Equalities, Human Rights and Civil Justice Committee
24 September 2026
5th Meeting, 2026 (Session 7)

Note by the Clerk on Act of Sederunt (Taxation of Judicial Expenses Rules) (Amendment) 2026 (SSI 2026/238)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to the negative procedure. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. More information about the instrument is summarised below:

   Title of instrument: Act of Sederunt (Taxation of Judicial Expenses Rules) (Amendment) 2026 (SSI 2026/238)

   Laid under: powers conferred by section 1(2) of the Litigants in Person (Costs and Expenses) Act 1975(b), sections 105(1) and 106(1) of the Courts Reform (Scotland) Act 2014(c) and all other powers enabling it to do so.

   Laid on: 20 August 2026

   Procedure: Negative

   Deadline for committee consideration: 5 October 2026 (Advisory deadline for any committee report to be published)

   Deadline for Chamber consideration: 9 October 2026 (Statutory 40-day deadline for any decision whether to annul the instrument)

   Commencement: 10 October 2026

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.

4. Once laid, the instrument is referred to:

   - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

   - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on 1 September and reported on it in its 2nd Report, 2026. The DPLR Committee made no recommendations in relation to the instrument and did not draw it to the attention of the Parliament.

Purpose of the instrument

8. The Explanatory Note explains that the instrument “amends the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019”. Specifically, it “amends the value of the “unit” in rule 3.2 of the 2019 Rules by increasing it from £18.00 to £22.10.”

9. The “unit” is a measure of work by solicitors. Various court work-related tasks carried out by solicitors are broken down into amounts of units in the instrument being amended. The sum which can be charged for that work is calculated by multiplying the value of the unit by the amount of units allocated to that task.

10. These figures are used to calculate the level of legal expenses which can be recovered from the other side following court action. The normal rule is that the loser has to pay the winner’s legal expenses, but this rule can be varied. Note that the instruments only set what can be recovered in this context. They do not place any limits on what a solicitor can charge their client.

11. This increase takes effect on 10th October 2026 and only has effect in respect of work carried out on or after that date.

12. The Explanatory Note further explains that:

    - Rule 3.7 of the 2019 Rules is amended to make it clear that it relates to the reduction of charges; and
    - Rule 4.2 of the 2019 Rules is amended to make it clear that court fees are an allowable outlay.

13. No policy note or impact assessments were published alongside the instrument.

Committee consideration

14. So far, no motion recommending annulment has been lodged.

15. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:

- seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or

- inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

16. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).

17. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

Clerks to the Committee
September 2026