
STATUTORY INSTRUMENTS

1994 No. 391 (S.12)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Fees of Messengers-at-Arms) 1994

Made - - - - *18th February 1994*

Coming into force - - *23rd March 1994*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 6 of the Execution of Diligence (Scotland) Act 1926⁽¹⁾, section 5 of the Court of Session Act 1988⁽²⁾ and of all other powers enabling them in that behalf, do hereby, with the concurrence of the Lord Lyon King of Arms, enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Fees of Messengers-at-Arms) 1994 and shall come into force on 23rd March 1994.

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

Fees of messengers-at-arms

2. Schedule 1 to this Act of Sederunt shall have effect in respect of work carried out by a messenger-at-arms in relation to causes in, or work authorised by, the Court of Session, and the fees specified are the fees payable to a messenger-at-arms in respect of that work.

Application, revocation and saving

3.—(1) Schedule 1 to this Act of Sederunt applies to work done on or after the date on which this Act of Sederunt comes into force.

(2) The Acts of Sederunt specified in Schedule 2 to this Act of Sederunt are hereby revoked.

(3) Notwithstanding the revocation in sub-paragraph (2), the Act of Sederunt (Fees of Messengers-at-Arms) 1990⁽³⁾ shall continue to have effect in respect of work done before the date on which this Act of Sederunt comes into force.

(1) 1926 c. 16.

(2) 1988 c. 36.

(3) S.I.1990/379; amended by S.I. 1991/291, 1992/87, 1992/529 and S.I. 1993/118.

Status: This is the original version (as it was originally made).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

Edinburgh,
18th February 1994

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

SCHEDULE 1

Paragraph 2

GENERAL REGULATIONS

1. Subject to the following paragraphs, the fees payable to a messenger-at-arms shall be calculated in accordance with the Table of Fees in this Schedule and shall be payable in respect of all forms of service or intimation of a document, citation of a person or execution of diligence and all other work authorised by the court and executed by a messenger-at-arms during the normal business hours of 9.00 am to 5.00 pm.

2. Fees in relation to service or intimation of a document, citation of a person or diligence which, of necessity, is executed outwith normal business hours shall be surcharged by the levying of an additional fee of—

- (a) 33½ per cent of the fee specified in the Table of Fees, where it is executed on a week day between the hours of 5.00 pm and 10.00 pm; and
- (b) 75 per cent of the fee specified in the Table of Fees, where it is executed on a week day after 10.00 pm or before 9.00 am or on a Saturday, Sunday or a public holiday.

3.—(1) There shall be three bands of charge in the Table of Fees in accordance with which fees shall be payable.

(2) The three bands of charge shall be—

- (a) Band 1—up to 12 miles;
- (b) Band 2—over 12 miles and up to 18 miles; and
- (c) Band 3—over 18 miles.

(3) A fee is payable in respect of one band of charge only for any item.

(4) Unless by special arrangements between a messenger-at-arms and the instructing agent, the bands of charge shall be calculated according to the distance from the place of business of the nearest messenger-at-arms to the place of execution.

4. An additional fee may be negotiated between the messenger-at-arms and the instructing agent by prior agreement in the following circumstances:—

- (a) where the messenger-at-arms is standing by awaiting the delivery or uplifting of a document for immediate service;
- (b) where the messenger-at-arms has to instruct an huissier or other officer of court outwith Scotland to serve a document; or
- (c) where there is no prescribed fee and the importance, urgency and value of the work involved necessitates an additional fee.

5. All reasonable outlays, excluding postage, but including any recorded delivery costs exclusive of postage in respect of items 1(b) and 1(c) in the Table of Fees, necessarily incurred by a messenger-at-arms in carrying out lawful instructions, shall be charged in addition to a fee specified in the Table of Fees.

6. Every fee note rendered by a messenger-at-arms shall be so detailed that the fees charged by him may be easily checked against the Table of Fees; and any fees agreed under paragraph 4 above and any allowable outlays shall be clearly narrated as such. The fee note shall be reviewed by the messenger-at-arms to ensure that it is fair and reasonable in the circumstances and shall be adjusted by him if necessary.

7. Discounting of fees is permitted only between messengers-at-arms.

8. Any restriction or modification made by a messenger-at-arms of fees recoverable from a person shall be passed on to that person only.

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9. Time shall be charged in units of 30 minutes or part thereof and, except in relation to time under paragraphs 10, 11 or 12 below—

- (a) time shall apply from the end of the first hour at the place of execution until completion; or
- (b) time shall apply after the messenger-at-arms has travelled a distance of 30 miles from his place of business until he returns to a distance of 30 miles from that place.

10. Where a messenger-at-arms has to use a ferry, he and any witness shall be allowed the necessary cost of the ferry, all reasonable subsistence and the time for boarding, crossing and returning, which shall be charged on a time basis.

11. Where a messenger-at-arms is required to attend before a notary public, commissioner or other person or as a witness, a fee for such attendance by the messenger-at-arms and any witness shall be chargeable on a time basis.

12. Where enquiries are necessary in order to execute service, intimation, citation, diligence or any other work authorised by the court, a fee for such enquiries shall be chargeable on a time basis.

13.—(1) Where, in a poinding, the appraised value of an article exceeds the sum recoverable, the fee specified in the Table of Fees shall be calculated in accordance with the sum recoverable and not the appraised value.

(2) Where, in a poinding, a debtor or other occupier of the premises claims that goods are subject to a hire purchase agreement, or are otherwise the property of someone other than the debtor, but refuses, or is unable, to produce evidence to that effect, the messenger-at-arms may poind the goods and shall add a note on the schedule of the poinding stating that the debtor has claimed that the goods are subject to a hire purchase agreement or are otherwise the property of someone other than the debtor, as the case may be.

14. A messenger-at-arms supplying services to any person in respect of which fees are payable to him under this Schedule shall—

- (a) if he is a taxable person within the meaning of the Value Added Tax Act 1983⁽⁴⁾; and
- (b) if the supply is a taxable supply within the meaning of that Act,

make charges to that person in addition to the charges in respect of that fee, being such additional charge as amounts to the value added tax payable under that Act in respect of the supply of those services.

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

“the Act of 1987” means the Debtors (Scotland) Act 1987⁽⁵⁾;

“apprehension” means apprehending, detaining and taking to and from court or prison;

“arranging” means accepting instructions, checking for competency, reserving time, advising instructing agent, making all necessary arrangements, intimation and service (where necessary) prior to execution;

“possession” means searching, taking possession and delivery;

“postal diligence” means service of any diligence, which may be served by post, by registered post or the first class recorded delivery service;

“postal service” means service or intimation by registered post or the first class recorded delivery service;

(4) 1983 c. 55.

(5) 1987 c. 18.

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“service” means service or intimation of any document under a rule of court or an order of the court and includes accepting instructions, preparation, postage and service or intimation of any ancillary form or other ancillary document.

TABLE OF FEES

Item	Band 1 £	Band 2 £	Band 3 £
1. Service or intimation of a document	31.50	53.40	67.40
(a) Service			
(i) each person at a different address			
(ii) each additional person at the same address or additional copy required to be served or intimated under the Act of 1987	10.50	10.50	10.50
(b) (b) Postal service	15.45	15.45	15.45
(c) (c) Postal diligence	23.30	23.30	23.30
2. Inhibitions	33.10	53.40	67.35
(a) Inhibition only			
(i) each person at a different address			
(ii) each additional person at the same address	17.15	17.15	17.15
(b) (b) Inhibition and service	43.55	63.85	78.10
(i) each person at a different address			

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Item	Band 1 £	Band 2 £	Band 3 £
(ii) each additional person at the same address	27.70	27.70	27.70
(c) (a) Inhibition, service and interdict	105.80	105.80	105.80
(i) each person at a different address			
(ii) each additional person at the same address	44.90	44.90	44.90
3. Interdicts	78.10	78.10	78.10
(a) Interdict only			
(i) each person at a different address			
(ii) each additional person at the same address	17.15	17.15	17.15
(b) (b) Interdict and service	88.60	88.60	88.60
(i) each person at a different address			
(ii) each additional person at the same address	27.70	27.70	27.70
(c) (d) Interdict, service and inhibition	105.80	105.80	105.80
(i) each person at a different address			

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Item	Band 1 £	Band 2 £	Band 3 £
(ii) each additional person at the same address	44.90	44.90	44.90
4. Poindings	5.85	5.85	5.85
(a) Serving notice of entry			
(b) (b) Arranging poinding and endeavouring but being unable to execute same for whatever reason	44.25	44.25	44.25
(c) (c) Arranging and executing poinding where appraised value is—	51.80	51.80	51.80
(i) £364 or under			
(ii) Over £364 and up to £1,464	80.20	80.20	80.20
(iii) Over £1,464 and up to £14,742—10% of the appraised value only			
(iv) Over £14,742 and up to £73,702—10% of the first £14,742, 5% thereafter up to £73,702 of the appraised value			
(v) Over £73,702—10% of the first £14,742, 5% thereafter up to £73,702 and 1% of the			

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Item	Band 1 £	Band 2 £	Band 3 £
appraised value over £73,702			
(d) (b) Reporting pounding	5.00	5.00	5.00
5. POUNDINGS of motor vehicles, heavy plant or machinery	51.80	51.80	51.80
(a) Arranging and executing pounding where appraised value is—			
(i) £364 or under			
(ii) Over £364 and up to £1,619	80.20	80.20	80.20
(iii) Over £1,619 and up to £73,702 —5% of the appraised value only			
(iv) Over £73,702— 5% of the first £73,702 and 1% thereafter of the appraised value			
(b) (b) Reporting pounding	5.00	5.00	5.00
6. SEQUESTRATIONS for rent, pounding of the ground	42.25	42.25	42.25
(a) Arranging for the sequestration or pounding of the ground and endeavouring but being unable to execute same for			

Item	Band 1 £	Band 2 £	Band 3 £
whatever reason			
(b) (A) Arranging and effecting sequestration or pointing of the ground	78.10	78.10	78.10
7. Sales	9.80	9.80	9.80
(a) (i) Application for warrant of sale or variation of a warrant of sale			
(ii) Intimating application—as in item 1(a) or (b) above, as the case may be			
(b) (i) Arranging warrant sale, preparing advertisement and giving public notice	12.75	12.75	12.75
(ii) Serving copy of warrant of sale and intimating the place and date of sale and if necessary the date of removal of pointed effects—as in item 1(a) or (b) above, as the case may be			
(c) (A) Attending warrant sale alone	22.25	37.60	47.55

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Item	Band 1 £	Band 2 £	Band 3 £
conducted by auctioneer			
(d) (i) Attending warrant sale with witness and being unable to execute same for whatever reason	42.25	42.25	42.25
(ii) Conducting warrant sale with witness where the appraised value is—			
£364 or under	49.75	49.75	49.75
Over £364	78.10	78.10	78.10
8. Ejections	42.25	42.25	42.25
(a) Arranging ejection			
(b) (b) Arranging and executing ejection	65.65	65.65	65.65
9. Taking possession of effects	42.25	42.25	42.25
(a) Arranging possession			
(b) (b) Arranging and effecting possession	78.10	78.10	78.10
10. Apprehensions	42.25	42.25	42.25
(a) Arranging apprehension			
(b) (b) Arranging and apprehending	78.10	78.10	78.10

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Item	Band 1 £	Band 2 £	Band 3 £
11. Taking possession of children	42.25	42.25	42.25
(a) Arranging to take possession			
(b) (b) Taking possession of each child	78.10	78.10	78.10
12. Arresting vessels, aircraft and cargo	42.25	42.25	42.25
(a) Arranging to arrest			
(b) (b) Arranging and effecting arrestment	129.15	129.15	129.15
13. Miscellaneous	9.75	9.75	9.75
(a) Making any report or application under the Act of 1987 with the exception of reporting a poiding			
(b) (b) Granting any receipt required to be issued under the Act of 1987	5.00	5.00	5.00
(c) (c) Arranging locksmith or tradesman to be in attendance	3.15	3.15	3.15
(d) (d) Granting certificate of displenishment or providing any other certificate or report, registering any	9.75	9.75	9.75

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Item	Band 1 £	Band 2 £	Band 3 £
document or making any application to a court or the creditor			
(e) (e) Executing warrant to open lockfast places	9.75	9.75	9.75
(f) (f) Time			
(i) with witness			
—			
£15.65 per unit			
(ii) without witness			
—£11.70 per unit			
(g) (g) Photocopies			
(i) first sheet of document			
—			
£1.05			
(ii) subsequent sheets			
—£0.50			

SCHEDULE 2

Paragraph 3(2)

REVOCATIONS

Acts of Sederunt revoked	References
Act of Sederunt (Fees of Messengers-at-Arms) 1990	1990/379
Act of Sederunt (Fees of Messengers-at-Arms) 1991	1991/291
Act of Sederunt (Fees of Messengers-at-Arms) 1992	1992/87
Act of Sederunt (Fees of Messengers-at-Arms) (Amendment) 1992	1992/529

Acts of Sederunt revoked	References
Act of Sederunt (Fees of Messengers-at-Arms) 1993	1993/118

EXPLANATORY NOTE

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

This Act of Sederunt provides for regulations to apply to the charging of fees by, and for fees of, Messengers-at Arms and revokes the Act of Sederunt (Fees of Messengers-at-Arms) 1990 and the Acts of Sederunt which amended it.

The only amended regulation is regulation 5 which now allows the charging, as an outlay, of any recorded delivery costs exclusive of postage in respect of items 1(b) and 1(c) in the Table of Fees in this Act of Sederunt. This cost was formerly included as an element of the fees for items 1(b) and 1(c) in the Table of Fees and that element (30 pence, being the cost of recorded delivery exclusive of postage prior to the increase levied by the Post Office in June 1993) has now been removed from those fees.

The fees in the Table of Fees in the Act of Sederunt (Fees of Messengers-at-Arms) 1990 (as amended) have been increased by about 2.75 per cent. The last increase was in the Act of Sederunt (Fees of Messengers-at-Arms) 1993.