
STATUTORY INSTRUMENTS

1994 No. 392 (S.13)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Fees of Sheriff Officers) 1994

Made - - - - *18th February 1994*
Laid before Parliament *2nd March 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 40 of the Sheriff Courts (Scotland) Act 1907((1)), section 6 of the Execution of Diligence (Scotland) Act 1926((2)) and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Fees of Sheriff Officers) 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 sheriff officers

2. Schedule 1 to this Act of Sederunt shall have effect in respect of work carried out by a sheriff officer in relation to causes in, or work authorised by, the sheriff court, and the fees specified are the fees payable to a sheriff officer 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 Sheriff Officers) 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) 1907 c. 51; section 40 was amended by section 1(3) of the Secretaries of State Act 1926 (c. 18), the Schedule to the Administration of Justice (Scotland) Act 1933 (c. 41) and by paragraph 7 of Schedule 1 to and Schedule 2 to the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12).

(2) 1926 c. 16.

(3) S.I.1990/381, amended by S.I. 1991/290, 1992/82, 1992/773 and 1993/120.

Status: *This is the original version (as it was originally made).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 sheriff officer in relation to an ordinary cause or a summary cause, as the case may be, shall be calculated in accordance with the Table of Fees in this Schedule and shall be payable in respect of (a) 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 (b) recovery of rates, charges or taxes by summary warrant, any of which is executed by a sheriff officer 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 arrangement between a sheriff officer and the instructing agent, the bands of charge shall be calculated according to the distance between the court house where the warrant was granted and the place of execution or the distance from the place of business of the nearest sheriff officer within the district to the place of execution, whichever is the lesser.

4. An additional fee may be negotiated between a sheriff officer and the instructing agent by prior agreement in the following circumstances:—

- (a) where the sheriff officer is standing by awaiting the delivery or uplifting of a document for immediate service;
- (b) where the sheriff officer 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 sheriff officer in carrying out lawful instructions, shall be charged in addition to a fee specified in the Table of Fees in this Schedule.

6. Every fee note rendered by a sheriff officer 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 sheriff officer 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 sheriff officers.

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8. Any restriction or modification made by a sheriff officer of fees recoverable from a person shall be passed on to that person only.

9. Time will be charged in units of 30 minutes or part thereof; and, in respect of the following items in the Table of Fees, shall apply from the end of the first hour at the place of execution until completion:— 2, 5(c), 6(c), 6(d)(i), 7(b), 8(b), 9(b), 10(b) and 11(b).

10. Where a sheriff officer 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 sheriff officer is required to attend before a notary public, commissioner or other person or as a witness, a fee for such attendance by the sheriff officer 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. Where personal service is to be carried out under item 1(a)(i) in the Table of Fees and more than one visit is required, each additional visit shall be charged at 50 per cent of the fee specified in that item.

14.—(1) Where, in a poinding, the appraised value of an article exceeds the sum recoverable, the fee specified in the Table of Fees in this Schedule 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 sheriff officer 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.

15. The fees payable to a sheriff officer in respect of recovery of rates, charges or taxes by summary warrant shall be calculated in accordance with the fees specified in the Table of Fees for ordinary causes.

16. A sheriff officer 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.

17. 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;

(4) 1983 c. 55.

(5) 1987 c. 18.

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“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;

“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						
Summary Cause						
Band 1	Band 2	Band 3				
£	£	£				
Ordinary Cause						
Band 1	Band 2	Band 3				
£	£	£				
1. Service of a document or intimation of document	17.40	26.80	34.65	28.45	41.75	54.35
(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	5.80	5.80	5.80	9.50	9.50	9.50

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Item						
Summary Cause						
Band 1	Band 2	Band 3				
£	£	£				
Ordinary Cause						
Band 1	Band 2	Band 3				
£	£	£				
(b) Postal service	8.40	8.40	14.00	14.00	14.00	
(d) Postal diligence	12.80	12.80	21.10	21.10	21.10	
2. 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) Interdict and service			87.65	87.65	87.65	
(i) each person at a different address						
(ii) each additional person at the same address			26.70	26.70	26.70	
3. Poindings	3.85	3.85	5.85	5.85	5.85	
(a) Serving notice of entry						

Item	Band 1 £	Band 2 £	Band 3 £			
Summary Cause						
Ordinary Cause						
Arranging (b) pointing and endeavouring but being unable to execute same for whatever reason	30.20	30.20	30.20	44.25	44.25	44.25
Arranging (c) and executing pointing where appraised value is—	51.80	51.80	51.80	51.80	51.80	51.80
(i) £364 or under						
(ii) Over £364 and up to £1,464	80.20	80.20	80.20	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						

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Item	Band 1	Band 2	Band 3	Band 3	Band 3	Band 3
Summary Cause	£	£	£	£	£	£
Ordinary Cause	£	£	£	£	£	£
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 appraised value over £73,702						
Reporting (5.00 pinding)	5.00	5.00	5.00	5.00	5.00	5.00
4. Pinding 51.80 of motor vehicles, heavy plant or machinery	51.80	51.80	51.80	51.80	51.80	51.80

Item						
Summary Cause						
Band 1	Band 2	Band 3				
£	£	£				
Ordinary Cause						
Band 1	Band 2	Band 3				
£	£	£				
(a) Arranging and executing pouding where appraised value is—						
	(i) £364 or under					
(ii) Over £364 and up to £1,619	80.20	80.20	80.20	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 first £73,702 and 1% thereafter of the appraised value						
Reporting pouding	5.00	5.00	5.00	5.00	5.00	5.00
5. Sequestrations for rent,	28.15	28.15	42.25	42.25	42.45	42.45

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Item	Band 1 £	Band 2 £	Band 3 £
Summary Cause			
Ordinary Cause			
pounding of ground			
(a) Arranging for the sequestration or pounding of the ground and endeavouring but being unable to execute same for whatever reason			
Arranging and effecting sequestration where the appraised value is—			
(i) £364 or under	49.70	49.70	49.70
(ii) Over £364 and up to £1,464	78.10	78.10	78.10
(iii) Over £1,464 —as			

Item						
Summary Cause						
Band 1	Band 2	Band 3				
£	£	£				
Ordinary Cause						
Band 1	Band 2	Band 3				
£	£	£				
in 3(c)						
(iii)						
above						
Arranging			78.10	78.10	78.10	
(c)						
and effecting ordinary sequestration or poinding of the ground						
Service						
(d)						
—						
as in item 1(a) or (b) above, as the case may be						
6. Sales	8.10	8.10	8.10	8.10	8.10	8.10
(a)	(i) Application for warrant of sale or variation of warrant of sale					
	(ii) Intimating application					
—						

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Item	Band 1	Band 2	Band 3	Band 1	Band 2	Band 3
Summary Cause	£	£	£	£	£	£
Ordinary Cause	£	£	£	£	£	£
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	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,						

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Item						
Summary Cause						
Band 1	Band 2	Band 3				
£	£	£				
Ordinary Cause						
Band 1	Band 2	Band 3				
£	£	£				
as the case may be						
(d) Officer attending warrant sale conducted by auctioneer	22.25	37.60	47.55	22.25	37.60	47.55
(d) (i) Officer and witness attending warrant sale and being unable to execute same for whatever reason	28.15	28.15	42.25	42.25	42.25	42.25
(ii) Officer and witness conducting sale where the appraised value is £364 or under	49.70	49.70	49.70	49.70	49.70	49.70
(iii) Over £364	78.10	78.10	78.10	78.10	78.10	78.10
7. Ejection	28.15	28.15	28.15	42.25	42.25	42.25

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Item	Band 1 £	Band 2 £	Band 3 £	Band 1 £	Band 2 £	Band 3 £
Summary Cause						
Ordinary Cause						
(a) Arranging ejection						
(b) Arranging and executing ejection	57.80	57.80	57.80	65.60	65.60	65.60
8. Taking possession of effects	28.15	28.15	28.15	42.25	42.25	42.25
(a) Arranging possession						
(b) Arranging and effecting possession	57.80	57.80	57.80	78.10	78.10	78.10
9. Apprehensions				42.25	42.25	42.25
(a) Arranging apprehension						
(b) Arranging and apprehending				78.10	78.10	78.10
10. Taking possession of children				42.25	42.25	42.25
(a) Arranging to take possession						
(b) Arranging and taking possession of each child				78.10	78.10	78.10
11. Arresting vessels, aircraft and cargo	28.15	28.15	28.15	42.25	42.25	42.25

Item						
Summary Cause						
Band 1	Band 2	Band 3				
£	£	£				
Ordinary Cause						
Band 1	Band 2	Band 3				
£	£	£				
(a) Arranging to arrest						
(b) Arranging and effecting arrestment	71.00	71.00	71.00	129.15	129.15	129.15
12. Miscellaneous	9.75	9.75	9.75	9.75	9.75	9.75
(a) To making any report or application under the Act of 1987 with the exception of reporting a poinding						
(b) To granting any receipt required to be issued under the Act of 1987	5.00	5.00	5.00	5.00	5.00	5.00
(c) To arranging locksmith	3.15	3.15	3.15	3.15	3.15	3.15

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Item	Summary Cause	Band 1	Band 2	Band 3	Band 1	Band 2	Band 3
		£	£	£	£	£	£
Ordinary Cause		Band 1	Band 2	Band 3	Band 1	Band 2	Band 3
		£	£	£	£	£	£
	or tradesman to be in attendance						
(d)	To granting certificate of displenishment or providing any other certificate or report, registering any document or making any application to a court or the creditor	9.75	9.75	9.75	9.75	9.75	9.75
(e)	Executing warrant to open lockfast places	9.75	9.75	9.75	9.75	9.75	9.75
(f)	(f) Time (i) with witness — £15.65						

Item		
Summary Cause		
Band 1	Band 2	Band 3
£	£	£
Ordinary Cause		
Band 1	Band 2	Band 3
£	£	£
	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 Sheriff Officers) 1990	1990/381
Act of Sederunt (Fees of Sheriff Officers) 1991	1991/290
Act of Sederunt (Fees of Sheriff Officers) 1992	1992/82
Act of Sederunt (Fees of Sheriff Officers) (Amendment) 1992	1992/773
Act of Sederunt (Fees of Sheriff Officers) 1993	1993/120

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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, Sheriff Officers and revokes the Act of Sederunt (Fees of Sheriff Officers) 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 Sheriff Officers) 1990 (as amended) have been increased by about 2.75%. The last increase was in the Act of Sederunt (Fees of Sheriff Officers) 1993.