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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 74**

**Act of Sederunt (Rules of the Court of Session,  
Sheriff Appeal Court Rules and Ordinary Cause Rules  
Amendment) (Taxation of Judicial Expenses) 2019**

**Amendment of the Rules of the Court of Session 1994**

- 4.—(1) The Rules of the Court of Session 1994<sup>(1)</sup> are amended in accordance with this paragraph.
- (2) In rule 19.1 (decrees in absence)—
- (a) in paragraph (3)(b)(ii), for “under Part I of Chapter III of the Table of Fees in rule 42.16” substitute “in accordance with paragraph (3A)”;
- (b) after paragraph (3), insert—
- “(3A) Where the pursuer elects to claim expenses comprising—
- (a) the inclusive charge set out in Part 1 of Table 1 in schedule 2 of the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019; and
- (b) outlays not exceeding £471.50 (excluding value added tax),
- the court may grant decree for payment of such expenses without the necessity of taxation.”.
- (3) In rule 34A.1 (pursuers’ offers – interpretation)<sup>(2)</sup>, for the definition of “fees” substitute—
- ““charges” means charges for work carried out by the pursuer’s solicitor, and includes any additional charge;”.
- (4) In rule 34A.9 (extent of defender’s liability)<sup>(3)</sup>, for “fees”, in both places where it appears substitute “charges”.
- (5) The heading of Chapter 42 (taxation of accounts and fees of solicitors) becomes “TAXATION OF ACCOUNTS, ETC.”.
- (6) In rule 42.1(2) (remit to the Auditor)<sup>(4)</sup>—
- (a) at the end of sub paragraph (a) add “or”;
- (b) in sub-paragraph (b)—
- (i) omit “if he has failed to comply with sub paragraph (a),”; and
- (ii) for “impose; and”, substitute “impose.”; and
- (c) omit sub-paragraph(c).
- (7) After rule 42.1(2) insert—

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(1) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443), last amended by S.S.I. 2018/348.

(2) Rule 34A.1 was inserted by S.S.I. 2017/52.

(3) Rule 34A.9 was inserted by S.S.I. 2017/52.

(4) Rule 42.1(2) was substituted by S.S.I. 2008/123.

“(2A) On lodging an account under paragraph (2)(a) or (b), any party found entitled to expenses must intimate a copy of it forthwith to the party found liable to pay those expenses.”

(8) In rule 42.2 (diet of taxation)(5), in paragraph (7) after “diet of taxation”, insert “or within such reasonable period of time thereafter as the Auditor may allow,”.

(9) In rule 42.3 (report of taxation)(6), for paragraph (1) substitute—

“(1) The Auditor must—

- (a) prepare a statement of the amount of expenses as taxed;
- (b) transmit the process of the cause, the taxed account and the statement to the appropriate Department of the Office of Court; and
- (c) on the day on which the documents mentioned in sub-paragraph (b) are transmitted, intimate that fact and the date of the statement to each party to whom the Auditor intimated the diet of taxation.”

(10) In rule 42.4 (objections to report of the auditor)(7), in paragraph (1)—

- (a) for “report of the Auditor” substitute “Auditor’s statement”;
- (b) for “date of the report” substitute “date of the statement”.

(11) After rule 42.4, insert—

**“Interest on expenses**

**42.4A.**—(1) At any time before extract of a decree for payment of expenses as taxed by the Auditor the court may, on the application of the party to whom expenses are payable, grant decree against the party decerned against for payment of interest on the taxed expenses, or any part thereof, from a date no earlier than 28 days after the date on which the account of expenses was lodged.

(2) Paragraph (1) is without prejudice to the court’s other powers in relation to expenses.”

(12) In rule 42.5 (modification or disallowance of expenses), omit paragraph (2).

(13) In rule 42.7 (taxation of solicitors’ own accounts)(8)—

(a) for paragraph (7), substitute—

“(7) The Auditor must—

- (a) prepare a statement of the fees and outlays as taxed;
- (b) transmit the statement and the taxed account to the appropriate Department of the Office of Court; and
- (c) send a copy of the statement to the solicitor and the client.”;

(b) in paragraph (7A), for “report” substitute “statement”; and

(c) in paragraph (8), for “report of the Auditor” substitute “Auditor’s statement”.

(14) Omit Part II of Chapter 42 (fees of solicitors).

(15) After Part III of Chapter 42 (fees in speculative causes), insert—

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(5) Rule 42.2 was substituted by [S.S.I. 2011/402](#).

(6) Rule 42.3 was amended by [S.S.I. 2011/402](#).

(7) Rule 42.4 was amended by [S.S.I. 2011/402](#).

(8) Rule 42.7 was amended by [S.S.I. 2011/402](#).

## “PART IV

### REMUNERATION OF REPORTERS

#### **Remuneration of reporters**

**42.18.**—(1) This rule applies where any matter in a cause is remitted by the court, at its own instance or on the motion of a party, to a reporter or other person to report to the court.

(2) The party liable to the reporter or other person for payment of that person’s fee, and reimbursement of that person’s outlays, is—

(a) where the court makes the remit at its own instance, the party so ordained by the court;

(b) where the court makes the remit on the motion of a party, that party.

(3) The solicitor for the liable party is personally liable in the first instance for payment of such fee and outlays.

(4) This rule applies subject to—

(a) any other provision in these Rules;

(b) any order of the court; or

(c) any agreement between a party and that party’s solicitor.”.