
STATUTORY INSTRUMENTS

1989 No. 1490 (S.119)

LEGAL AID AND ADVICE, SCOTLAND

The Civil Legal Aid (Scotland) (Fees) Regulations 1989

<i>Made</i>	- - - -	<i>14th August 1989</i>
<i>Laid before Parliament</i>		<i>17th August 1989</i>
<i>Coming into force</i>	- -	<i>31st August 1989</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 33 and 36(1) and (2)(a) of the Legal Aid (Scotland) Act 1986(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (Scotland) (Fees) Regulations 1989 and shall come into force on 31st August 1989.

Interpretation

2.—(1) In these Regulations, unless the context requires—

“auditor” means—

- (a) in relation to proceedings in the Court of Session, Lands Valuation Appeal Court, House of Lords, Restrictive Practices Court or Employment Appeal Tribunal, the Auditor of the Court of Session;
- (b) in relation to proceedings in a sheriff court the auditor of that sheriff court;
- (c) in relation to proceedings in the Scottish Land Court, the auditor of the Scottish Land Court; and
- (d) in relation to proceedings in the Lands Tribunal for Scotland either—
 - (i) the auditor of the Court of Session, or
 - (ii) the auditor of a sheriff court agreed to by the parties or, failing agreement, the Auditor of a sheriff court specified by that Tribunal;

“outlays” does not include fees of counsel.

(2) In these Regulations, unless the context otherwise requires, any reference to proceedings in a court or tribunal includes any preparatory work done in connection with such proceedings, whether or not the proceedings were actually begun.

(3) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to one of these Regulations and any reference to a numbered Schedule is a reference to a Schedule to these Regulations.

Fees and outlays regulated by these Regulations

3.—(1) These Regulations shall regulate the fees and outlays allowable to solicitors, and the fees allowable to counsel, from the Fund in respect of legal aid under the Legal Aid (Scotland) Act 1986, other than criminal legal aid, upon any taxation in accordance with regulation 12.

(2) These Regulations shall not apply to the fees and outlays recoverable by virtue of an award of expenses in favour of a person who has received legal aid or of an agreement as to expenses in favour of such a person, and where accounts of such fees and outlays are taxed they shall be taxed as if the work done for that person were not legal aid.

Fees and outlays allowable to solicitors

4. Subject to the provisions of regulations 5 and 7 regarding the calculation of fees, regulations 6 and 7 regarding the calculation of outlays, and the provisions of regulation 8 regarding the submission of accounts, a solicitor shall be allowed such fees and outlays as are reasonable for conducting the proceedings in a proper manner, as between solicitor and client, third party paying.

5.—(1) A solicitor's fees in relation to proceedings in the Court of Session shall be calculated in accordance with either Schedule 1 or 3 but it shall not be competent to charge fees partly on the basis of Schedule 1 and partly on the basis of Schedule 3.

- (a) (2) (a) Subject to sub-paragraphs (b) and (c) hereof a solicitor's fees in relation to proceedings in the sheriff court shall be calculated in accordance with either Schedule 2 or 3 but it shall not be competent to charge fees partly on the basis of Schedule 2 and partly on the basis of Schedule 3;
- (b) fees for work to which Chapters III or IV of Schedule 2 applies shall be chargeable only on the basis prescribed in those chapters; and
- (c) fees for sequestrations in bankruptcy (other than summary sequestrations) or proceedings under the Social Work (Scotland) Act 1968(2) shall be chargeable only on the basis of Schedule 3 and fees for summary sequestrations shall be chargeable only on the basis of 80 per cent of the fees in that Schedule.

(3) A solicitor's fees in relation to proceedings in the House of Lords, Restrictive Practices Court, Employment Appeal Tribunal, Lands Valuation Appeal Court, Scottish Land Court or Lands Tribunal for Scotland shall be calculated in accordance with Schedule 3.

(4) In all Court of Session proceedings a fee, additional to those set out in Schedules 1 or 3, may be allowed at the discretion of the Court to cover the responsibility undertaken by a solicitor in the conduct of the proceedings. In the sheriff court, in proceedings of importance or requiring special preparation, the sheriff may allow a percentage increase in a cause on the Ordinary Roll, not exceeding 50 per cent, and in a cause on the Summary Cause Roll, not exceeding 100 per cent, of the fees authorised by Schedules 2 or 3 to cover the responsibility undertaken by the solicitor in the conduct of the proceedings. The Court of Session in deciding whether to allow an additional fee and the auditor in determining that fee or the sheriff in fixing the amount of a percentage fee increase shall take into account the following factors—

- (a) the complexity of the proceedings and the number, difficulty or novelty of the questions involved;
- (b) the skill, specialised knowledge and responsibility required of and the time and labour expended by the solicitor;
- (c) the number and importance of the documents prepared or perused;
- (d) the place and circumstances of the proceedings or in which the solicitor's work of preparation for and conduct of it has been carried out;
- (e) the importance of the proceedings or the subject matter thereof to the client;
- (f) the amount or value of money or property involved; and
- (g) any other fees and allowances payable to the solicitor in respect of other items in the same proceedings and otherwise charged for in the account.

(5) The auditor of the Court of Session shall have power to increase or decrease any inclusive fee set out in Schedule 1 in any appropriate circumstances.

(6) The auditor shall have the power to apportion any fees set out in Schedules 1 or 2 between solicitors in appropriate circumstances or to modify any such fees in the case of a solicitor acting for more than one party in the same proceedings or in the case of the same solicitor acting in more than one proceeding arising out of the same circumstances or in the event of the proceedings being settled or disposed of at a stage when the work covered by any inclusive fee has not been completed.

(7) Where work done by a solicitor constitutes a supply of services in respect of which value-added tax is chargeable, there may be added to the amount of fees calculated in accordance with the foregoing paragraphs of this regulation an amount equal to the amount of value-added tax chargeable.

6. A solicitor's outlays shall include a charge in respect of posts and incidents of 12 per cent of the amount of the fees allowable to the solicitor in Schedules 1 and 2 (excluding any amount added in accordance with regulations 5(4) and (7)). In Schedule 3, without prejudice to any other claims for outlays, a solicitor shall not be allowed outlays representing posts and incidents.

7. Where any work is carried out in the preparation for or conduct of the proceedings and that work could more economically have been done by instructing a local solicitor, only such fees and outlays shall be allowed as would have been allowable if a local solicitor had been instructed, including reasonable fees for instructing and corresponding with him, unless it was reasonable in the interests of the client that the solicitor in charge of the proceedings, or a solicitor or clerk authorised by him, should attend personally.

Accounts in respect of solicitors' fees and outlays

8.—(1) Subject to paragraph (2) below, accounts prepared in respect of fees and outlays allowable to solicitors shall be submitted to the Board not later than 6 months after the date of completion of the proceedings in respect of which that legal aid was granted.

(2) The Board may accept accounts submitted in respect of fees and outlays later than the 6 months referred to in paragraph (1) if they consider that there is a special reason for late submission.

Fees allowable to counsel

9. Subject to the provisions of regulation 10 regarding calculation of fees, counsel may be allowed such fees as are reasonable for conducting the proceedings in a proper manner, as between solicitor and client, third party paying.

10.—(1) Counsel's fees in relation to proceedings in the Court of Session shall be calculated in accordance with Schedule 4.

(2) Counsel's fees for any work in relation to proceedings in the sheriff court, House of Lords, Restrictive Practices Court, Employment Appeal Tribunal, Lands Valuation Appeal Court, Scottish Land Court or Lands Tribunal for Scotland shall be 90 per cent of the amount of fees which would be allowed for that work on a taxation of expenses between solicitor and client, third party paying, if the work done were not legal aid.

Payments to account

11.—(1) A solicitor acting for, or counsel instructed on behalf of, a person receiving civil legal aid may prior to the completion of the proceedings for which the legal aid was granted submit a claim to the Board, in such form and complying with such terms and containing such information as the Board may require for assessment purposes, for payment of sums to account of his fees necessarily and reasonably incurred in connection with these proceedings.

(2) No claim may be made under this regulation, except in relation to civil legal aid granted on or after 1st April 1987, and that only after a period of 2 years has elapsed since the date on which the Board gave notice in writing of its decision to grant legal aid.

(3) Further claims may be made under this regulation at intervals of not less than 12 months after the date on which the first or, in the event of subsequent claims being made, the immediately preceding claim was made.

(4) The amount of any payment in respect of a claim under this regulation shall be 75 per cent of the fees that will become eligible for payment and earned up to the date of submission of the claim or, in the case of a further claim, earned in the period from the date of submission of the immediately preceding claim to the date of submission of such further claim.

(5) The making of a claim under this regulation shall not be regarded as an account of expenses nor shall the claim affect in any way the provisions of regulation 8 above with regard to the submission and acceptance of accounts prepared in respect of fees and outlays allowable to solicitors.

(6) Where payment has been made in accordance with the provisions of this regulation but the payment made exceeds in the case of any solicitor acting for the assisted person the total fees and outlays allowable to that solicitor in respect of the legal aid or in the case of any counsel instructed on behalf of the assisted person the total fees allowable to that counsel in respect of the legal aid, the excess shall be repaid to the Fund by such solicitor or counsel as the case may be:

Provided that where by reason of a failure to comply with the requirements of regulation 8 above with regard to submission of an account of his fees and outlays the amount of the fees and outlays allowable to a solicitor to whom payment has been made under this regulation cannot be ascertained, the Board may require such solicitor to repay to the Fund the whole amount paid under this regulation or such part thereof which it is satisfied may have been overpaid to the solicitor.

Taxation of fees and outlays

12.—(1) If any question or dispute arises between the Board and a solicitor or counsel as to the amount of fees or outlays allowable to the solicitor, or as to the amount of fees allowable to counsel, from the Fund under these Regulations, other than regulation 11 above, the matter shall be referred for taxation by the auditor.

(2) A reference to the auditor under paragraph (1) above may be at the instance of the solicitor concerned or, where the question or dispute affects the fees allowable to counsel, of the counsel concerned, or of the Board, and the auditor shall give reasonable notice of the diet of taxation to the solicitor or counsel as appropriate and to the Board.

(3) The Board and any other party to a reference to the auditor under paragraph (1) above shall have the right to state written objections to the court in relation to the auditor's report within 14 days

of the issue of that report, and may be heard thereon; and where the court is the Court of Session rule 349 of the Act of Sederunt (Rules of Court, consolidation and amendment) 1965(3) shall apply to the determination of any such objections.

- (4) For the purposes of this regulation the expression “the court” means—
- (a) in relation to any report of the Auditor of the Court of Session, the Court of Session;
 - (b) in relation to any report of the auditor of a sheriff court, the sheriff; and
 - (c) in relation to any report of the Auditor of the Scottish Land Court, the Chairman of the Scottish Land Court.

Revocation

13. Without prejudice to their continuation in effect for the purposes of legal aid for work done prior to 31st August 1989 the following Regulations are hereby revoked:—

- The Civil Legal Aid (Scotland) (Fees) Regulations 1987(4);
- The Civil Legal Aid (Scotland) (Fees) Amendment Regulations 1987(5);
- The Civil Legal Aid (Scotland) (Fees) Amendment (No.2) Regulations 1987(6);
- The Civil Legal Aid (Scotland) (Fees) Amendment Regulations 1988(7);
- The Civil Legal Aid (Scotland) (Fees) Amendment (No.2) Regulations 1988(8);
- The Civil Legal Aid (Scotland) (Fees) Amendment Regulations 1989(9);

St Andrew’s House,
Edinburgh
14th August 1989

Sanderson of Bowden
Minister of State, Scottish Office

(3) [S.I. 1965/321](#); the relevant amending instrument is [S.I. 1983/826](#)
(4) [S.I. 1987/366](#)
(5) [S.I. 1987/823](#)
(6) [S.I. 1987/895](#)
(7) [S.I. 1988/420](#)
(8) [S.I. 1988/1107](#)
(9) [S.I. 1989/391](#)

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SCHEDULE 1

Regulation 5

FEEES OF SOLICITORS FOR PROCEEDINGS IN THE COURT OF SESSION

1. In this Schedule, unless the context otherwise requires—

“the court” means the Court of Session; and

“session fee” means the fee set out in paragraph 21 of Part V of the Tables of Fees in the Schedule.

TABLE OF FEES

PART I — UNDEFENDED ACTIONS (OTHER THAN CONSISTORIAL ACTIONS)

1.	Inclusive fee to pursuer’s solicitor in all undefended cases where no proof is led, to cover all work from taking instructions up to and including obtaining extract decree	£75.95
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PART II — UNDEFENDED CONSISTORIAL ACTIONS (OTHER THAN ACTIONS TO WHICH PART III APPLIES)

1.	Fee for all work (other than precognitions) up to and including the calling of summons in court	£107.95
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Note: Precognition to be charged as in Part V, paragraph 5 of this Schedule

2.	<i>Incidental procedures</i> Fixing diet, enrolling action, preparation for proof, citing witnesses, etc.	£61.10
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3.	<i>Amendment</i>	
	(a) (a) Where summons amended, where re-service is not ordered, and motion is not starred	£15.40
	(b) (b) Where summons amended, where re-service is not ordered and motion is starred	£22.55
	(c) (c) Where summons amended	£28.55

PART I — UNDEFENDED ACTIONS (OTHER THAN CONSISTORIAL ACTIONS)

and re-service is ordered

4. *Commissions to take evidence on interrogatories*
- (a) (a) Basic fee £22.55 to cover all work up to and including lodging completed interrogatories
 - (b) (b) Additional fee for completed interrogatories, including all copies — per sheet £4.75
5. *Commissions to take evidence on open commission*
- (a) (a) Basic fee to solicitor applying for commission but excluding attendance at execution thereof £25.45
 - (b) (b) Attendance at execution of commission — per half hour £13.05
6. Where applicable the fees set out in paragraphs 6, 7, 10, 14, 16 and 21 of Part V of this Schedule may be charged
7. *Proof and completion fee* — excluding accounts of expenses but including instructing counsel for proof, attendance at proof, settling with witnesses, borrowing and returning productions, procuring interlocutor, and obtaining extract decree of divorce £75.95
8. *Accounts*
- Framing and lodging account and attending taxation £24.30

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PART I — UNDEFENDED ACTIONS (OTHER THAN CONSISTORIAL ACTIONS)

PART III — UNDEFENDED CONSISTORIAL ACTIONS: AFFIDAVIT PROCEDURE

1. In any undefended action of divorce or separation where—
 - (a) the facts set out in section 1(2)
 - (b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976(10) are relied upon; and
 - (b) the pursuer seeks to prove those facts by means of affidavits—
 - the pursuer’s solocitor may in respect of the work specified in column 1 of Table A in this paragraph charge, in a case where he is an Edinburgh solicitor acting alone, the inclusive fee specified in respect of that work in column 2 of that Table, and, in any other case, the inclusive fee specified in respect of that work in column 3 of that Table.

TABLE A

<i>Column 1</i> <i>Work done</i>	<i>Column 2</i> <i>Inclusive fee Edinburgh solicitor acting alone</i>	<i>Column 3</i> <i>Inclusive fee any other case</i>
1. All work to and including calling of the summons	£157.45	£180.00

(10) 1976 c. 39

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<i>Column 1 Work done</i>	<i>Column 2 Inclusive fee Edinburgh solicitor acting alone</i>	<i>Column 3 Inclusive fee any other case</i>
2. All work from calling to and including swearing affidavits	£112.50	£135.00
3. All work from swearing affidavits to and including sending extract decree	£33.75	£50.60
4. All work to and including sending extract decree	£303.75	£365.60
Add session fee to item 4	of 7½%	of 10%

2. In any undefended action of divorce or separation where—
- (a) the facts set out in section 1(2)(a) (adultery), 1(2)(c) (desertion), 1(2)(d) (two years' non-cohabitation and consent) or 1(2)(e) (five years' non-cohabitation) of the Divorce (Scotland) Act 1976 are relied on; and
 - (b) the pursuer seeks to prove these facts by means of affidavits—
 - the pursuer's solicitor may in respect of the work specified in column 1 of Table B in this paragraph charge, in a case where he is an Edinburgh solicitor acting alone, the inclusive fee specified in respect of that work in column 2 of that Table, and, in any other case, the inclusive

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fee specified in respect of that work in column 3 of that Table.

TABLE B

<i>Column 1 Work done</i>	<i>Column 2 Inclusive fee Edinburgh solicitor acting alone</i>	<i>Column 3 Inclusive fee any other case</i>
1. All work to and including calling of the summons	£129.35	£151.85
2. All work from calling to and including swearing affidavits	£61.90	£78.75
3. All work from swearing affidavits to and including sending extract decree	£33.75	£50.60
4. All work to and including sending extract decree	£225.00	£281.20
Add session fee to item 4	of 7½%	of 10%

3. If—
- (a) the pursuer’s solicitor charges an inclusive fee under either paragraph 1 of paragraph 2 of this Part, and
 - (b) the action to which the charge relates includes a conclusion relating to an ancillary matter—
 - in addition to that fee, he may charge in respect of the work specified in column 1 of Table C in this paragraph the inclusive fee specified in respect of that work in column 2 of that Table.

TABLE C

<i>Column 1</i> <i>Work done</i>	<i>Column 2</i> <i>Inclusive fee</i>
1. All work to and including calling of the summons	£31.50
2. All work from calling to and including swearing affidavits	£35.95
3. All work under items 1 and 2	£67.45
Add session fee to item 3 of 7½% in the case of an Edinburgh solicitor acting alone and 10% in any other case	

PART IV — OUTER HOUSE PETITIONS*A. Unopposed petitions*

1. Fee for all work, including precognitions and all copyings, up to and obtaining extract decree—
- (a) (a) in the case of an Edinburgh solicitor acting alone £159.10
- (b) (b) in any other case £222.00

Note: Outlays including duplicating charges to be allowed in addition.

B. Opposed petitions

2. Fee for all work (other than precognitions) up to and including lodging petition, obtaining and executing warrant for service £107.95

Note: Outlays including duplicating charges to be allowed in addition.

3. Where applicable, the fees set out in paragraphs 5, 7, 10, 12, 14, 18, 19, 20 and 21 of Part V of this Schedule may be charged.

4. Reports
- (a) (a) for £19.00
each report by

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Accountant of
Court

- (b) (b) For any other report as under Part V, paragraph 6 of this Schedule.

5. Obtaining Bond of Caution £19.00

PART V — DEFENDED ACTIONS

1. *Instruction fee*

- (a) (a) To cover all £149.55 work (apart from precognitions) until lodgement of open record
- (b) (b) Instructing £16.00 re-service where necessary
- (c) (c) If counter- £31.50 claim lodged, additional fee for solicitor for each party

2. *Record fee*

- (a) (a) To cover all £159.10 work in connection with adjustment and closing of record including subsequent work in connection with By Order Adjustment Roll
- (b) (b) To cover £99.10 all work as above, so far as applicable, where action settled or disposed of before record closed
- (c) (c) If consultation held before record closed, additional fees may be allowed as follows:
—

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- (i) arranging consultation £16.00
- (ii) Attendance at £13.05
consultation — per half
hour
- (d) (d) Additional £46.85
fee (to include
necessary
amendments) to the
solicitors for the
existing pursuer
and each existing
defender, to be
allowed for each
pursuer, defender
or third party
brought in before
the record is closed,
each of
- (e) (e) Additional £70.00
fee to the solicitors
for existing pursuer
and each existing
defender, to be
allowed for each
pursuer, defender,
or third party
brought in after the
record is closed,
each of

3.

*Procedure Roll of Debate
Roll*

- (a) (a) Preparing £31.50
for discussion and
all work incidental
thereto including
instruction of
counsel
- (b) (b) Attendance £13.05
at court — per half
hour
- (c) (c) Advising £23.75
and work incidental
thereto

4.

*Adjustment of issues and
counter-issues*

- (a) (a) Fee to £30.30
solicitor for pursuer
to include all

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work in connection with and incidental to the lodging of an issue, and adjustment and approval thereof

(b) (b) If £8.35 one counter-issue, additional fee to solicitor for pursuer

(c) (c) If more than £3.60 one counter-issue, additional fee to solicitor for pursuer for each additional counter-issue

(d) (d) Fee £30.30 to solicitor for defender or third party for all work in connection with lodging of counter-issues and adjustment and approval thereof

(e) (e) Fee £8.35 to solicitor for defender or third party for considering issue where no counter-issue lodged

(f) (f) Fee £3.60 to solicitor for defender or third party for considering each additional counter-issue

5.

Precognitions

Taking and drawing £15.40 precognitions — per sheet

Note:

(i) In addition each solicitor shall be entitled to charge for copies of the precognitions for the use of counsel and himself.

- (ii) Where a skilled witness prepares his own precognition or report the solicitor shall be allowed, for revising and adjusting it, half of the taking and drawing fee per sheet.

6. *Reports obtained under order of court excluding auditor's report*

- (a) (a) Fee for £33.25 all work incidental thereto
- (b) (b) Additional £4.75 fee per sheet of report to include all copies required (maximum £33.05)

7. *Specification of documents*

- (a) (a) Basic fee £31.50 to cover instructing counsel, revising and lodging and all incidental procedures to obtain a diligence up to and including obtaining interlocutor
- (b) (b) Fee to £15.40 opponent's solicitor
- (c) (c) If £13.05 commission executed, additional fee — per half hour
- (d) (d) If alternative £12.50 procedure adopted, fee per person upon whom order served

8. *Commission to take evidence on interrogatories*

- (a) (a) Basic fee to £63.50 solicitor applying for commission to cover all work up

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to and including
lodging report
of commission
with completed
interrogatories and
cross-
interrogatories

(b) (b) Basic fee to opposing solicitor if cross-interrogatories lodged £51.05

(c) (c) Fee to opposing solicitor if no cross-interrogatories lodged £19.00

(d) (d) Additional fee to solicitor for each party for completed interrogatories or cross-interrogatories, including all copies — per sheet £4.75

9. *Commission to take evidence on open commission*

(a) (a) Basic fee to solicitor applying for commission up to and including lodging report of commission, but excluding attendance at execution thereof £70.00

(b) (b) Basic fee to opposing solicitor £31.50

(c) (c) Attendance at execution of commission — per half hour £13.05

10. *Miscellaneous motions where not otherwise covered by this Schedule*

(a) (a) here attendance of £8.35

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- counsel and/or
solicitor not
required
- (b) (b) here £23.75
attendance of
counsel and/or
solicitor required,
inclusive of
instruction of
counsel — not
exceeding half hour
- (c) (c) Thereafter £13.05
attendance fee —
per additional half
hour
11. *Incidental procedure (not chargeable prior to approval of issue or allowance of proof)*
- Fixing diet, obtaining note £89.05
on the line of evidence,
etc., borrowing and
returning process, lodging
productions, considering
opponent's productions,
and all other work prior
to the consultation on the
sufficiency of evidence
12. *Amendment of record*
- (a) (a) Amendment £23.75
of conclusions
only — fee to
solicitor for pursuer
- (b) (b) Amendment £8.35
of conclusion
only — fee
to solicitor for
opponent
- (c) (c) Amendment £34.45
of pleadings after
record closed,
where no answers
to the amendment
are lodged — fee
to solicitor for
proposer
- (d) (d) In same £16.00
circumstances —

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fee to solicitor for
opponent

(e) (e) Amendment £81.25
of pleadings after
record closed
where answers are
lodged — fee
for solicitor for
each party lodging
answers

(f) (f) Fee £44.55
for adjustment
of minute and
answers, where
applicable, to
be allowed in
additiona to
solicitor for each
party

13.

*Preparation for trial or
proof to include fixings
consultation on the
sufficiency of evidence and
attendance thereat, fee-
funding precept, adjusting
minute of admissions, citing
witnesses, all work checking
and writing up process, and
preparing for trial or proof*

(a) (a) If action £216.05
settled before trial
or proof, or the trial
or proof lasts only
one day, to include,
where applicable,
instruction of
counsel

(b) (b) For each day £19.00
or part of a day after
the first, including
instruction of
counsel

(c) (c) To £39.20
cover preparing for
adjourned diet and
all work incidental
as in (a), if diet
postponed more
than 5 days

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14. *Copying all necessary papers by any means—*
- | | |
|-------------------------------|-------|
| First copy — per sheet | £0.81 |
| Additional copies — per sheet | £0.34 |
15. *Settlement by tender — fees for solicitor for either party*
- | | |
|--|--------|
| (a) (a) Basic fee for lodging, or for considering, first tender | £46.85 |
| (b) (b) Fee for lodging, or for considering, each further tender | £31.50 |
| (c) (c) Additional fee if tender accepted | £31.50 |
16. *Extra-judicial settlement*
- | | |
|--|--------|
| Fee inclusive of joint minute (not based on a judicial tender) | £81.25 |
|--|--------|
17. *Proof or trial*
- | | |
|--------------------------------|--------|
| Attendance fee — per half hour | £13.05 |
|--------------------------------|--------|
18. *Accounts — to include framing and lodging account, intimating diet, and attending taxation, uplifting account and noting and intimating taxations*
- | | |
|--|--------|
| | £57.00 |
|--|--------|
19. *Ordering and obtaining extract*
- | | |
|--|--------|
| | £11.90 |
|--|--------|
20. *Final procedure*
- | | |
|--|--------|
| (a) (a) 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 settling with witnesses and procuring and booking verdict, | £63.50 |
|--|--------|

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or attendance at
judgment

- (b) (b) If case £19.00
disposed of before
trial or proof

21. *Session fee — to cover
communications with client
and counsel*

- (a) Where no
correspondent — 7½%
of total fees (including
copying fees) allowed
on taxation
- (b) Where correspondent
involved — 10% of
total fees (including
copying fees) allowed
on taxation.

PART VI — INNER HOUSE BUSINESS

1. *Reclaiming motions*

- (a) (a) Fee £46.85
for solicitor for
appellant for all
work up to
interlocutor
sending case to roll
- (b) (b) Fee £23.75
for solicitor for
respondent
- (c) (c) Additional £19.55
fee for solicitor
for each party for
every 50 pages of
appendix

2. *Appeals from inferior courts*

- (a) (a) Fee £57.00
for solicitor for
appellant
- (b) (b) Fee £27.90
for solicitor for
respondent
- (c) (c) Additional £19.55
fee for solicitor
for each party for
every 50 pages of
appendix

3. *Summer or Short Roll*

- (a) (a) Preparing £46.85
for discussion,
instructing counsel,
and preparing
appendix
 - (b) (b) Attendance £13.05
fee — per half hour
- 4. Where applicable the fees set out in Part V of this Schedule may be charged.
- 5. *Special cases and Inner House petitions*
According to circumstances of the case.
- 6. Obtaining Bond of Caution £19.00

PART VII — ADMIRALTY AND COMMERCIAL CASES, SEQUESTRATIONS IN BANKRUPTCY, APPLICATIONS FOR SUMMARY TRIAL UNDER SECTION 10 OF THE ADMINISTRATION OF JUSTICE (SCOTLAND) ACT 1933(11) AND CASES REMITTED FROM THE SHERIFF COURT

The fees shall be based on this Schedule or Schedule 3 according to the circumstances.

SCHEDULE 2

Regulation 5

FEES OF SOLICITORS FOR PROCEEDINGS IN THE SHERIFF COURT

1. Subject to the following provisions of this Schedule fees shall be calculated in accordance with the Table of Fees in this Schedule.
2. Chapter III of the Table of Fees in this Schedule shall have effect subject to the following provisions:—
 - (a) in Parts I and II, in respect of paragraph 3 (attendance at court), no fee is allowable for attendance at a continuation of the first calling, unless specially authorised by the court;
 - (b) in Part I, in respect of paragraph 1 (instruction fee), in relation to actions for reparation there are allowable such additional fees for precognitions and reports as are necessary to permit the framing of the writ;
 - (c) in Part II, in respect of paragraph 7 (precognitions), in a case where a skilled witness prepares his own precognition or report half of the drawing fee is allowable to the solicitor for revising and adjusting it;
 - (d) in Part II, the fee allowable in respect of paragraph 14 (supplementary note of defence) is a fixed fee allowable when leave to lodge a supplementary note of defence is granted by the court;
 - (e) in Part II, in respect of paragraph 16 (final procedure), no fee shall be allowed in respect of accounts of expenses when the hearing on the claim for expenses takes place immediately on the sheriff or sheriff principal announcing his decision; and

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- (f) all fees chargeable under Chapter III in respect of the actions mentioned in the left hand column of the following table shall unless the sheriff, on a motion in that behalf, otherwise directs be reduced by the amount of the percentage specified opposite those actions in the right hand column of the table—

TABLE

<i>Actions</i>	<i>Percentage reduction</i>
1. Of a value from £50 to £250	25%
2. Of a value of less than £50	50%
3. For recovery of possession of heritable property	50%
4. Under the following enactments—	50%
(i) Tenancy of Shops (Scotland) Act 1949 ⁽¹²⁾ and	
(ii) section 3 of the Sheriff Courts (Civil Jurisdiction and Procedure) (Scotland) Act 1963 ⁽¹³⁾	

Provided that for the purposes of this sub-paragraph “value”, in relation to any action in which a counter-claim has been lodged, is the total of the sums craved in the writ and in the counter-claim.

3. In this Schedule “process fee” means the fee set out in paragraph 17 of Chapter II of the Table of Fees in this Schedule.

TABLE OF FEES

CHAPTER I — UNDEFENDED ACTIONS (OTHER THAN ACTIONS TO WHICH CHAPTER III OR IV APPLIES)

Part I — All actions except those actions of divorce or separation and aliment to which Part II applies

- | | | |
|----|---|--------|
| 1. | Actions (other than those specified in paragraph 2 of this Part) in which decree is granted without proof— | |
| | Inclusive fee to cover all work from taking instructions up to and including obtaining extract decree | £46.85 |
| | In cases where settlement is effected after service of a writ but before the expiry of the period of notice | £40.40 |
| 2. | Actions of separation and aliment (not being actions to | |

⁽¹²⁾ 1949 c. 25

⁽¹³⁾ 1963 c. 22; section 3 was amended by the Divorce (Scotland) Act 1976 (c. 39), section 8, by the Civil Jurisdiction and Judgments Act 1982 (c. 27), Schedule 14 and by S.I. 1985/626

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which Part II of this Chapter applies), adherence and aliment or custody and aliment where proof takes place—

Inclusive fee to cover all work from taking instructions to and including obtaining extract decree £222.00

Part II — Actions of divorce or separation and aliment where proof is by means of affidavits

1. In any undefended action of divorce or of separation and aliment where—
 - (a) the facts set out in section 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976(14) are relied upon; and
 - (b) the pursuer seeks to prove those facts by means of affidavits—
 - the pursuer’s solicitor may in respect of the work specified in column 1 of Table A in this paragraph charge the inclusive fee specified in respect of that work in column 2 of that Table.

TABLE A

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i>
1. All work to and including the period of notice	£157.45
2. All work from the period of notice to and including swearing affidavits	£112.50
3. All work from swearing affidavits to and including sending extract decree	£33.75
4. All work to and including sending extract decree	£303.75
Add process fee to item 4	of 10%

(14) 1976 c. 39

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-
2. In any undefended action of divorce or separation and aliment where—
- (a) the facts set out in section 1(2)(a) (adultery), 1(2)(c) (desertion), 1(2)(d) (two years' non-cohabitation and consent) or 1(2)(e) (five years' non-cohabitation) of the Divorce (Scotland) Act 1976 are relied on; and
 - (b) the pursuer seeks to prove these facts by means of affidavits—
 - the pursuer's solicitor may in respect of the work specified in column 1 of Table B in this paragraph charge the inclusive fee specified in respect of that work in column 2 of that Table.
-

TABLE B

<i>Column 1 Work done</i>	<i>Column 2 Inclusive fee</i>
1. All work to and including period of notice	£129.35
2. All work from the period of notice to and including swearing affidavits	£61.90
3. All work from swearing affidavits to and including sending extract decree	£33.75
4. All work to and including sending extract decree	£225.00
Add process fee to item 4	of 10%

3. If—
- (a) the pursuer's solicitor charges an inclusive fee under either paragraph 1 of paragraph 2 of this Part, and
 - (b) the action to which the charge relates includes a crave relating to an ancillary matter—
 - in addition to that fee, he may charge in respect of the work

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specified in column 1 of Table C in this paragraph the inclusive fee specified in respect of that work in column 2 of that Table.

TABLE C

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i>
1. All work to and including calling of notice	£61.25
2. All work from the period of notice to and including swearing affidavits	£35.95
3. All work under items 1 and 2	£97.30

CHAPTER II — DEFENDED ACTIONS (OTHER THAN ACTIONS TO WHICH CHAPTER III OR IV APPLIES)

1. *Instruction fee* — to cover all work (except as hereinafter otherwise specially provided for in this Chapter) to the lodging of defences including copyings £101.50
 - Additional fee where separate statement of facts and counter claim answers lodged £35.65
2. *Adjustment fee* — to cover all work (except as hereinafter otherwise specially provided for in this Chapter) in connection with the adjustment of the record including (when appropriate) closing thereof, making up and lodging closed record and copyings—
 - (a) (a) Fee to solicitor for any party £151.90
 - (b) (b) Fee to each original party’s solicitor if action settled before record is closed £101.50
 - (c) (c) Additional fee to each original party’s solicitor if additional defender brought in before closing of record £17.80

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- (d) (d) Additional £25.50
 fee to each original
 party's solicitor if
 additional defender
 brought in after
 closing of record
3. *Fee for framing affidavits — £6.60
 per sheet*
4. (a) (a) *Debate free —*
 to include preparation
 for and conduct
 of any hearing
 on debate other
 than on evidence,
 enquiring for cause
 at avizandum and
 noting interlocutor—
- When debate does not exceed 1 hour £76.05
- For every half hour engaged after the first hour £17.80
- (b) (b) *Interim
 interdict hearings—*
- Pursuer's solicitor — the
 same fees as for debate fee
 above, but to include both the
 appearance at lodging of writ
 and the hearing at second diet.
- Defender's solicitor's fee £44.45
 where the debate does not
 exceed 1 hour
5. *Precognitions — taking amd £15.40
 drawing — per sheet*
- Note:* Where a skilled witness
 prepares hiw own precognition
 or report, the solicitor shall be
 allowed half of above drawing
 fee for revising and adjusting
 it.
- 5A. *Reports obtained under order
 of court, excluding auditor's
 report*
- (a) (a) Fee for £33.25
 all work incidental
 thereto
- (b) (b) Additional fee £4.75
 per sheet of report

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to include all copies
required (maximum
£33.05)

6.

Commissions to take evidence

(a) (a) On
interrogatories

Fee to solicitor applying £94.95
for commission to include
drawing, intimating and
lodging motion, drawing
and lodging interrogatories,
instructing commissioner
and all incidental work
(except as otherwise specially
provided for in this Chapter)
but excluding attendance at
execution of commission

Fee to opposing solicitor if £63.50
cross-interrogatories prepared
and lodged

If no cross-interrogatories £19.00
lodged

(b) (b) Open
commissions

Fee to solicitor applying for £57.00
commission to include all
work (except as otherwise
specially provided for in this
Chapter) up to lodging report
of commission but excluding
attendance thereat

Fee to solicitor for opposing £31.50
party

Fee for attendance at execution £17.80
of commission — per half hour

Travelling time — per half £13.05
hour

7.

Specification of documents

Fee to cover drawing, £39.20
intimating and lodging
specification and relative
motion and attendance at court
debating specification

Inclusive fee to opposing £25.45
solicitor

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Fee for citation of havers,
preparation for and attendance
before commissioner at
execution of commission—

Where attendance before £35.65
commissioner does not exceed
1 hour

For each additional half hour £17.80
after the first hour

If commission not executed — £7.80
fee for serving each party
with a copy of specification
to include recovering and
examining documents or
productions referred to therein

8.

Amendment of record

Fee to cover drawing,
intimating and lodging minute
of amendment and relative
motion and relative attendance
at court—

(a) (a) Where £43.35
answers lodged

(b) (b) Where no £28.55
answers lodged

Inclusive fee to opposing
solicitor—

(a) (a) Where £35.65
answers lodged

(b) (b) Where no £23.75
answers lodged

Additional fee to solicitor for £31.50
each party for adjustment of
minute and answers, where
applicable

9.

Motions and minutes

Fee to cover drawing,
intimating and lodging any
written motion or minute,
including a reponing note, and
relative attendances at court
(except as otherwise provided
for in this Chapter)—

(a) (a) Where £44.45
opposed

- (b) (b) Where £31.50
unopposed (including
for each party a
joint minute other
than under paragraph
14(b))

Fee to cover considering
opponent's written motion,
minute or reopening note and
relative attendances at court—

- (a) (a) Where motion, £25.45
minute or reopening
note opposed
- (b) (b) Where motion, £16.10
minute or reopening
note unopposed

10.

Procedure preliminary to proof

- (a) (a) Fee to
cover fixing diet
of proof, citation
of witnesses, and
generally preparing
for trial or proof
and if necessary
instructing shorthand
writer—

- (i) if action settled or £111.20
abandoned not later than
14 days before the diet of
proof

- (ii) in any other proceedings £185.30

- (b) (b) Free to £38.00
cover preparing for
adjourned diet and
all incidental work as
in sub-paragraph (a)
above if diet
postponed for more
than 6 days — for
each additional diet

- (c) (c) Drawing £16.10
and lodging and
inventory of
productions, lodging
the productions
specified therein,
and considering
opponent's

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	productions (to be charged once only in each process)	
	(d) (d) Where only one party lodges productions, opponent's solicitor's fee for considering same	£8.35
11.	<i>Conduct of proof</i>	
	Fee to cover conduct of proof and debate on evidence is taken at close of proof — per half hour	£17.80
	If counsel employed, fee to solicitor appearing with counsel;—per half hour	£13.05
12.	<i>Debate on evidence</i>	
	Where debate on evidence not taken at conclusion of proof, fee for preparing for debate	£31.50
	Fee for conduct of debate — per half hour	£17.80
	If counsel employed, fee to solicitor appearing with counsel — per half hour	£13.05
13.	<i>Appeals</i>	
	(a) (a) To sheriff principal	
	Fee to cover instructions, marking of appeal or noting that appeal marked, noting diet of hearing thereof and preparation for hearing	£59.40
	Fee to cover conduct of hearing — per half hour	£17.80
	If counsel employed, fee to solicitor appearing with counsel — per half hour	£13.05
	(b) (b) To Court of Session	
	Fee to cover instructions, marking appeal or noting that appeal marked and instructing Edinburgh correspondents	£29.65

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14. *Settlements*
- (a) (a) Judicial tender
- Fee for preparation and lodging or for consideration of minute of tender £35.00
- Fee on acceptance of tender, to include preparation and lodging or consideration of minute of acceptance and attendance at court when decree granted in terms thereof £26.15
- (b) (b) Extra-judicial settlements
- Fee to cover negotiations resulting in settlement, framing or revising joint minute and attendance at court when authority interponed thereto £59.40
15. *Final procedure*
- Fee to cover settling with witnesses, enquiries for cause at avizandum, noting final interlocutor £46.85
- Fee to cover drawing account of expenses, arranging, intimating and attending diet of taxation and obtaining approval of auditor's report and adjusting account with opponent where necessary, ordering, procuring and examining extract decree £38.00
- Fee to cover considering opponent's account of expenses and attending diet of taxation on adjusting account with opponent £11.90
16. *Copying fees*
- Copying all necessary papers by any means—
- First copy — per sheet £0.81
- Additional copies — per sheet £0.34
- Note:* A sheet shall be 250 words.
When copied by photostatic

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- or similar process, each page shall be charged as one sheet.
17. *Process fee*
 Fee to cover all consultations between solicitor and client during the progress of the cause and all communications, written or verbal, passing between them:
 10% on total fees (including copying fees) allowed on taxation.
18. *Fee for instruction of counsel*
 Fee for instructing counsel to revise record £19.50
 Fee for instructing counsel to conduct debate or proof £39.20
 Fee for instructing counsel to conduct appeal to sheriff principal £39.20
- Note:* In each case to cover all consultations, revisal of papers and all incidental work.

CHAPTER III — SUMMARY CAUSE

Part I — Undefended actions

1. Fee, to include taking instructions, framing summons and statement of claim, obtaining warrant for service, serving, instructing service as necessary by sheriff officer (where appropriate), attendance endorsing minute for and obtaining decree in absence and extract decree and including posts and incidents £35.00
2. *Service*
 (a) (a) Citation by post wheresoever after the first citation for each party £4.00
 (b) (b) Framing and instructing service by advertisement — for each party £11.25
3. Attendance at court £11.25

Part II—Defended actions

1.
 - (a) (a) Instruction £48.10
fee for pursuer's solicitor, to include taking instructions, framing summons and statement of claim, obtaining warrant for service, enquiring for notice of intention to defend, attendance at first calling, noting defence
 - (b) Instruction fee for defender's solicitor, to include taking instructions (including instructions for a counter-claim) and all work up to an including attendance at first calling and stating a defence
Such fee as appears to the auditor to provide reasonable remuneration for the work done but not to exceed the fee prescribed in sub-p[aragraph (a) above.
2. *Service*
 - (a) (a) Citation £4.00
by post within the United Kingdom, Isle of Man, Channel Islands, or the Republic of Ireland — for each party

Citation by post elsewhere — £8.55
for each party
 - (b) (b) Instructing £4.00
service or reservice

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- by sheriff officer including perusing execution of citation and settling sheriff officer's fee — for each party
- (c) (c) Framing and instructing service by advertisement — for each party £12.50
3. *Attendance at court*
- Attendance at any diet except as otherwise specifically provided £12.50
4. Preparing for proof, to include all work in connection with proof not otherwise provided for £43.45
5. Fee to cover preparing for adjourned diet and all incidental work if diet postponed for more than 6 days — for each adjourned diet £21.75
6. Drawing and lodging inventory of productions, lodging the productions specified therein and considering opponents' productions (to be charged once only in each process) £18.50
- Where only one party lodges productions, opponent's solicitor's fee for considering same £8.55
7. *Precognitions*
- Drawing precognitions, including instructions, attendances with witnesses and all relative meetings and correspondence — per witness £18.50
- Where precognition exceeds 2 sheets — for each additional sheet £8.55
8. *Motions and minutes*
- Fee to cover drawing, intimating and lodging of any written motion or minute, excluding a minute or motion

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- to recall decree, and relative attendance at court (except as otherwise provided in this Chapter)—
- (a) (a) Where £26.40
opposed
 - (b) (b) Where £15.85
unopposed (including
for each party a
joint minute or joint
motion)
9. Fee to cover considering
opponent's written motion or
minute excluding a minute or
motion to recall decree, and
relative attendance at court—
- (a) (a) Where motion £21.75
or minute opposed
 - (b) (b) Where motion £12.50
or minute unopposed
10. *Conduct of proof*
- Fee to cover conduct of proof £12.50
and debate on evidence taken
at close of proof — per half
hour
- Waiting time — per half hour £6.65
11. *Settlements*
- (a) (a) Judicial
tender—
- Fee for consideration of, £26.40
preparing and lodging minute
of tender
- Fee for consideration and £18.50
rejection of tenders
- Fee on acceptance of tender — £18.50
to include preparing and
lodging, or consideration of,
minute of acceptance and
attendance at court when
decree granted in terms thereof
- Extra-judicial settlement — £43.45
fee to cover negotiations
resulting in settlement, framing
or revising joint minute and
attendance at court when
authority interponed thereto

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12.

Specification of documents

- (a) (a) Fee to cover £21.75
drawing, intimating
and lodging
specification of
documents and
relative motion and
attendance at court
- (b) (b) Inclusive fee £19.85
to opposing solicitor
- (c) (c) Fee to solicitor £12.50
for each party for
citation of havers,
preparation for and
attendance before
commissioner — for
each half hour
- (d) (d) If alternative £8.55
procedure adopted,
fee per person upon
whom order served

13.

Commission to take evidence

- (a) (a) Fee to cover
drawing, lodging and
intimating motion
and attendance at
court—
 - (i) Where opposed £26.40
 - (ii) Where unopposed £15.85
- (b) (b) Fee to
cover considering
such motion and
attendance at court—
 - (i) Where opposed £21.75
 - (ii) Where unopposed £12.50
- (c) (c) Fee to £12.50
cover instructing
commissioner and
citing witness
- (d) (d) Fee to cover £8.55
drawing and lodging
interrogatories and
cross-
interrogatories — per
sheet

	(e) (e) Attendance before commissioner — per hour	£11.90
	Travelling time — per hour	£7.95
14.	Supplementary note of defence (when leave granted to lodge)	£8.55
15.	<i>Appeals</i>	
	Fee to cover instructions, marking of appeal or noting that appeal marked, noting of diet of hearing thereof and preparations for hearing	£59.40
	Fee to cover conduct of hearing — per half hour	£12.50
16.	<i>Final Procedure</i>	
	Fee to cover settling with witnesses, enquiries at avizandum, noting final interlocutor	£26.40
	Fee to cover drawing account of expenses, arranging, intimating and attending hearing on expenses, and obtaining approval of sheriff clerk's report	£26.40
	Fee to cover considering opponent's account of expenses and attendance at hearing on expenses	£12.50

**EXECUTRY BUSINESS
CHAPTER IV**

1.	<i>Petition for decree dative</i>	
	Inclusive fee for taking instructions to present petition, drawing petition and making necessary copies, lodging and directing publications, attendance at court, moving for decree-dative, extracting decree where necessary and all matters incidental to petition	£26.70
2.	<i>Restriction of Caution</i>	
	Inclusive fee for taking instructions to prepare petition drawing petition and making	£26.70

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- necessary copies, lodging,
instructing advertiwement
and all matters incidental to
petition
3. Fees for other work shall
be chargeable according to
Schedule 3
-

SCHEDULE 3

Regulation 5

TABLE OF DETAILED FEES CHARGEABLE BY SOLICITORS FOR PROCEEDINGS IN THE COURT OF SESSION AND SHERIFF COURT

1. The fee for—
 - (1.1) Any time up to the first half hour spent by a solicitor conducting a proof or hearing shall be £20.70;
 - (1.2) Each quarter hour (or part thereof) subsequent to the first half hour shall be £10.35.
2. The fee for—
 - (2.1) Each quarter hour (or part thereof) spent by a solicitor in carrying out work other than that prescribed in paragraphs 1 and 3 to 8 hereof, provided that any time is additional to the total time charged for under paragraph 1.1 above, shall be £8.60.
 - (2.2) Each quarter hour (or part thereof) spent by a solicitor’s clerk in carrying out work other than that prescribed in paragraphs 3 to 8 hereof shall be £4.30.
3. The fee for—

Framing affidavits — per sheet (or part thereof) shall be £7.35.
4. The fee for—

Framing and drawing all necessary papers, other than affidavits or papers of a formal character, shall be £4.70.
5. The fee for—
 - (5.1) Each citation of a party, witness or haver including execution thereof;
 - (5.2) Instructing messengers-at-arms and sheriff officers, including examining execution and settling fee;
 - (5.3) Agency accepting service of any writ;
 - (5.4) Lodging first step of process;
 - (5.5) Lengthy telephone calls (of over 4 minutes and up to 10 minutes duration);
 - (5.6) Letters, including instructions to counsel — per page (or part thereof), subject to paragraph 7 below;
 - (5.7) Perusing any document (other than a letter) consisting of not more than 12 sheets — for the first 2 sheets and each 2 sheets thereafter* shall be £4.25.

*(NOTE: Where the document perused consists of more than 12 sheets the fee for perusing the whole document shall be charged in accordance with paragraph 2 above).
6. The fee for—

(6.1) Attendance at court offices for carrying out formal work including making up process and each necessary lodging in (other than first step), uplifting from or borrowing of process (to include return of same) or enquiry for documents due to be lodged;

(6.2) Revising papers drawn by counsel, open and closed records etc or where revision ordered (per 5 sheets or part thereof);

(6.3) Framing formal papers such as inventories, title pages and accounts of expenses per sheet (or part thereof);

(6.4) Certifying or signing a document;

(6.5) Short telephone calls (of up to 4 minutes duration) shall be £2.05.

7. The fee for—

Short letters of a formal nature, intimations, and letters confirming telephone calls shall be £1.10.

8. Where an exceptional amount of copying proves necessary, a fee of 30 pence shall be paid for each sheet.

Interpretation

In this Table:

“court” means court or tribunal as the case may be;

a “sheet” shall consist of 250 words or numbers;

a “page” shall consist of 125 words or numbers; and

“exceptional” means the production of more than 20 output copy sheets (whether 20 of 1 sheet, 5 of 4 sheets or whatever) when a document has been copied.

SCHEDULE 4

Regulation 10

FEES OF COUNSEL FOR PROCEEDINGS IN THE COURT OF SESSION

1. Subject to the following provisions of this Schedule, fees shall be calculated in accordance with the Table of Fees in this Schedule.

2. Where the Table of Fees in this Schedule does not prescribe a fee for any class of proceedings or any item of work, the auditor shall allow such fee as appears to him appropriate to provide reasonable remuneration for the work with regard to all the circumstances, including the general levels of fees in the said Table of Fees.

3. Where the Table of Fees in this Schedule prescribes a range of fees, the auditor shall (subject to paragraphs 4 and 5 of this Schedule) allow such fee within that range as appears to him to provide reasonable remuneration for the work.

4. The auditor shall have power to increase any fee set out in the Table of Fees in this Schedule where he is satisfied that because of the particular complexity or difficulty of the work or any other particular circumstances such an increase is necessary to provide reasonable remuneration for the work.

5. The auditor shall have power to reduce any fee set out in the Table of Fees in this Schedule where he is satisfied that because of any particular circumstances a reduced fee is sufficient to provide reasonable remuneration for the work.

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TABLE OF FEES

CHAPTER I — JUNIOR COUNSEL

Part I — *Undefended actions of divorce or separation — affidavit procedure*

1. *Summons or other initiating writ*
- (a) (a) Subject to subparagraph (b) below the fees shall be—
- (i) Where the facts set out in section 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976⁽¹⁵⁾ are relied on £24.50
- (ii) Where the facts set out in section 1(2)(a) (adultery) or section 1(2)(c) (desertion) of the said Act are relied on and the action is not straightforward £24.50
- (iii) Where the facts set out in the said section 1(2)(a) (adultery) or section 1(2)(c) (desertion) are relied on and the action is straightforward £20.00
- (iv) Where the facts set out in section 1(2)(d) (2 years' non-cohabitation and consent) or 1(2)(e) (5 years' non-cohabitation) of the said Act are relied on £20.00
- (b) (b) Where common law interdict and/or any order under the Matrimonial Homes (Family Protection) (Scotland) Act 1981⁽¹⁶⁾ or any other ancillary order is also sought, the fee

⁽¹⁵⁾ 1976 c. 39

⁽¹⁶⁾ 1981 c. 59

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shall be within the following range—

From £24.50

To £46.00

2.

Minute

(a) (a) Minute £18.00 involving arrangements for a child or children and/or financial provision

(b) (b) Any other minute £14.00

3.

By Order Roll appearance £14.00

4.

All other work

The fees specified in Part IV shall apply.

Part II — Consistorial actions other than those to which Part I applies

1.

Summons or other initiating writ

The fees specified in Part I shall apply.

2.

Minute for pursuer relating to custody, aliment or access £20.50

3.

Defences or answers

(a) (a) Defences or answers in purely skeleton form to preserve rights of parties £11.50

(b) (b) Answers to minute £18.00

(c) (c) The fee for defences or answers to which sub-paragraph (a) or (b) does not apply shall be within the following range:—

From £20.00

To £41.00

4.

Joint minute regulating custody, aliment or access

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- | | | |
|----|---------------------------------|--------|
| | Framing or adjusting the minute | £17.50 |
| 5. | <i>By Order Roll appearance</i> | £14.00 |
| 6. | <i>All other work</i> | |
- The fees specified in Part IV shall apply.

Part III — Petitions

1. *Petition (including any revisals thereto)*
 - (a) (a) Petition for interdict £52.00
 - (b) (b) Other Outer House petitions £34.50
 - (c) (c) Inner House petition: such fee shall be allowed as appears to the auditor to provide reasonable remuneration for the work.

 2. *Answers (including any revisals thereto)*
 - (a) (a) Petition for interdict £52.00
 - (b) (b) Other Outer House petitions £32.00
 - (c) (c) Inner House petitions: such fee shall be allowed as appears to the auditor to provide reasonable remuneration for the work.

 3. *All other work*
- The fees specified in Part IV shall apply.

Part IV — Ordinary actions

1. *Summons (including any revisals thereto)*
 - (a) (a) Straightforward cases £43.50
 - (b) (b) Other cases £57.00

2. *Defences (including any revisals thereto)*

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(a) (a) Where in £11.50
purely skeleton form
to preserve rights of
parties

(b) (b) Otherwise the
fee shall be within
the following range,
having regard to
nature of summons:
—

From £43.50

To £57.00

3. *Adjustment of record*

(a) (a) Adjustment £18.00
fee (each occasion)

(b) (b) Additional £43.50
adjustment fee,
where skeleton
defences require to
be amplified, where
additional parties are
introduced, etc.

4. *Specification of documents*

Standard calls only £18.00

5. *Minutes etc.*

(a) (a) Formal £16.50
amendments or
answers

(b) (b) Amendments £29.00
or answers other than
formal

(c) (c) Revising and £7.50
signing tender or
acceptance

(d) (d) Note of £18.00
exceptions

(e) (e) Abandonment, £9.00
sist, restriction, etc.

(f) (f) Issue or £9.00
counter issue

6. *Notes*

(a) (a) Note on £46.00
quantum only

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(b) (b) Note advising £52.00
on tender or
extra-judicial offer,
where not merely
confirming advice at
consultation

(c) (c) Note on line of £52.00
evidence

(d) (d) The fee for
other tyhpes of note
shall be within the
following range:—

From £17.50

To £52.00

7.

Consultations

(a) (a) Before
proof or trial, or
otherwise involving
a significant degree
of preparation or
lengthy discussion—

(i) Junior alone £63.50

(ii) Junior with Senior £34.50

(b) (b) Other
consultations—

(i) Junior alone £52.00

(ii) Junior with Senior £29.00

8.

Motions

(a) (a) Unopposed £9.00
motions on By Order
(Adjustment) Roll,
etc.

(b) (b) Opposed
motions—

Attendance for up to half hour £18.00

Attendance for each £14.00
subsequent half hour or part
thereof

(c) (c) Motions on By £16.50
Order roll (including
advice)

9.

*Procedure Roll, proof or jury
trial*

- (a) (a) Junior alone — £189.00 per day
 - (b) (b) Junior with Senior — £143.50 per day
- 10. *Inner House*
 - (a) (a) Single Bills
 - (i) Unopposed £14.00
 - (ii) Opposed — Attendance for each half hour or part thereof £20.50
 - (b) (b) Reclaiming motion
 - (i) Junior opening or appearing alone — per day £201.00
 - (ii) Junior otherwise — per day £155.50
 - (c) (c) Motion for new trial
 - (i) Junior alone — per day £201.00
 - (ii) Junior with Senior — per day £155.50
- 11. *Attendance at judgement*
 - (a) (a) Outer House £16.50
 - (b) (b) Inner House £20.50

**CHAPTER II — SENIOR COUNSEL
CONSISTORIAL ACTIONS, PETITIONS AND ORDINARY ACTIONS**

- 1. *Revisal of pleadings*
 - (a) (a) Revisal of summons, defences, petition or answers £75.50
 - (b) (b) Adjustment fee (open record) (each occasion) £29.00
- 2. *Minutes — revisal fees*
 - (a) (a) Amendments (other than formal) or answers £32.00
 - (b) (b) Admissions, tender or acceptance (in appropriate cases) £9.00

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- (c) (c) Note of £9.00 exceptions
3. *Notes*
- (a) (a) Note on £69.00 quantum only
- (b) (b) Advice £75.50 on tender or extra-judicial offers where not merely confirming advice at consultation
- (c) (c) Note on line in £75.50 evidence (revisal)
- (d) (d) The fee for other notes shall be within the following range:—
- | | |
|------|--------|
| From | £23.50 |
| To | £75.50 |
4. *Consultations*
- (a) (a) Before £91.00 proof or trial, or otherwise involving a significant degree of preparation or lengthy discussion
- (b) (b) Other £75.50 consultations
5. *Day in court*
- (a) (a) Inner House— £270.00 per half day
- (b) (b) Outer house— £252.00 per day
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations regulate fees and outlays allowable to solicitors and fees allowable to counsel (subject to any taxation) from the Scottish Legal Aid Fund in respect of civil legal aid, when such

fees and outlays are not recoverable by virtue of an award of expenses, or of any agreement as to expenses (regulation 3).

The fees and outlays previously allowable for legal aid in civil proceedings under the Legal Aid (Scotland) Act 1986 were prescribed by the Civil Legal Aid (Scotland) (Fees) Regulations 1987 (the 1987 Regulations), as amended.

The major change regarding solicitors' fees is contained in Schedule 3 which prescribes a simplified table of fees for calculating the remuneration of solicitors who choose to lodge a detailed fee account. The amendment makes provision for 7 basic fees, which combine and simplify the detailed fees previously prescribed in Chapter 1 of Schedule 1 (Court of Session Table) and Chapter III of Schedule 2 (Sheriff Court Table) of the 1987 Regulations, as amended, and which have been set at a level that incorporates the 12% added by those regulations to cover posts and incidents. The payment of posts and incidents with regard to Schedule 3 is specifically excluded (regulation 6).

In addition to uprating all solicitors' fees in Schedules 1 to 3 by around 9%, the provisions for fees and outlays in these Regulations consolidate regulations 4, 5 and 8 and the prefaces to Schedules 1 and 2 of the 1987 Regulations, as amended, subject to some small drafting amendments (regulations 4 to 8).

As regards counsel's fees, regulations 9 and 10 and Schedule 4 provide for the same level of fees as previously allowable in the Civil Legal Aid (Scotland) (Fees) Amendment Regulations 1989, which uprated them from 1st April 1989.

Provision is made in these Regulations for the submission by an assisted person's solicitor or counsel to the Scottish Legal Aid Board of a claim for payment of sums to account of fees necessarily and reasonably incurred for legal aid work done provided two years have elapsed since the grant of aid, such aid was granted on or after 1st April 1987 and the proceedings have not been concluded. Further claims for more work in the same proceedings may be made at not less than 12 monthly intervals after any preceding claim. The sums payable will be limited to not more than 75% of the fees eligible for payment in any period of claim. Any excess in the total of the sums paid to account over the total fees and outlays allowable to solicitors or fees allowable to counsel shall be repaid following submission and taxation of the final account of civil expenses. Receipt of a payment on account does not remove the duty to submit a final account of expenses within the timescale prescribed in regulation 8. If a final account is not submitted timeously, any payment made to account in respect of those proceedings may require to be repaid (regulation 11).

The same provision is made for taxation of fees and outlays as in the 1987 Regulations except in relation to payments to account of fees under regulation 11, (regulation 12).

Regulation 13 revokes the 1987 and subsequent amending instruments subject to their continuation in effect for work commenced before 31st August 1989.