STATUTORY INSTRUMENTS

# 1983 No. 826 (S. 69)

# COURT OF SESSION, SCOTLAND

## Act of Sederunt (Rules of Court Amendment No. 4) (Taxation of Accounts) 1983

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| *Made* - - - - | *2nd June* 1983 |
| *Coming into Operation* | *27th June* 1983 |

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, hereby enact and declare—

*Citation and commencement*

**1.**—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 4) (Taxation of Accounts)) 1983 and shall come into operation on 27th June 1983.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

*Taxation of Accounts*

**2.** In the Rules of Court(**b**), for rules 348 and 349 substitute the following rules—

**"348. Remit to Auditor of Court**

(1) Where expenses are found due to a party in any cause and a remit is made to the Auditor of Court for taxation the Court shall—

(*a*) pronounce an interlocutor finding that party entitled to expenses; and

(*b*) subject to paragraphs (2) and (3) of rule 349, and unless satisfied that there is special cause shown for not doing so, decern against the party found liable in expenses as taxed by the Auditor.

(2) The party found entitled to expenses shall—

(*a*) lodge in process the account of expenses to be taxed; and

(*b*) intimate a copy of the account to each of the other parties to the cause.

(3) On receipt of the process the Auditor shall forthwith appoint a diet for taxation and intimate the diet to each of the parties to the cause.

(**a**) 1933 c. 41. (**b**) S.I. 1965/321.

(4) At the diet the party found entitled to expenses shall make available to the Auditor all vouchers, documents drafts or copies of documents sought by the auditor and relevant to the taxation.

**349. Report, Objections and Modification**

(1) The Auditor shall prepare a report on the taxation of the account of expenses, stating the amount of expenses as taxed.

(2) Any party to a cause may state objections to the report of the Auditor by lodging a note of objections within 14 days of the date of the report.

(3) A party lodging a note of objections shall—

(*a*) intimate a copy of the note to each of the other parties and to the Auditor;

(*b*) at the same time enrol a motion—

(i) to allow the note to be received and marked with a number of process; and

(ii) to ordain the Auditor to state by minute within 14 days reasons for his decision in relation to the items to which objection is taken in the note.

(4) After the minute of the Auditor has been lodged, the party who lodged the note of objections shall—

(*a*) enrol a motion for an order appointing parties to be heard on the note; and

(*b*) arrange with the Keeper of the Rolls for a hearing suitable to the Court and to any other party proposing to be heard.

(5) At the hearing the Court may—

(*a*) sustain or repel any objections in the note; and

(*b*) find any party liable in the expenses of the procedure on the note.

(6) In the event of an objection being sustained, the Court shall ordain the Auditor to amend his report to give effect to the decision of the Court.

(7) The decision of the Court on a note of objections shall be final unless reclaimed against with leave of the Court within 7 days.

(8) Where an assisted person has been found liable in expenses an application may be made within 14 days after the date of the report of the Auditor by motion—

(*a*) for assessment under section 2(6)(*e*) of the Legal Aid (Scotland) Act 1967(**a**), or

(*b*) if an assessment has been made under section 2(6)(*e*), for re-assessment under section 2(7), of the Legal Aid (Scotland) Act 1967,

of the amount of expenses he has to pay."

(**a**) 1967 c. 43.

*EMSLIE,*
Lord President,
I.P.D.

EDINBURGH.
2nd June 1983.

## EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of Court of the Court of Session by substituting new rules for rules 348 and 349 in relation to the taxation of accounts.

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