1971 No. 219 (S.17)

LEGAL AID AND ADVICE, SCOTLAND

Act of Sederunt (Legal Aid Fees) 1971

Made - - - 29*th January* 1971

Coming into Operation 1*st March* 1971

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16(2) of the Legal Aid (Scotland) Act 1967(a) and of all other powers competent to them in that behalf, do hereby enact and declare as follows :—

1. The fees to be paid to a solicitor out of the Legal Aid Fund in respect of the representation of a person receiving legal aid in connection with proceedings in the Scottish Land Court shall be ninety per cent of the corresponding amount of fees calculated on the basis of the Table from time to time applicable in terms of Rule 109 of the Rules of the Scottish Land Court (b) as amended (c).

2.—(1) Subject to sub-paragraph (2) hereof and to any direction made in terms of the proviso hereto, the fees to be paid to a solicitor out of the Legal Aid Fund in respect of the representation of a person receiving legal aid in connection with proceedings in the Lands Tribunal for Scotland shall be ninety per cent of the corresponding amount of fees calculated on the basis of the Table from time to time regulating the taxation of accounts in the Sheriff Court : Provided that the Law Society of Scotland may, where circumstances warrant it, direct that the fees shall be ninety per cent of the corresponding amount of fees calculated on the basis of the Table from time to time regulating the taxation of accounts in the Court of Session.

(2) In any proceedings where the Land Tribunal for Scotland have, in terms of Rule 33(3) of the Lands Tribunal for Scotland Rules 1971(d), made an order as to the taxation of expenses the fees to be paid to a solicitor out of the Legal Aid Fund in respect of the representation of a person receiving legal aid in connection with such proceedings shall be ninety per cent of the corresponding amount of fees calculated on the basis of the Table of fees to which the order relates.

3. The fees to be paid to counsel out of the Legal Aid Fund in respect of the representation of a person receiving legal aid in connection with proceedings in the Scottish Land Court shall be ninety per cent of the corresponding amount which would have been allowed on taxation if such representation had not been subject to the benefit of legal aid.

(a) 1967 c. 43.

(b) S.R. & O. 1912/1750 (Rev. XII, p. 235).

(c) S.R. & O. 1932/439 (Rev. XII, p. 235: 1932, p. 714); S.I. 1949/144,1957/1955, 1963/1518, 1970/1763, 1970/1764 (1949 I, p. 2418; 1957 II, p. 2260; 1963 III, p. 2799; 1970 III, pp. 5751, 5753).

(d) S.I. 1971/218 (1971 I, p. 629).

4. The fees to be paid to counsel out of the Legal Aid Fund in respect of the representation of a person receiving legal aid in connection with proceedings before the Lands Tribunal for Scotland shall be ninety per cent of the corresponding amount which would have been allowed on taxation if such representation had not been subject to the benefit of legal aid.

5.—(1) If any question or dispute arises as to the amount payable to any Solicitor or counsel in respect of any remuneration for the representation of a person receiving legal aid in connection with proceedings in the Scottish Land Court, the matter shall be referred for taxation to the Auditor of the Scottish Land Court, and the fees to be paid to the Auditor for such taxation shall be on the scale from time to time in force for taxations in the Scottish Land Court.

(2) A reference to the Auditor under sub-paragraph (1) hereof need not be joint but may be made at the instance either of the solicitor concerned or of the Law Society of Scotland, and the Auditor shall give reasonable notice to both of the diet of taxation.

(3) The Law Society of Scotland and any other party to a reference to the Auditor under sub-paragraph (1) hereof shall have the right to state written objections to the Chairman of the Scottish Land Court in relation to the Auditor's report within seven days of the date of issue of such report, and the Law Society of Scotland and any such other party may be heard in chambers thereon.

6.—(1) If any question or dispute arises as to the amount payable to any solicitor or counsel in respect of any remuneration for the representation of a person receiving legal aid in connection with proceedings in the lands Tribunal for Scotland, the matter shall be referred for taxation

(*a*) where the fees are to be taxed according to the Sheriff Court Table of Fees to the Auditor of a Sheriff Court to be specified, failing agreement by the tribunal, and

(*b*) where the fees are to be taxed according to the fees payable in the Court of Session by the Auditor of the Court of Session and,

the fees to be paid to the Auditor for such taxation shall be on the scale from time to time in force for taxation in either the Sheriff Court or the Court of Session as appropriate.

(2) A reference to an Auditor under sub-paragraph (1) hereof need not be joint but may be at the instance either of the solicitor concerned or of the Law Society of Scotland, and the Auditor concerned shall give reasonable notice to both of the diet of taxation.

(3) The Law Society of Scotland and any other party to a reference to an Auditor under sub-paragraph (1)(*a*) hereof shall have the right to state written objections to the Sheriff in relation to the Auditor's report within seven days of the date of issue of such report, and the Law Society of Scotland and any such other party may be heard in chambers thereon.

(4) The Law Society of Scotland and any other party to a reference to the Auditor under sub-paragraph 1(*b*) hereof shall have the right to state written objections to the Court of Session in relation to the Auditor's report within

seven days of the date of issue of such report, and the Law Society of Scotland and any such other party may be heard by a Lord Ordinary in Chambers thereon. Rule 349 of the Rules of the Court of Session (a) shall apply to the determination of any such objections and hearing.

7. This Act of Sederunt may be cited as the Act of Sederunt (Legal Aid Fees) 1971 and shall come into operation on 1st March 1971.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

J. L. Clyde,
I.P.D.

Edinburgh.
29th January 1971.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt prescribes the fees payable out of the legal aid fund to solicitors and counsel in respect of representation of assisted persons in the Scottish Land Court and before the Lands Tribunal for Scotland.

(a) S.I. 1965/321 (1965 I, p. 803).