |
| 6. | Assignment or transfer of mortgage — Half the same scale as mortgage, the amount due under the Mortgage at the time of assign- ment or transfer being sub- stituted for the amount secured. | |
| 7. | Cancellation of Mortgage .. | from \$10.00 |
| 8. | Long Lease or transfer thereof Same scale as transport, ten times the annual rent being taken as the amount of the consider- ation, where the consideration is by way of rent. | |
| 9. | Lease or Transfer of Lease or Lease for less than 21 years | three-quarters fee under item 8 |
| 10. | Tenancy Agreement or Agreement for lease | half the fee under item 8 |
| 11. | Surrender of Lease | from \$10.00 |

PART II

ESTATE DUTY AND PROBATE

| | | |
|------|--|---------------------------|
| Item | | |
| 1. | Estate Duty Declaration and Inventory | |
| | On the first \$750:— of the net value of the estate declared to in British Guiana .. | \$15.00 |
| | On the next \$49,250:— do. | Two per centum |
| | On the next \$50,000:— do. | One and a half per centum |
| | On the net value of such estate in excess of \$100,000.00 .. | One per centum |

| | | |
|-----|--|---------|
| 11. | Sealing and certifying copies thereof for service, each | \$ 1.00 |
| 12. | Settling and signing abstract of citation for advertisement | \$ 1.00 |
| 13. | For filing of consent of creditors to executor or administrator administering estate of a deceased person which is found to be insolvent | \$ 1.00 |
| 14. | On application of executor or administrator to sell property of a deceased person by private treaty instead of by public auction and to transport the same, if immovable property — and for order | |
| | (a) where the value of the property does not exceed \$5,000 | \$ 5.00 |
| | (b) where the value of the property exceeds \$5,000:— | \$10.00 |
| 15. | On application by an interested party under a will or on an intestacy to subdivide or to make a division of any movable or immovable property belonging to the estate of a deceased person without proceeding to sale, and for order | |
| | (a) where the gross value of the estate does not exceed \$5,000:— | \$ 5.00 |
| | (b) where the gross value of the estate exceeds \$5,000:— | \$10.00 |
| 16. | For filing and advertising accounts of executors or administrators: | |
| | (a) where the gross value of the estate does not exceed \$5,000:— | \$ 3.00 |
| | (b) where the gross value of the estate exceeds \$5,000:— | \$ 6.00 |
| 17. | For filing objections and reasons thereof to accounts filed by executor or administrator and consideration of objections | \$ 1.50 |
| 18. | For filing grounds or reasons why account has not been filed and making order for extension of time | \$ 1.00 |

PART VI (Cont'd)

19. On application by executor or administrator to fix his commission and for order
 Where gross value of estate does not exceed \$ 5,000:— .. \$ 5.00
 Where gross value of estate exceeds \$ 5,000:— .. \$10.00
20. For searching or inspection \$.25
21. For making, certifying and sealing copies of documents, per folio of 120 words \$.15
22. For filing any document where no other fee is prescribed \$.50
3. The Legal Practitioners and Registry Fees Order (Cap. 7, Subsidiary Legislation) and the Legal Practitioners (Percentage on Fees) Order, 1959* are hereby revoked.
4. These Rules shall come into operation on the 1st August, 1960.

Dated this 18th day of July, 1960.

(Sgd.) J. A. LUCKHOO
Acting Chief Justice.

(Sgd.) W. A. DATE
Puisne Judge

(Sgd.) K. L. GORDON
Puisne Judge

(Sgd.) R. SYDNEY MILLER
Puisne Judge

(Sgd.) S. L. VAN B. STAFFORD
Member of the Rule
Making Authority

(Sgd.) CARLOS GOMES
Member of the Rule
Making Authority

* No. 102 of 1959.