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STATUTORY INSTRUMENTS

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**1996 No. 2148 (S.172)**

**LEGAL AID AND ADVICE, SCOTLAND**

**Act of Sederunt (Civil Legal Aid Rules) (Amendment) 1996**

*Made - - - - 13th August 1996*

*Coming into force - - 9th September 1996*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 38 of the Legal Aid (Scotland) Act 1986(1) and of all other powers enabling them in that behalf, after consultation with the Rules Council of the Court of Session and the Sheriff Court Rules Council in accordance with section 38(3) of that Act, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Civil Legal Aid Rules) (Amendment) 1996 and shall come into force on 9th September 1996.

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

**Amendment of Act of Sederunt (Civil Legal Aid Rules) 1987**

2.—(1) The Act of Sederunt (Civil Legal Aid Rules) 1987(2) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 6 (expenses out of the Scottish Legal Aid Fund), in paragraph (4)(a) for the words “appear to be represented”, substitute the words “appear and be represented”.

(3) After rule 6, insert the following rules:—

**“Applications in respect of additional fees or percentage increases**

7.—(1) An application to the court for an additional fee or a percentage increase under regulation 5(4) of the Civil Legal Aid (Scotland) (Fees) Regulations 1989(3) shall be made by motion in the cause.

(2) There shall be lodged with a motion made under paragraph (1)–

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(1) 1986 c. 47.

(2) S.I.1987/492.

(3) S.I. 1989/1490 as amended by S.I. 1994/1015.

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*Status: This is the original version (as it was originally made).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

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- (a) the account of expenses, or an estimate of the probable amount of those expenses (specifying the amount chargeable to fees and to outlays respectively), as the case may be; and
  - (b) a statement of the grounds on which the application is made, specifying which of the factors in regulation 5(4) of the Regulations mentioned in paragraph (1) are relied on.
- (3) The court may dismiss the application or, where it does not do so, it shall order the applicant to intimate to the Board a copy of—
- (a) the motion;
  - (b) the account of expenses, or the estimate of those expenses, as the case may be; and
  - (c) the statement of the grounds on which the application is made.
- (4) The Board may—
- (a) appear and be represented at any hearing to consider an application in which there has been intimation under paragraph (3); and
  - (b) cite any party to the cause to attend any such hearing.

**Period of intimation**

8. Intimation to the Board under these Rules shall be made not less than 14 days before the date fixed for the hearing of the motion.”.

Edinburgh,  
13th August 1996

*Hope of Craighead*  
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 the Act of Sederunt (Civil Legal Aid Rules) 1987 by making provision for intimation to the Scottish Legal Aid Board of applications for increases in fees which will subsequently be met by the Board. It enables the Board to be represented at any hearing on the application and to cite any party to attend such a hearing. It also provides that in all motions intimated to the Board under the rules, the period of intimation is 14 days.