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STATUTORY INSTRUMENTS

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**1992 No. 1897 (S.190)**

**COURT OF SESSION, SCOTLAND  
SHERIFF COURT, SCOTLAND**

**Act of Sederunt (Fees of Advocates  
in Speculative Actions) 1992**

*Made* - - - - - *23rd July 1992*  
*Coming into force* - - - - - *17th August 1992*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 36(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990<sup>(1)</sup> and of all other powers enabling them in that behalf, having consulted the Dean of Faculty of Advocates, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Fees of Advocates in Speculative Actions) 1992 and shall come into force on 17th August 1992.

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

**Speculative fee charging agreement**

2.—(1) Where—

- (a) an advocate is instructed to undertake any work for a client in a litigation; and
- (b) the advocate and his instructing solicitor agree that the advocate is to be paid a fee only if the client is successful in the litigation,

the advocate and the solicitor may agree that the advocate's fee shall be increased by a figure not exceeding 100 per cent.

(2) The client of the solicitor shall be deemed to be successful in the litigation where—

- (a) the litigation has been concluded by the pronouncing of a decree by the court, which, on the merits, is to any extent in his favour;
- (b) the client has accepted a sum of money in settlement of his claim in the litigation; or

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(c) the client has entered into a settlement of non-monetary nature by which his claim in the litigation has been resolved to any extent in his favour.

(3) In sub-paragraph (1) above the “advocate’s fee” means the fee for each item of work undertaken by the advocate in the solicitor’s account of expenses for which the other party to the litigation has been found liable, taxed as between party and party or agreed, before the deduction of any award of expenses against the client.

Edinburgh  
23rd July 1992

*J.A.D. Hope*  
Lord President I.P.D.

## EXPLANATORY NOTE

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

This Act of Sederunt applies to advocates undertaking work in a litigation for a speculative fee. It—

- (a) enables the advocate and the instructing solicitor to agree that in the event of the success of the client in the litigation the advocate's fee shall be increased by a maximum of 100% (paragraph 2(1));
- (b) defines success for the purpose of determining whether the advocate is entitled to a fee (paragraph 2(2)); and
- (c) defines the advocate's fee for the purpose of applying the agreed percentage increase (paragraph 2(3)).