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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 87**

**COURT OF SESSION**

**Act of Sederunt (Rules of the Court of Session Amendment)  
(Taxation of Accounts and Fees of Solicitors) 2011**

*Made* - - - - *9th February 2011*

*Coming into force* - - *1st April 2011*

The Lords of Council and Session, under and by virtue of the powers conferred upon 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) (Taxation of Accounts and Fees of Solicitors) 2011 and comes into force on 1st April 2011.

(2) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

**Amendment of the Rules of the Court of Session**

2. The Rules of the Court of Session 1994(2) are amended in accordance with paragraphs 3 and 4.

**Diet of taxation**

3. In rule 42.2(2) (diet of taxation) after “vouchers,” insert “including counsel’s fee notes.”

**Table of fees**

4.—(1) Subject to subparagraph (5), the table of fees in rule 42.16(3) is amended in accordance with subparagraphs (2) to (4).

(2) In Part V of Chapter III (defended actions)—

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(1) 1988 c.36. Section 5 was amended by the Civil Evidence (Scotland) Act 1988 (c.32), section 2(3); the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), Schedule 9; the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 45; the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(1); and the Judiciary and Courts (Scotland) Act 2008 (asp 6), section 46(3).  
(2) S.I. 1994/1443, last amended by S.S.I. 2010/459.  
(3) The table of fees was last amended by S.S.I. 2009/82.

*Status: This is the original version (as it was originally made).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

(a) after paragraph 1A (work before action commences), insert—

“**1B.** Lodging productions prior to approval of issue or allowance of proof

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- (a) For lodging productions – each inventory 77.70
- (b) For considering opponent’s productions – each inventory 38.85”

(b) in paragraph 2A (Notes of Argument)—

(i) after subparagraph (c) insert—

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|-----|--|--------|
| (d) | (d) Instructing, perusing and lodging (each) Statement of Facts or Issues            | 116.55 |
| (e) | (e) Perusing opponent’s Statement of Facts or Issues (each)                          | 77.70  |
| (f) | (f) Instructing, revising and lodging (each) Note of Proposals for Further Procedure | 116.55 |
| (g) | (g) Perusing opponent’s Note of Proposals for Further Procedure (each)               | 77.70  |

(ii) the heading becomes “Notes of Argument, Statements of Facts or Issues and Notes of Proposals for Further Procedure”;

(c) the heading of paragraph 3 becomes “Procedure Roll, preliminary, procedural or other hearing”;

(d) in paragraph 5 (precognitions)—

- (i) the existing entry (taking and drawing precognitions) becomes subparagraph (a);
- (ii) after subparagraph (a), insert—

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- |     |  |       |
|-----|--|-------|
| (b) | (b) All work in connection with preparation and lodging of witness summaries, witness statements and affidavits, per sheet | 77.70 |
| (c) | (c) Perusing opponent’s witness summaries, witness statements and affidavits, per sheet                                    | 38.85 |

(iii) the heading becomes “Precognitions and (where ordered by the court) witness summaries, witness statements and affidavits”.

(3) In Part VA of Chapter III (defended personal injuries actions)—

(a) after paragraph 2 (pre-litigation fee) insert—

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**“2A. Lodging productions prior to approval of issue or allowance of proof**

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- (a) For lodging productions – each inventory 77.70
- (b) For considering opponent’s productions – each inventory 38.85”

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(b) substitute the following for paragraph 17(d) (joint minute of pre-trial meeting)—

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- (d) Joint Minute of pre-trial meeting 38.85”

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**(4) In Part VI of Chapter III (Inner House business)—**

(a) substitute the following for paragraph 1(a) (reclaiming motions)—

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- (a) (a) Fee for claimer for all work (except as otherwise provided for in this Part) up to interlocutor sending cause to roll 233.10

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(b) after paragraph 2 (appeals from inferior courts), insert—

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**“2A. Note of objection**

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- (a) Instructing, perusing and lodging note of objection 155.40
- (b) Perusing opponent’s note of objection 77.70
- (c) Where attendance of counsel and/or solicitor required inclusive of instruction of counsel, not exceeding halfhour 116.55
- (d) Thereafter attendance fee, per additional quarter hour 38.85

**2B. Grounds of appeal or cross appeal**

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- (a) Instructing, perusing and lodging grounds of appeal or cross appeal 155.40
- (b) Perusing opponent’s note of appeal or cross appeal 77.70

**2C. Incidental Procedure**

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All work in connection with noting remittance of cause to Summar Roll and fixing of Summar Roll hearing 155.40”

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(c) substitute the following for paragraph 3(a) (preparing for Summar Roll)—

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(a) (a) Preparing for hearing and instructing counsel including instructing and lodging lists of authorities and notes of argument	233.10

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(5) This paragraph does not affect fees chargeable for work done, or outlays incurred, before 1st April 2011.

Edinburgh  
9th February 2011

*A.C. HAMILTON*  
Lord President  
I.P.D.

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## EXPLANATORY NOTE

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

This Act of Sederunt amends Chapter 42 (taxation of accounts and fees of solicitors) of the Rules of the Court of Session 1994 ([S.I. 1994/1443](#)).

Paragraph 3 amends rule 42.2 to provide that counsel's fee notes are to be made available to the Auditor at the diet of taxation.

Paragraph 4 amends the table of fees provided in rule 42.16. Paragraph 4(2) amends Part V of Chapter III (defended actions) and paragraph 4(3) amends Part VA of Chapter III (defended personal injuries actions).

Paragraph 4(4) amends Part VI of Chapter III (Inner House business) of the table of fees in consequence of the changes to the Inner House business made by the Act of Sederunt (Rules of the Court of Session Amendment No. 2) (Causes in the Inner House) 2010 ([S.S.I. 2010/30](#)).

Paragraph 4(5) provides that the amendments to the table of fees set out in this Act of Sederunt do not apply as respects fees chargeable for work done, or outlays incurred, before it comes into force.

The table of fees was last amended by the Act of Sederunt (Rules of the Court of Session Amendment No. 2) (Fees of Solicitors) 2009 ([S.S.I. 2009/82](#)).