

PRACTICE DIRECTION – 15.9

ESTIMATE OF COSTS IN ANCILLIARY RELIEF PROCEEDINGS AND CHILDREN PROCEEDINGS (“FORM H”)

Introduction

1. This Practice Direction applies to defended matrimonial causes and those proceedings that fall within PD 15.11 (“Ancillary Relief Proceedings”) and PD 15.13 (“Children Proceedings”).
2. The Forms H prescribed in this Practice Direction are intended for replacing the Form H referred to in PD 15.11 and PD 15.13.
3. Costs in matrimonial proceedings inevitably diminish the family assets which are available for distribution by way of ancillary relief and reduce the resources available for future maintenance of the children of the family. It is therefore in the interests of the parties that they each should be aware of their potential liability for costs. If the parties themselves are made to realize that the value of the assets after payment of costs may be so reduced as to make litigation unjustified, a sensible compromise can be effected.
4. At the same time, parties and their legal representatives have a duty to equip the court with necessary information to conduct Children Dispute Resolution (“CDR”) and/or Financial Dispute Resolution (“FDR”) and to exercise its case management powers with a sense of proportionality in these proceedings.
5. For these purposes, parties are required to provide the court with information as to the costs incurred and estimates of the costs to be incurred in the proceedings in the relevant Form H prescribed in this Practice Direction.

The Forms H

6. There are 4 Form H's, namely Forms H1, H2, H3 and H4 as annexed to this Practice Direction.
7. **Form H1** should be used for defended matrimonial causes and interlocutory applications relating to the main suit, including

applications under the Domestic and Cohabitation Relationships Violence Ordinance (Cap 189).

8. Form H2 should be used in the case of Children Proceedings, where PD 15.13 prescribes the exchange and delivery of Form H.
9. In the case of Ancillary Relief Proceedings, where PD 15.11 prescribes the exchange and delivery of Form H to the court,
 - (1) **Form H3** should be used for costs up to FDR hearing; and
 - (2) **Form H4** should be used for costs after FDR up to and including trial.
10. One Form H shall be ~~filed~~lodged by each party on the following milestone dates:
 - Case Management Hearing (“CMH”)
 - CDR
 - FDR
 - Pre-trial Review (“PTR”)
 - (in respect of proceedings transferred from the Family Court to the High Court) First Appointment Hearing
11. Where there is a second appointment for a milestone date, it is not necessary to ~~file~~lodge another Form H unless there has been substantial change of circumstances leading to substantial increase in costs of a party.
12. Where one milestone hearing will deal with more than one matter (e.g. children and ancillary relief together), 2 relevant Forms H should be used. A party is at liberty to estimate the global costs up to the relevant milestone event and apportion a percentage of costs in respect of each matter.
13. Additionally, the court may direct a relevant Form H to be lodged and served for other hearings.
14. The court may also direct a relevant Form H to be used in other Family Proceedings (as defined in paragraph 4 of PD 15.12 - Matrimonial Proceedings and Family Proceedings).

15. All Forms H shall be lodged and served 3 clear days (excluding Saturday, Sunday and public holiday) before the relevant milestone date, unless otherwise directed by the Court.

Duties of Parties and their Legal Representatives

16. Parties and their legal representatives should give serious care and attention when filling out the Form. The estimates provided should be as accurate and realistic as possible. Updating estimates would only be allowed if there are substantial changes in circumstances. Answers such as “to be confirmed”, “to be estimated” or “unknown” are unhelpful and unacceptable and may be treated as if there is no costs application in respect of the item concerned.
17. When assessing costs on summary assessment, if no separate statement of costs is lodged by a party 3 days before the relevant hearing, the Court shall deem such party as adopting the relevant Form H as his/her statement of costs for that summary assessment. Further, in cases where a separate statement of costs has been lodged, the Court may, in addition to the statement of costs, also have regard to the relevant Form H before deciding on costs.
18. Parties should not prepare an elaborate Form H. The court may at its discretion allow costs of no more than 30 minutes (on party-and-party basis) for preparing a Form H.¹
19. This Practice Direction shall supersede the earlier PD 15.9 and take effect on 15 May 2023.

Dated this 4th day of May 2023.

(Andrew Cheung)
Chief Justice

¹ Whether these 30 minutes are for the costs of handling solicitor, trainee solicitor or litigation clerk is not stated in order to provide flexibility.

Form H1

Form H2

Form H3

Form H4

Form H1 – Estimate of Costs on Main Suit

Case No.: _____
 [Name of party] v [Name of party]

This Form is filed for the hearing dated: _____.

A. General Information

A1 Party: Petitioner / Respondent / 1st Applicant / 2nd Applicant
 A2 Fee Earners' Rates of Charges per hour on solicitor-client basis: [specify if other basis]
 Solicitor: Year of admission:
 Trainee Solicitor: 1st / 2nd Year
 Litigation Clerk:
 A3 Intended counsel/Counsel instructed (with year of call):

B. Estimated Costs (inclusive of all disbursements and fees) of the Main Suit incurred and to be incurred up to the obtaining of Decree Nisi (Please tick “✓” the appropriate box)

1.	\$10,000 or below		\$
2.	\$10,001 to \$25,000		\$
3.	\$25,001 to \$50,000		\$
4.	Above \$50,000 (If you tick “✓”this box, please state the estimated amount and give a brief explanation below why the costs are so incurred or to be incurred)		\$
Explanation:			

C. Other On-going or Anticipated Interlocutory Proceedings relating to the Main Suit (including an application under the Domestic and Cohabitation Relationships Violence Ordinance (Cap 189))

[Specify the on-going or anticipated interlocutory proceedings, e.g. non-molestation order]

D. Estimated Costs for On-going or Anticipated Interlocutory Proceedings

In respect of _____ (*state the application*) in Part C

(1) Costs of solicitors

Preparation including perusal, drafting, attendances at meetings and/or telephone calls & correspondence (____ hours)	\$
Hearing for call over (____ hours)	\$
Hearing for substantive arguments (____ hours)	\$
Manual Work (photocopying charges, attendances of litigation clerk(s), etc)	\$
(2) Counsel fees (or Counsel brief/refresher/hours)	\$
(3) Disbursements [<i>including expert fees, valuation fees, etc.</i>]	\$

Sub-total: \$

[*Insert the estimated costs for other items in Part C in the same manner*]

E. Total Estimated Costs

Amount already incurred	\$
Costs outstanding to solicitors to date	\$
Additional costs to be paid	\$
Grand Total (All items in Part B and Part D)	\$

I acknowledge that these are the costs I have incurred and the genuine estimates of costs that my solicitor advised that I may have to incur for the stated proceedings. I have been advised that I may not be able to recover the estimated costs from the other party.

I have also been reminded that the court may adopt the estimated costs above (with or without appropriate adjustments) for the purpose of summary assessment upon disposal of an interlocutory or final matter.

I confirm that I can fully read and understand English [*or Chinese where the relevant Form H is in Chinese*] and the effect of this Form.

The [party] is on legal aid / a person under disability*

* *Delete as inappropriate.*

Dated the day of 20

Signed by

(name of party)

Signed by

Solicitors for

Form H2 – Estimate of Costs on Children Matters

Case No.: _____
 [Name of party] v [Name of party]

This Form is filed for the hearing dated: _____.

A. General Information

A1 Party: Petitioner / Respondent / 1st Applicant / 2nd Applicant
 A2 Fee Earners' Rates of Charges per hour on solicitor-client basis: [specify if other basis]
 Solicitor: Year of admission:
 Trainee Solicitor: 1st / 2nd Year
 Litigation Clerk:
 A3 Intended counsel/Counsel Instructed (with year of call):

B. On-going and Anticipated Proceedings

B1 Up to and including CDR
 B2 Mediation or other forms of dispute resolution
 B3 From CDR and up to conclusion of Trial
 (Trial estimated to be ___ days)
 B4 [Specify interlocutory application, e.g. injunction]

C. Estimated Costs for On-going and Anticipated Proceedings

In respect of item B1

(1) Costs of solicitors	
Preparation including perusal, drafting, attendances at meetings and/or telephone calls & correspondence (___ hours)	\$
Hearing for call over (___ hours)	\$
Hearing for substantive arguments (___ hours)	\$
Manual Work (photocopying charges, attendances of litigation clerk(s), etc.)	\$
(2) Counsel fees (or Counsel brief/refresher /hours)	\$
(3) Disbursements [including expert fees, valuation fees, etc.]	\$

Sub-total: \$

[Insert the estimated costs for each of the steps from B2 onwards]

D. Total Estimated Costs

Costs already paid	\$
Costs outstanding to solicitors to date	\$
Additional costs to be paid	\$
Grand total (All items in Part B)	\$

E. Special Features

[Explain any special features in relation to any of the items above. Explain any significant increase in estimated costs since the last estimate was submitted to the Court. You may give your explanation here. If you use a separate sheet, the explanation should not be more than 1 page of font size 14 and 1 ½ line spacing.]

I acknowledge that these are the costs I have incurred and the genuine estimates of costs that my solicitor advised that I may have to incur for the stated proceedings. I have been advised that I may not be able to recover the estimated costs from the other party.

I have also been reminded that the court may adopt the estimated costs above (with or without appropriate adjustments) for the purpose of summary assessment upon disposal of an interlocutory or final matter.

I confirm that I can fully read and understand English [*or Chinese where the relevant Form H is in Chinese*] and the effect of this Form.

The [party] is on legal aid / a person under disability*

* *Delete as inappropriate.*

Dated the day of 20

Signed by

Signed by

(name of party)

Solicitors for

Form H3 – Estimate of Costs on Ancillary Relief
(From the Start of Ancillary Relief Proceeding up to and
including Financial Dispute Resolution)

Case No.: _____
 [Name of party] v [Name of party]

This Form is filed for the hearing dated: _____.

A. General Information

A1 Party: Petitioner / Respondent / 1st or 2nd Applicant / Intervener, etc.
 A2 Fee Earners' Rates of Charges per hour on solicitor-client basis: [specify if other basis]
 Solicitor: Year of admission:
 Trainee Solicitor: 1st / 2nd Year
 Litigation Clerk:
 A3 Intended counsel/Counsel instructed (with year of call):

B. On-going or Anticipated Proceedings

B1 Up to and including Financial Dispute Resolution (FDR)
 B2 Mediation or other forms of dispute resolution
 B3 [Specify interlocutory applications, e.g. disclosure, maintenance pending suit]

C. Estimated Costs for On-going or Anticipated Proceedings

In respect of item B1

(1) Costs of solicitors	
Preparation including perusal, drafting, attendances at meetings and/or telephone calls & correspondence (____ hours)	\$
Hearing for call over (____ hours)	\$
Hearing for substantive arguments (____ hours)	\$
Manual Work (photocopying charges, attendances of litigation clerk(s), etc.)	\$
(2) Counsel fees (or Counsel brief/refresher/hours)	\$
(3) Disbursements [including expert fees, valuation fees, etc.]	\$

Sub-total: \$

[Insert the estimated costs for each of the steps from B2 onwards]

D. Total Estimated Costs

Costs already paid	\$
Costs outstanding to solicitors to date	\$
Additional costs to be paid	\$
Grand total (All items in Part B)	\$

E. Special Features

[Explain any special features in relation to any of the items above. Explain any significant increase in estimated costs since the last estimate was submitted to the Court. You may give your explanation here. If you use a separate sheet, the explanation should not be more than 1 page of font size 14 and 1 ½ line spacing.]

I acknowledge that these are the costs I have incurred and the genuine estimates of costs that my solicitor advised that I may have to incur for the stated proceedings. I have been advised that I may not be able to recover the estimated costs from the other party.

I have also been reminded that the court may adopt the estimated costs above (with or without appropriate adjustments) for the purpose of summary assessment upon disposal of an interlocutory or final matter.

I confirm that I can fully read and understand English [*or Chinese where the relevant Form H is in Chinese*] and the effect of this Form.

The [party] is on legal aid / a person under disability*

* Please delete as inappropriate.

Dated the day of 20

Signed by

(name of party)

Signed by

Solicitors for

Form H4 – Estimate of Costs on Ancillary Relief
(For after the Financial Dispute Resolution and up to and including Trial)

Case No.: _____
 [Name of party] v [Name of party]

This Form is filed for the hearing dated: _____.

A. General Information

A1 Party: Petitioner / Respondent / 1st or 2nd Applicant / Intervener, etc.
 A2 Fee Earners' Rates of Charges per hour on solicitor-client basis: [specify if other basis]
 Solicitor: Year of admission:
 Trainee Solicitor: 1st / 2nd Year
 Litigation Clerk:
 A3 Intended counsel/Counsel Instructed (with year of call):

B. Costs Already Incurred

B1 From the start of ancillary relief proceedings up to and including FDR	\$
B2 Other forms of dispute resolution	\$

C. On-going or Anticipated Proceedings

C1 After FDR and up to conclusion of Trial (Trial estimated to be ____ days)	\$
C2 [Specify <i>interlocutory applications</i> , e.g. <i>disclosure, maintenance pending suit</i>]	\$
C3 Other forms of dispute resolution	\$

D. Estimated Costs for On-going or Anticipated Proceedings

In respect of item C1

(1) Costs of solicitors Preparation including perusal, drafting, attendances at meetings and/or telephone calls & correspondence (____ hours)	\$
Hearing for call over / PTR (____ hours)	\$
Hearing for substantive arguments (____ hours)	\$
Manual Work (photocopying charges, attendances of litigation clerk(s), etc.)	\$
(2) Counsel fees (or Counsel brief/refresher/hours)	\$
(3) Disbursements [including expert fees, valuation fees, etc.]	\$

Sub-total: \$

[Insert the estimated costs for each of the interlocutory applications from C2 onwards]

E. Total Estimated Costs

Costs already paid	\$
Costs outstanding to solicitors to date	\$
Additional costs to be paid	\$
Grand total (All items in Part B and C)	\$

F. Special Features

[Explain any special features in relation to any of the items above. Explain any significant increase in estimated costs since the last estimate was submitted to the Court. You may give your explanation here. If you use a separate sheet, the explanation should not be more than 1 page of font size 14 and 1 ½ line spacing.]

I acknowledge that these are the costs I have incurred and the genuine estimates of costs that my solicitor advised that I may have to incur for the stated proceedings. I have been advised that I may not be able to recover the estimated costs from the other party.

I have also been reminded that the court may adopt the estimated costs above (with or without appropriate adjustments) for the purpose of summary assessment upon disposal of an interlocutory or final matter.

I confirm that I can fully read and understand English [*or Chinese where the relevant Form H is in Chinese*] and the effect of this Form
The [party] is on legal aid / a person under disability*

* *Delete as inappropriate.*

Dated the day of 20

Signed by

(name of party)

Signed by

Solicitors for