
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 332

Act of Sederunt (Civil Legal Aid Rules Amendment) 2017

Citation, commencement and transitional provision, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Civil Legal Aid Rules Amendment) 2017.

(2) It comes into force on 13th November 2017.

(3) A certified copy is to be inserted in the Books of Sederunt.

(4) The amendments made by paragraph 2 do not apply to applications for awards of expenses under section 19(1) of the Legal Aid (Scotland) Act 1986(1) where the application is made by motion enrolled or lodged before 11th December 2017.

Amendment of the Civil Legal Aid Rules

2.—(1) The Act of Sederunt (Civil Legal Aid Rules) 1987(2) is amended in accordance with this paragraph.

(2) In rule 1(2) (citation, commencement and interpretation), after the definition of “legal aid certificate” insert—

““motion”, in a simple procedure case, means an incidental orders application;”.

(3) In rule 2(1) (revocations and transitional provision), for “the Schedule” substitute “schedule 1”.

(4) For rule 6 (expenses out of the Scottish Legal Aid Fund)(3), substitute—

“Expenses out of the Scottish Legal Aid Fund

6.—(1) An application to the court for an award of expenses under section 19(1) of the Act is to be made by motion in the proceedings.

(2) The applicant must—

(a) no later than 28 days before the motion is enrolled or lodged, send the Board(4)—

(i) a completed notice in the form set out in schedule 2; and

(ii) where the form of notice identifies a requirement for circumstances to be established or vouched, such documents as are required to establish or vouch those circumstances;

(b) intimate the motion to the Board; and

(c) lodge with the motion copies of the notice and documents sent to the Board.

(3) The Board may—

(1) Section 19 was amended by the Legal Aid Act 1988 (c. 34), schedule 4, paragraph 8 and by the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), schedule 5, paragraph 2(3).

(2) S.I. 1987/492, last amended by S.I. 1996/3202.

(3) Rule 6 was amended by S.I. 1996/2148.

(4) “The Board” is defined in section 1(1) of the Legal Aid (Scotland) Act 1986 (c.47).

- (a) oppose the motion; and
- (b) appear and be represented at the hearing of the motion.

(4) For the purposes of intimating and opposing such a motion, the relevant rules of procedure are to apply as if the Board was a party to the proceedings.”

(5) In rule 7 (applications in respect of additional fees or percentage increases)(5), after paragraph (3) insert—

“(3A) Such intimation must be made no less than 14 days before the date fixed for the hearing of the motion.”

(6) Omit rule 8 (period of intimation)(6).

(7) The schedule is renumbered as schedule 1.

(8) After schedule 1, as renumbered, insert schedule 2 as set out in the schedule of this Act of Sederunt.

Edinburgh
11th October 2017

CJM SUTHERLAND
Lord President
I.P.D.

(5) Rule 7 was inserted by [S.I. 1996/2148](#).
(6) Rule 8 was inserted by [S.I. 1996/2148](#).