
STATUTORY INSTRUMENTS

1998 No. 2674 (S.134)

COURT OF SESSION, SCOTLAND

**Act of Sederunt (Rules of the Court of Session
Amendment No. 3) (Fees of Solicitors) 1998**

Made - - - - - *28th October 1998*
Coming into force - - - - - *1st December 1998*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 5 of the Court of Session Act 1988(1) and of all other powers enabling them in that behalf, do hereby enact and declare:—

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 3) (Fees of Solicitors) 1998 and shall come into force on 1st December 1998.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendment of the Rules of the Court of Session

2.—(1) Chapter 42 of the Rules of the Court of Session 1994(2) shall be amended in accordance with the following sub-paragraphs.

(2) Omit rule 42.11 (which provides for the addition to accounts of expenses of a sum to cover posts and incidents).

(3) In the Table of Fees in rule 42.16 (which lists fees of a solicitor which may be charged between party and party in an account in any cause), in the provisions mentioned in column 1 of the Schedule to this Act of Sederunt, for the amounts respectively specified in column 2 of that Schedule substitute the amounts so specified in column 3.

(4) Rule 42.16 shall be further amended as follows

(a) in Chapter I—

(i) omit the first note to paragraph 1;

(1) 1988 c. 36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(3) and by the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 45.
(2) S.I. 1994/1443; relevant amending instruments are S.I. 1995/1396 and S.I. 1996/237.

- (ii) in the second note to that paragraph, for the words “fees for revising and adjusting it” substitute “fee for perusing it (whether or not in the course of doing so he revises or adjusts it)”; and
- (iii) for paragraph 2, substitute—

“Copying

2. For the copying of papers by whatever means-

- (a) where a copy is required to be lodged, or sent, in pursuance of any of rules 4.7, 22.1 and 22.3, such charge as the Auditor may from time to time determine (and he may make different provision for different classes of case); and
- (b) in any other case, if the Auditor determines (either or both) that-
 - (i) the copying had to be done in circumstances which were in some way exceptional;
 - (ii) the papers which required to be copied were unusually numerous having regard to the nature of the cause,such charge, if any, as the Auditor considers reasonable (but a charge based on time expended by any person in copying shall not be allowed).

Notes

- 1.** Where a determination is required under sub-paragraph (b), the purpose of copying, the number of copies made and the charge claimed shall be shown in the account.
- 2.** Copying done other than in the place of business of the solicitor shall be shown as an outlay”;
- (b) in Part I of Chapter III, in paragraph 1(b), for the words “£225.00” substitute “£322.40”;
- (c) in Part IV of Chapter III, in paragraph 2(c), after the word “paragraphs” insert “1A,”; and
- (d) in Part V of Chapter III—
 - (i) at the beginning insert the following paragraph —

“Work before action commences

- 1A.** All work which the Auditor is satisfied has reasonably been undertaken in contemplation of, or preparatory to, the commencement of proceedings £250;
or such lesser sum as in the opinion of the Auditor is justified.”;
- (ii) in paragraph 1, the word “fee” in the heading shall be omitted and in paragraph (a), after the word “precognitions)”, insert “from commencement”;
- (iii) in paragraph 2, in the heading, omit the word “fee”;
- (iv) omit the first note to paragraph 5;
- (v) in the second note to that paragraph, for the words’ “revising and adjusting it” substitute “perusing it (whether or not in the course of doing so he revises or adjusts it)”; and

- (vi) for paragraph 14 (and the note to that paragraph) substitute, appropriately numbered, the same paragraph and notes as are substituted for paragraph 2 of Chapter I of rule 42.16 by head (a)(iii) of this sub paragraph.

Saving

3. Paragraph 2 does not affect the provisions of Chapter 42 in their application to work done, or outlays incurred, before 1st December 1998.

Edinburgh
28th October 1998

Rodger of Earlsferry
Lord President I.P.D.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Paragraph 2(3).

<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee)£</i>	<i>(3)</i> <i>(new fee) £</i>
Chapter I:		
1(a)	7.60	10.90
(b)	3.20	4.60
(c)	11.10	15.90
3	3.20	4.60
4(a)	7.60	10.90
(b)	7.60	10.90
(c)	7.60	10.90
5(a)	15.00	21.50
(b)	15.00	21.50
(c)	15.00	21.50
(e)(i)	7.60	10.90
(ii)	7.60	10.90
(iii)	3.20	4.60
6(a)	7.60	10.90
(b)	1.50	2.10
(c)	3.20	4.60
Chapter III Part I:		
1(a)	134.90	193.30
Chapter III Part II:		
1	190.10	272.40
2	108.40	155.30
3(a)	27.80	39.80
(b)	40.20	57.60
(c)	49.90	71.50
4(a)	48.70	69.80
(b)	15.00	21.50
(c)	8.20	11.80
5(a)	45.10	64.60
(b)	15.00	21.50
7	134.90	193.30
8	41.60	59.60

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee)£</i>	<i>(3)</i> <i>(new fee) £</i>
Chapter III Part III:		
Table A:		
1	273.80	392.40 ‘
	312.70	448.10
2	194.60	278.90
	236.30	338.60
3	59.80	85.70
	87.70	125.70
4	528.20	756.90
	636.70	912.40
Table B:		
1	225.20	322.70
	264.10	378.50
2	108.40	155.30
	137.60	197.20
3	59.80	85.70
	87.70	125.70
4	393.40	563.70
	489.40	701.30
Table C:		
1	55.60	79.70
2	62.40	89.40
3	118.00	169.00
Chapter III Part IV:		
1 (a)	280.90	402.50
(b)	389.20	557.70
2(a)	190.40	272.80
3(a)	34.00	48.70
4	32.10	46.00
Chapter III Part V:		
1 (a)	264.10	378.50
(b)	28.50	40.80
(c)	55.60	79.70

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee)£</i>	<i>(3)</i> <i>(new fee) £</i>
2(a)	280.90	402.50
(b)	173.70	248.90
(c)(i)	28.50	40.80
(ii)	15.00	21.50
(d)	83.30	119.40
(e)	123.70	177.30
3(a)	55.60	79.70
(b)	15.00	21.50
(c)	41.60	59.60
4(a)	52.80	75.70
(b)	15.00	21.50
(c)	7.60	10.90
(d)	52.80	75.70
(e)	15.00	21.50
(f)	7.60	10.90
5	27.00	38.70
6(a)	59.80	85.70
(b)	8.20	11.80
7(a)	55.60	79.70
(b)	27.00	38.70
(c)	15.00	21.50
(d)	22.20	31.80
8(a)	112.60	161.40
(b)	90.40	129.50
(c)	33.40	47.90
(d)	8.20	11.80
9(a)	123.70	177.30
(b)	55.60	79.70
(c)	15.00	21.50
10(a)	15.00	21.50
(b)	41.60	59.60
(c)	15.00	21.50
(d)	41.60	59.60
(e)	15.00	21.50

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee)£</i>	<i>(3)</i> <i>(new fee) £</i>
11	157.10	225.10
12(a)	41.60	59.60
(b)	15.00	21.50
(c)	61.10	87.60
(d)	28.10	40.30
(e)	142.30	203.90
(f)	79.20	113.50
13(a)	382.30	547.80
(b)	34.00	48.70
(c)	69.60	99.70
(d)	15.00	21.50
15(a)(i)	83.30	119.40
(ii)	55.60	79.70
(iii)	55.60	79.70
(b)	139.00	199.20
(c)	236.20	338.50
16	295.30	423.30
17	15.00	21.50
18	100.70	144.30
19	22.20	31.80
20(a)	112.60	161.40
	34.00	48.70
Chapter III Part VI:		
1 (a)	83.30	119.40
(b)	41.60	59.60
(c)	34.90	50.00
2(a)	100.70	144.30
(b)	49.90	71.50
(c)	34.00	48.70
3(a)	83.30	119.40
(b)	15.00	21.50
6	34.00	48.70

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EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt amends the Tables of Fees in Chapter 42 of the Rules of the Court of Session 1994, the main aim being to increase (by about 16.2%) the expenses recoverable by a successful party. It does so in two complementary respects. First, it provides that certain fees shall no longer be chargeable, viz. fees for copying in normal circumstances and additions to accounts of sums to cover posts and incidents. Fees for copying, where the copy is required to be lodged or sent in pursuance of any of rules 4.7, 22.1 and 22.3, would be set from time to time by the Auditor, who might make separate provision for different sets of circumstances. Fees for copying in any other case would be chargeable only in circumstances which the Auditor considered exceptional or where papers which required to be copied were unusually numerous. Secondly, to allow for these changes and for inflation, the Act of Sederunt increases the remaining fees payable to solicitors (and recoverable from opponents) by about 43.3 %. The last increase was in the Act of Sederunt (Rules of the Court of Session Amendment No. 1) (Fees of Solicitors) 1996 (S.I.1996/237).

The Act of Sederunt also introduces a block fee for work done before the commencement of a cause and clarifies the entitlement of a solicitor to a fee for perusing the precognition or report of a skilled witness whether or not in the course of doing so the solicitor revises or adjusts that precognition or report.

The Act of Sederunt does not apply as respects work done, or outlays incurred, before it comes into force.