

SCHEDULE

RULES OF THE SCOTTISH LAND COURT 2014

Taxation of expenses

Taxation of expenses

96.—(1) A party found entitled to expenses—

- (a) may, within 6 months after intimation of that finding, lodge an account of the expenses with the auditor of court; and
- (b) must make available to the auditor all vouchers and other documents relevant to the account and requested by the auditor.

(2) The period of 6 months specified in paragraph (1)(a) may be varied in any of the following circumstances—

- (a) the party liable in expenses has agreed in writing to some other period;
- (b) the auditor has, before the expiry of the period of 6 months, authorised a longer period; or
- (c) the court has, at any time, and on such conditions as it may specify, appointed a different period.

(3) On receipt of the account the auditor is to send a copy of it to the party found liable in expenses and is to intimate to that party that any challenge to the account must—

- (a) be by written submission lodged with the auditor within 4 weeks after intimation under this paragraph;
- (b) identify each item challenged; and
- (c) state concisely on what grounds the challenge is made.

(4) On receipt of any such written submissions the auditor is to send a copy of them to the party entitled to expenses and to invite that party to answer them, in writing, within 2 weeks after receipt of the copy.

(5) On receipt of answers under paragraph (4) the auditor is to send a copy of them to the party found liable in expenses.

(6) The auditor may, on cause shown, extend the periods specified in paragraphs (3) and (4).

(7) Where—

- (a) no submissions are lodged within the period mentioned in paragraph (3)(a) or such extended period as the auditor may allow;
- (b) submissions are so lodged but no answers are lodged within the period mentioned in paragraph (4) or such extended period as the auditor may allow; or
- (c) submissions and answers are duly lodged under paragraphs (3)(a) and (4) or within such extended period or periods as the auditor may have allowed,

the auditor is to proceed to tax the account taking into consideration any submissions and answers timeously lodged.

(8) In taxing the account the auditor may consider whether any item of account has been properly charged even where that item has not been challenged and may add to the account any item which she considers might properly have been included in the account.

Status: This is the original version (as it was originally made).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

Diet of taxation

97.—(1) The auditor of court may at any time fix a diet of taxation in substitution for all or part of the procedures provided for in rule 96(3) to (7).

(2) Where a diet of taxation is fixed under paragraph (1), the party found liable in expenses must, no later than 2 weeks before the diet, by written submission to the auditor identify any item of expenses challenged, stating concisely on what grounds the challenge is made.

(3) A party who lodges a written submission under paragraph (2) must send a copy of that submission to the party found entitled to expenses.

(4) At taxation the party found liable in expenses is not entitled to be heard in relation to any item unless intimation has been given in terms of paragraph (3), but the auditor may allow the party to be heard if satisfied that failure to give such intimation arose because of mistake, oversight or other excusable cause.

Report on taxation and objections

98.—(1) After the account has been taxed, the(4) auditor is to prepare a report on the taxation, stating the amount of the expenses as taxed, and is to send a copy of the report to the parties.

(2) Where a party has, in a written submission or at a diet of taxation, requested the auditor to give written reasons as to any matter, the report is to include a statement of those reasons.

(3) Within 1 week after receiving a copy of the report a party who considers the auditor has erred in any respect may request the auditor to reconsider any matter and provide such material in support of such request as will enable the auditor properly to reconsider the matter.

(4) Within 3 weeks after receiving a copy of the report a party who considers that the auditor has erred on a point of law may lodge a note of objection in that regard with the Principal Clerk.

(5) Any such note must set out the party's objection together with either—

(a) a statement of the grounds of objection; or

(b) a request that the auditor be required to submit a statement in relation to such matters as may be specified in the note (being matters relevant to what is contained, as respects the point of law, in the report).

(6) The court is to make such order for further procedure as respects a note of objection lodged under paragraph (4) as it thinks fit.

Fees allowed at taxation

99.—(1) The fees allowed to solicitors at taxation are to accord with those for the time being payable in ordinary actions in the sheriff court except in so far as the court may, as regards a particular case, order otherwise.

(2) The auditor may, if satisfied that it is in the interests of justice and fairness, allow interest on outlays incurred more than 18 months prior to the date of the order awarding expenses, at such rate or rates as the auditor considers appropriate.