
STATUTORY INSTRUMENTS

1998 No. 2675 (S. 135)

SHERIFF COURT, SCOTLAND

**Act of Sederunt (Fees of Solicitors in
the Sheriff Court) (Amendment) 1998**

Made - - - - *28th October 1998*
Laid before Parliament *2nd November 1998*
Coming into force - - *1st December 1998*

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) 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 Solicitors in the Sheriff Court) (Amendment) 1998 and shall come into force on 1st December 1998.

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

Amendment of General Regulations

2.—(1) Schedule 1 (general regulations) to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993(2) shall be amended in accordance with the following sub-paragraphs.

(2) In paragraph 5(b), for the words “not later than seven days” substitute “on or”.

(3) In paragraph 6, the words from “without” to “investigations” shall be omitted.

(4) In paragraph 11, the second sentence shall be omitted.

(5) In paragraph 14—

(a) for sub-paragraph (a) substitute “(a) necessary outlays, including fees for witnesses, are allowable in addition to the fees allowable under that Chapter;”; and

(b) in sub-paragraph (d), for the words “revising and adjusting it” substitute “perusing it (whether or not in the course of doing so he revises or adjusts it)”.

(1) 1907 c. 51; section 40 was amended by Schedule 1 to the Sheriff Courts (Scotland) Act 1913 c. 28, Schedule 1; the Secretaries of State Act 1926 c. 18, section 1(3); the Administration of Justice (Scotland) Act 1933 c. 41, Schedule; and the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 c. 12, Schedule 1, paragraph 7 and Schedule 2.
(2) S.I. 1993/3080, amended by S.I. 1994/1142, 1995/1395 and 1996/236.

(6) In the Table of Fees, in the provisions mentioned in column 1 of the Schedule to this Act of Sederunt, for the amounts respectively specified in column 2 of that Schedule substitute the amounts so specified in column 3.

(7) In Part I of Chapter I—

- (a) in paragraph 1(c), the words “and posts” shall be omitted;
- (b) in paragraph 2(b)—
 - (i) the words “up to £75 ”; and
 - (ii) the second sentence, shall be omitted;
- (c) in paragraph 3(b)(ii), the words—
 - (i) “posts and incidents”; and
 - (ii) “and posts”, shall be omitted.

(8) In Part II of Chapter I, in paragraph 4, for the words from “outlays up” to the end substitute “necessary outlays; and taxation shall be unnecessary”.

(9) In Part I of Chapter II—

- (a) in paragraph 5, for the words “revising and adjusting it” substitute “perusing it (whether or not in the course of doing so he revises or adjusts it)”;
- (b) in paragraph 6(b), the words “to include all copies required” shall be omitted; and
- (c) for paragraph 17 (and the note to that paragraph) substitute

“Copying —

17. For the copying of papers by whatever means, if the Auditor determines (either or both) that—

- (a) the copying had to be done in circumstances which were in some way exceptional;
- (b) the ‘papers which required to be copied were unusually numerous having regard to the nature of the case, such charge, if any, as the Auditor considers reasonable (but a charge based on time expended by any person shall not be allowed).

Notes

1. Where a determination is required under this paragraph, the purpose of copying, the number of copies made and the charge claimed shall be shown in the account.

2. Copying done other than in the place of business of the solicitor shall be shown as an outlay”.

(10) In Part 2 of Chapter II—

- (a) at the beginning insert the following paragraph —

“1A. *Work before action commences* – To cover all work which the Auditor is satisfied has reasonably been undertaken in contemplation of, or preparatory to, the commencement of proceedings £250.00;

or such lesser sum as in the opinion of the Auditor is justified.”;

- (b) in paragraph 1, the word “*fee*” in the heading shall be omitted and in sub paragraph (a), after the word “Chapter”, insert “from commencement”;
 - (c) in paragraph 2, for the words “revising and adjusting it” substitute “perusing it (whether or not in the course of doing so he revises or adjusts it)”;
 - (d) in paragraph 4, the word “*fee*” in the heading shall be omitted;
 - (e) in paragraph 10(b), the words “to include all copies required” shall be omitted; and
 - (f) for paragraph 22 (and the note to that paragraph) substitute, appropriately numbered, the same paragraph and notes as are substituted for paragraph 17 of Part I of Chapter II by sub-paragraph (9)(c) above.
- (11) For paragraph 6 of Chapter III (and the note to that paragraph) substitute, appropriately numbered, the same paragraph and notes as are substituted for paragraph 17 of Part I of Chapter II by sub-paragraph (9)(c) above.
- (12) In Part I of Chapter IV, in paragraph 1, the words “and including posts and sundries” shall be omitted.
- (13) Chapters V and VI shall be omitted.

Saving

3. Paragraph 2 of this Act of Sederunt does not affect the provisions of Schedule 1 in their application to work done, or outlays incurred, before 1st December 1998.

Edinburgh
28th October 1998

Rodger of Earlsferry
Lord President I.P.D.

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SCHEDULE

Paragraph 2(6).

<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
Chapter I, Part I:		
1(a)	111.40	159.70
(b)	89.10	127.70
(bb)	25.00	35.80
2(a)	389.20	557.90
3(a)	347.60	498.20
Chapter I Part II:		
Table A: 1	273.80	392.40
2	194.60	278.90
3	59.80	85.70
4	528.20	757.10
Table B: 1	225.20	322.80
2	108.40	155.40
3	59.80	85.70
4	393.40	563.90
Table C: 1	108.40	155.40
2	63.50	91.00
3	171.90	246.40
Chapter II Part I:		
1(a)	180.70	259.00
(b)	62.50	89.60
2(a)	268.20	384.40
(b)	180.70	259.00
(c)	30.60	43.90
(d)	49.10	70.40
3	11.10	15.90
4(a)(i)	134.90	193.30
(ii)	16.50	23.70
(iii)	15.00	21.50
(b)(ii)	79.20	113.50
(iii)	15.00	21.50
5	27.00	38.70

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
6(a)	59.80	85.70
(b)	8.20	11.80
(b)(maximum fee)	41.10	58.90
7(a)(i)	166.90	239.20
(ii)	112.60	161.40
(iii)	33.40	47.90
(b)(i)	100.70	144.30
(ii)	55.60	79.70
(iii)	16.50	23.70
(iv)	15.00	21.50
8(a)	69.60	99.80
(b)	45.10	64.70
(c)(i)	62.50	89.60
(ii)	16.50	23.70
(d)	15.20	21.80
9(a)(i)	76.50	109.60
(ii)	49.90	71.50
(b)(i)	62.50	89.60
(ii)	41.60	59.60
(c)	55.60	79.70
10(a)(i)	79.20	113.50
(ii)	55.60	79.70
(b)(i)	45.10	64.60
(ii)	33.40	47.90
11(a)(i)	194.60	278.90
(ii)	326.70	468.30
(b)	68.10	97.60
(c)	33.40	47.90
(d)	16.50	23.70
12(a)	16.50	23.70
(b)	15.00	21.50
(c)	15.00	21.50
13(a)	55.60	79.70
(b)	16.50	23.70

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
(c)	15.00	21.50
(d)	15.00	21.50
14(a)(i)	104.30	149.50
(ii)	16.50	23.70
(iii)	15.00	21.50
(iv)	15.00	21.50
(b)	52.20	74.80
15(a)(i)	62.50	89.60
(ii)	46.60	66.80
(b)	104.30	149.50
16(a)	83.30	119.40
(b)	68.10	97.60
(c)	24.30	34.80
19(a)	33.40	47.90
(b)	69.60	99.80
(c)	69.60	99.80
Chapter II Part 2:		
1(a)	306.00	438.50
(b)	55.70	79.80
2	27.90	40.00
3(a)	33.40	47.90
(b)	16.70	23.90
4(a)	139.30	199.60
(b)	83.60	119.80
(c)	33.40	47.90
(d)	44.60	63.90
5	11.10	15.90
6(a)	111.40	159.70
(b)	16.70	23.90
(c)	27.90	40.00
7	111.40	159.60
	16.70	23.90
8(a)(i)	89.10	127.70
(ii)	16.70	23.90

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
(b)	15.00	21.50
(c)	15.00	21.50
9(a)	55.70	79.80
(b)	16.70	23.90
(c)	15.00	21.50
(d)	15.00	21.50
10(a)	61.30	87.90
(b)(fee per sheet)	7.80	11.20
(b)(maximum fee)	37.10	53.20
11(a)(i)	167.10	239.50
(ii)	111.40	159.70
(iii)	33.40	47.90
(b)(i)	111.40	159.70
(ii)	55.70	79.80
(iii)	16.70	23.90
(iv)	15.00	21.50
(v)	15.00	21.50
12(a)(i)	61.30	87.80
(ii)	15.00	21.50
(b)(i)	33.40	47.90
(ii)	15.00	21.50
(c)(i)	61.30	87.80
(ii)	16.70	23.90
(d)	15.00	21.50
(e)	15.00	21.50
13(a)(i)	55.70	79.80
(ii)	22.30	32.00
(iii)	15.00	21.50
(b)(i)	44.60	63.90
(ii)	22.30	32.00
(iii)	15.00	21.50
(c)	55.70	79.80
14(a)(i)	78.00	111.80
(ii)	33.40	47.90

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
(b)(i)	78.00	111.80
(ii)	33.40	47.90
15	278.20	398.70
16(a)(i)	178.20	255.40
(ii)	323.00	462.90
(b)	72.50	103.90
(c)	16.70	23.90
17(a)	16.70	23.90
(b)	15.00	21.50
(c)	15.00	21.50
18(a)	55.70	79.80
(b)	16.70	23.90
(c)	15.00	21.50
(d)	15.00	21.50
19(a)(i)	167.10	239.50
(i)(if counsel)	94.80	135.80
(ii)	16.70	23.90
(iii)	15.00	21.50
(iv)	15.00	21.50
(b)	55.70	79.80
20(a)(i)	61.30	87.80
(ii)	50.20	71.90
(b)	111.40	159.60
(c)	111.40	159.60
21(a)	83.60	119.80
(b)	72.50	103.90
24(a)	33.40	47.90
(b)	72.50	103.90
(c)(i)	72.50	103.90
(ii)	15.00	21.50
Chapter III:		
1	16.50	23.60
2(a)	15.00	21.50
3	7.60	10.90

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
4	11.20	16.00
5	3.20	4.60
7	3.20	4.60
8	15.00	21.50
9	3.20	4.60
10	3.20	4.60
11	15.00	21.50
12(a)	1.10	1.60
(b)	7.60	10.90
(c)	3.20	4.60
13	7.60	10.90
14(a)	3.20	4.60
(b)	3.20	4.60
(c)	7.60	10.90
(d)	7.60	10.90
15(a)	7.60	10.90
(b)	7.60	10.90
(c)	7.60	10.90
(d)	9.10	13.00
16(a)	7.60	10.90
(b)	7.60	10.90
(c)	7.60	10.90
(d)	7.60	10.90
(e)	7.60	10.90
(f)	7.60	10.90
Chapter IV Part I:		
1	55.60	71.20
2(a)	6.20	7.90
(b)	18.10	23.20
3	18.10	23.20
Chapter IV Part II:		
1	76.50	109.60
2(a)	6.30	9.00
	14.00	20.00

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
(b)	6.30	9.00
(c)	20.10	28.80
3	20.10	28.80
4	69.60	99.70
5	33.40	47.90
6(a)	30.60	43.80
(b)	14.00	20.10
7(a)	30.60	43.80
(b)	14.00	20.10
8(a)	41.60	59.60
(b)	25.70	36.80
9(a)	33.40	47.90
(b)	20.10	28.80
10(a)	20.10	28.80
(b)	10.50	15.00
11(a)	41.60	59.60
(i)	30.60	43.80
(ii)	30.60	43.80
(b)	69.60	99.70
12(a)	34.70	49.70
(b)	31.20	44.70
(c)	20.10	28.80
(d)	14.00	20.10
13(a)(i)	41.60	59.60
(ii)	25.70	36.80
(b)(i)	33.40	47.90
(ii)	20.10	28.80
(c)	20.10	28.80
(d)	14.00	20.10
(e)	19.50	27.90
(f)	14.00	20.10
14	14.00	20.10
15(a)	93.90	134.60
(b)	20.10	28.80

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<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
16(a)	41.60	59.60
(b)	41.60	59.60
(c)	20.10	28.80

EXPLANATORY NOTE

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

This Act of Sederunt amends Schedule 1 (general regulations) to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993 (S.I. 1993/3080), the main aim being to increase (by about 16.2%) the expenses recoverable by a successful party. It does so in two complementary respects. First, it provides that certain fees shall no longer be chargeable, viz. fees for copying in normal circumstances and additions to accounts of sums to cover posts and incidents. Fees for ‘copying would be chargeable only in circumstances which the Auditor considered exceptional or where papers which required to be copied were unusually numerous. Secondly, to allow for these changes and for inflation, the Act of Sederunt increases the remaining fees payable to solicitors (and recoverable from opponents) by between 28 % and 43.3 %. The last increase was in the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment) 1996 (S.I. 1996/236).

The Act of Sederunt also removes the requirement that a motion for additional expenses must be made not later than seven days after the date of an interlocutor disposing of expenses; introduces a block fee for work done before the commencement of an action; clarifies the entitlement of a solicitor to a fee for perusing the precognition or report of a skilled witness whether or not in the course of doing so the solicitor revises or adjusts that precognition or report; and revokes Chapters V (mercantile sequestration) and VI (executory business – intestate moveable succession) of Schedule 1. The Act of Sederunt does not apply as respects work done, or outlays incurred, before it comes into force.