



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

## 1990 CHAPTER 40

### PART II

#### LEGAL SERVICES

##### *Solicitors' and counsel's fees*

#### **36 Solicitors' and counsel's fees.**

- (1) An advocate and the person instructing him may agree, in relation to a litigation undertaken on a speculative basis, that, in the event of the litigation being successful, the advocate's fee shall be increased by such percentage as may, subject to subsection (2) below, be agreed.
- (2) The percentage increase which may be agreed under subsection (1) above shall not exceed such limit as the court may, after consultation with the Dean of the Faculty of Advocates, prescribe by act of sederunt.
- (3) After section 61 of the 1980 Act there shall be inserted the following section—

#### **“61A Solicitors' fees.**

- (1) Subject to the provisions of this section, and without prejudice to—
  - (a) section 32(1)(i) of the Sheriff Courts (Scotland) Act 1971; or
  - (b) section 5(h) of the Court of Session Act 1988,

where a solicitor and his client have reached an agreement in writing as to the solicitor's fees in respect of any work done or to be done by him for his client it shall not be competent, in any litigation arising out of any dispute as to the amount due to be paid under any such agreement, for the court to remit the solicitor's account for taxation.

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**Changes to legislation:** *Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Cross Heading: Solicitors' and counsel's fees is up to date with all changes known to be in force on or before 11 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (2) Subsection (1) is without prejudice to the court’s power to remit a solicitor’s account for taxation in a case where there has been no written agreement as to the fees to be charged.
- (3) A solicitor and his client may agree, in relation to a litigation undertaken on a speculative basis, that, in the event of the litigation being successful, the solicitor’s fee shall be increased by such a percentage as may, subject to subsection (4), be agreed.
- (4) The percentage increase which may be agreed under subsection (3) shall not exceed such limit as the court may, after consultation with the Council, prescribe by act of sederunt.”.

<sup>F1</sup>(4) .....

**Textual Amendments**

**F1** S. 36(4) repealed (30.1.2019) by [Civil Litigation \(Expenses and Group Proceedings\) \(Scotland\) Act 2018 \(asp 10\)](#), s. 27(3), [sch. para. 5](#); S.S.I. 2018/368, reg. 2(o)

**Commencement Information**

**II** S. 36 partly in force; s. 36(2)(3) in force for certain purposes at 4.7.1992 and s. 36(1)-(3) wholly in force at 20.4.1992 see s. 75(2) and [S.I. 1992/1599](#), [arts.3,4](#), Schs. 1, 2.

**Changes to legislation:**

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Cross Heading: Solicitors' and counsel's fees is up to date with all changes known to be in force on or before 11 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21A(1)(c) words substituted by [2007 asp 5 Sch. 5 para. 3\(7\)\(a\)\(iii\)](#)
- s. 33(6) inserted by [2007 asp 5 Sch. 5 para. 3\(11\)](#)