1960 No. 2270 (S. 119)

Act of Sederunt (Rules of Court Amendment No. 2) 1960

Made - - - - 25*th November*, 1960
Coming into Operation 25*th November*, 1960

The Lords of Council and Session, under and by virtue of the powers conferred upon them by Section 16 of the Administration of Justice (Scotland) Act, 1933(a), and of all other powers competent to them in that behalf, do hereby enact as follows:—

1. The Rules of the Court of Session(b), shall be amended by adding after Rule 357 the following Rule:—

SECTION 2A

Alternative Table of Fees of Solicitors in the Court of Session

357A. In all defended actions in taxations as between party and party and in consistorial causes the party in whose favour an award of expenses is made shall have the option of charging his Account against the opposite party in accordance with the following table of fees instead of charging a detailed account as at present. The fees shall be inclusive of all incidental work such as instructing Counsel and shall include copyings where not otherwise stated. All such fees are subject to percentage increases in force from time to time. Outlays are chargeable in addition.

1. *Fee on Instructions*

	£	s.	d.
To cover all fees until lodgment of Open Record ...	10	10	0
For each additional defender called in after the first defender or defenders before lodging of Open Record —to the pursuer and existing defender or defenders ...	1	1	0

2. *Record Fee*

To cover all fees in connection with adjustment and closing of Record	9	9	0
		or	
Where action is settled before Record is closed ...	7	7	0
(1) An additional fee to the pursuer and existing defender to be allowed for each defender brought in after the Open Record is lodged and prior to the Record being closed of	3	13	6
(2) If an additional defender is brought in after closing an additional fee (to include necessary amendments) to pursuer and existing defender or defenders of	5	5	0

(a) 23 & 24 Geo. 5. c. 41. (b) S.I. 1948/1691 (1948 I, p. 3778).

	£	s.	d.
3. *Procedure Roll or Debate Roll*			
Basic Fee, where discussion does not exceed one hour to include preparation and all incidental work including attending judgment	4	4	0
For every hour or part of an hour thereafter	1	1	0
4. *Adjustment of Issues and Counter-Issues*			
1. Fee to pursuer to include all work in connection with and incidental to the lodging of an issue and adjustment and approval thereof	4	4	0
2. If one Counter-Issue, an additional fee to pursuer of	2	2	0
3. Where more than one Counter-Issue an additional fee to the pursuer for each additional Counter-Issue of	1	1	0
4. Fee to defender to include all work in connection with lodging a Counter-Issue and adjustment and approval thereof	4	4	0
5. Fee to defender for considering Issue of	2	2	0
5. *Precognitions*			
Fee to cover instructions, instructing certified skilled witnesses, drawing, revising and copying precognitions and Reports so far as relevant to the action and framing index at the rate per sheet of:—			
(*a*) Where the case is disposed of *before* the pronouncing of an interlocutor approving of issues or allowing a proof	0	17	6
(*b*) Where the case is disposed of *after* the pronouncing of an interlocutor approving of issues or allowing a proof	1	2	6
6. *Commissions to take Evidence*			
1. *On Interrogatories*			
(a) *Undefended actions*			
Basic Fee to cover all work up to and including lodging completed Interrogatories but excluding attendance at execution of commission ...	8	8	0
If solicitor attends execution of commission an additional fee at rate per hour of	1	0	0
(b) *Defended actions*			
Basic Fee to solicitor applying for commission to cover all work up to and including lodging Report of commission with completed interrogatories and cross-interrogatories but excluding attendance at execution of commission ...	10	10	0
Basic Fee to opposing solicitor if cross-interrogatories are lodged	8	8	0
If no cross-interrogatories lodged	2	2	0
If solicitor attends execution of commission an additional fee at the rate per hour of ...	1	0	0

	£	s.	d.
2. *Open Commissions*			
Basic Fee to solicitor applying for commission up to and including lodging Report of Commission but excluding attendance at execution thereof ...	4	4	0
Basic fee to opposing solicitor	2	2	0
For attendance at execution of commission a fee at the rate per hour of	1	11	6
7. *Specification of Documents*			
Basic Fee to cover drawing, revising and lodging and all incidental procedure to obtain a diligence up to and including obtaining interlocutor	4	4	0
(*a*) If commission executed an additional fee per hour engaged of	1	11	6
(*b*) If alternative procedure adopted a fee per person upon whom Affidavit served of	1	1	0
8. *Incidental Procedure*			
Fixing diet, Note on Line of Evidence, citing witnesses, and to include all other charges not specifically mentioned. Not chargeable prior to pronouncing of an interlocutor approving of Issues or allowing a Proof	6	6	0
9. *Amendment of Record*			
(*a*) Amendment of conclusions only	1	11	6
(*b*) Amendment of Pleadings after Record closed			
(i) Where no Answers lodged	2	2	0
(ii) Where Answers lodged	5	5	0
10. *Preparation for Trial or Proof*			
Fee funding precept, lodging and borrowing process and productions, adjusting Joint Minute of Admissions, considering productions lodged by opponents, and recovered under diligences, arranging and attending consultation, preparing for trial or proof	10	10	0
11. *Copies*			
Productions, Reports of Commissions, Duplicate Inventory, Jury List, List of Witnesses and Lord Ordinary's opinion.			
At usual copying rates.			
12. *Settlements*			
(*a*) Tender			
Basic Fee for lodging or considering each Tender as the case may be	4	4	0
If accepted an additional fee of	1	11	6
(*b*) Extra judicial Settlement including Joint Minute ...	5	5	0
13. *Proof or Trial*			
Instructing Counsel and attendance per hour	1	11	6
14. *Framing and lodging Account, attending taxation* ...	3	13	6
15. *Obtaining Decree and ordering Extract*	1	11	6

16. *Final Procedure*

	£	s.	d.
1. If case goes to trial or proof, to include all work to close of litigation so far as not otherwise provided for, including in particular settlement of witnesses' fees, procuring and booking verdict at	2	2	0
2. If case disposed of before trial or proof	1	1	0

17. *Session Fee*

5 per cent. on total fees and copyings allowed on taxation.

The Auditor shall have power to apportion the foregoing fees between parties' solicitors in appropriate circumstances or to modify them in the case of a solicitor acting for more than one party in the same litigation or in the case of the same solicitor acting in more than one litigation arising out of the same circumstances or in the event of a litigation being settled or disposed of at a stage when the work covered by any inclusive fee has not been completed.

2. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 2) 1960 and shall come into operation on 25th November 1960.

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

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

Edinburgh.
25th November, 1960.

EXPLANATORY NOTE

(*This Note is not part of the Act of Sederunt, but is intended to indicate its general purport.*)

This Act of Sederunt provides an alternative inclusive scale of fees of solicitors in the Court of Session.