
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 235

SHERIFF COURT

**Act of Sederunt (Fees of Solicitors in
the Sheriff Court) (Amendment) 2002**

<i>Made</i>	- - - -	<i>16th May 2002</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>17th May 2002</i>
<i>Coming into force</i>	- -	<i>10th June 2002</i>

The Lords of Council and Session, under and by virtue of the powers conferred upon 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) 2002 and shall come into force on 10th June 2002.

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

Amendment of Schedule

2.—(1) The Schedule 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 the General Regulations, in the table in paragraph 14(f)–

- (a) in item 1, in the left hand column, for “£50 to £250” there is substituted “£1,000 to £2,500”;
- (b) in item 2, in the left hand column, for “£50” there is substituted “£1,000”; and
- (c) item 3 is omitted.

(3) In the Table of Fees, for Chapter IV, Part II (summary causes: defended actions) there is substituted the Tables of Fees in the Schedule to this Act of Sederunt.

(1) 1907 c. 51; section 40 was amended by 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; the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 c. 12, Schedule 1, paragraph 7 and Schedule 2; and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 c. 40, Schedule 9.

(2) S.I. 1993/3080, amended by S.I. 1994/1142, 1995/1395, 1996/236, 1998/2675, S.S.I. 1999/149, S.S.I. 2000/420 and S.S.I. 2001/438.

Status: This is the original version (as it was originally made).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

Saving

3. Paragraph 2 does not affect such fees as are chargeable for work done, or outlays incurred, before 10th June 2002.

Edinburgh
16th May 2002

W DOUGLAS CULLEN
Lord President, I.P.D.

SCHEDULE

Chapter IV – Summary Cause Part II – Defended Actions

1. Work before action commences – to 100.00
cover all work of a pre-litigation basis,
to include discussions/correspondence with
opposing party, exchange of documentation, etc
(not exceeding 1 hour)

- (a) (a) Instruction fee to include 150.00
taking instructions, framing summons
and statement of claim, statement
of valuation, obtaining warrant
for service, enquiring for and
consideration of Response Form (1½
hours)
- (b) (b) Where counter claim and 150.00
answers lodged, additional fee of (1½
hours)
- (c) (c) If additional defender/third 100.00
party brought in, additional fee to each
original party's agent (1 hour)

3. Service–

- (a) (a) Citation by post within 10.30
the United Kingdom, Isle of Man,
Channel Islands, or the Republic of
Ireland – for each party
- Citation by post elsewhere – for each party 22.75
- (b) (b) Instructing service or reservice 10.30
by sheriff officer including perusing
execution of citation and settling
sheriff officer's fee – for each party
 - (c) (c) Framing and instructing service 32.90
by advertisement – for each party

4. Attendance at first calling–

- (a) (a) To include necessary 150.00
preparation for and conduct of
(each of) such hearings and noting
interlocutor (1½ hours)

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- (b) (b) Where waiting/hearing exceeds 25.00
one half hour – for every extra quarter
hour

5. Attendance at Court–

Attendance at any diet except as otherwise 25.00
specially provided – per half hour

**6. Precognitions– taking and drawing – per 36.40
sheet**

Note: Where a skilled witness prepares his own
precognition or report, the solicitor shall be
allowed half of above drawing fee for perusing
it (whether or not in the course of doing so he
revises or adjusts it).

7. Reports obtained under Order of Court–

- (a) (a) All work incidental to it 80.00
- (b) (b) Additional fee for perusal of 19.55
report, per quarter hour

8. Productions–

- (a) (a) For lodging productions – each 43.60
inventory
- (b) (b) For considering opponent’s 21.70
productions – each inventory

**9. Affidavits– to framing affidavits (where 14.50
ordered) per sheet**

10. Motions and minutes–

Fee to cover drawing, intimating and lodging
of any written motion or minute, excluding a
minute or motion to recall decree, and relative
attendance at court (except as otherwise
provided in this Chapter)–

- (a) (a) Where opposed 101.85
- (b) (b) Where unopposed – including 43.60
for each party a joint minute or joint
motion (other than under paragraph
14(b))
- (c) (c) Where motion exceeds half 19.55
hour, additional fee per quarter hour

**11. Fee to cover considering opponent’s
written motion or minute excluding minute or
motion to recall decree and relative attendance
at court–**

- (a) (a) Where motion or minute 101.85
opposed

- (b) (b) Where motion or minute unopposed 43.60
- (c) (c) Where motion exceeds half hour, additional fee per quarter hour 19.55

12. Hearing Limitation–

Fee to include work done (except as otherwise specially provided for in this Chapter) undertaken with a view to limiting the scope of any hearing, and including the agreement of evidence generally including the exchange of documents, precognitions and expert reports, agreeing any fact, statement or document not in dispute, preparation and lodging of witness list, preparing Schedule of Damages and preparing and lodging joint minute (not exceeding 1 hour) 100.00

13. Procedure preliminary to proof–

- (a) Fee to cover all work preparing proof (except as otherwise specially provided for in this chapter)
- (i) If action settled or abandoned not later than 7 days before the diet of proof 250.00
- (ii) In any other case 300.00
- (b) (b) Fee to cover preparing for adjourned diet and all incidental work as in (a) if diet postponed for more than 6 days, for each additional diet 94.60
- (c) (c) Fee for attendance inspecting opponent's documents – per quarter hour 21.70

14. Conduct of proof–

- (a) (a) Fee to cover conduct of proof or trial and debate on evidence taken at close of proof – per quarter hour 21.75
- (b) (b) Waiting time – per half hour 19.55

15. Debate on Evidence–

- (a) (a) Where debate on evidence not taken at conclusion of proof, preparing for debate 72.70
- (b) (b) Fee for conduct of debate – per quarter hour 21.75

16. Settlements–

- (a) Judicial tender–
- (i) Fee for preparation and lodging or for consideration of each minute of tender 79.90

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(ii) 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	65.50
(b) (b) Extra judicial settlement–	
Fee to cover negotiations resulting in settlement, framing or revising joint minute and attendance at court when authority interponed thereto	145.30
(c) (c) Whether or not fees are payable under (a) or (b) above where additional work has been undertaken with a view to effecting settlement, including offering settlement, although settlement is not agreed – not exceeding	145.30
17. Specification of documents–	
(a) Fee to cover drawing, intimating and lodging specification and relative motion	
(i) Where motion unopposed	79.90
(ii) Where motion opposed – additional fee per quarter hour	19.55
(b) (b) Fee to opposing solicitor	
(i) Where motion unopposed	43.60
(ii) Where motion opposed – additional fee per quarter hour	19.55
(c) (c) Fee for citation of havers, preparation for and attendance before commissioner at execution of commission–	
(i) Where attendance before commissioner does not exceed one hour	79.90
(ii) For each additional quarter hour after the first hour	21.70
(d) (d) If optional procedure adopted – fee per person upon whom order is served	19.55
(e) (e) Fee for perusal of documents recovered – per quarter hour	19.55

18. Commissions to take evidence–

Open Commissions–

(a) (a) Fee to solicitor applying 145.40
for commission to include all
work (except as otherwise specially
provided for in this chapter) up to
lodging report of commission but
excluding attendance thereat

(b) (b) Fee to opposing solicitor 72.70

(c) (c) Fee for attendance at execution 21.70
of commission – per quarter hour

19. Appeals–

(a) (a) Fee to cover instructions, 218.10
marking of appeal or noting that
appeal marked, noting of diet of
hearing thereof, perusing Stated Case,
framing Questions in Law and
Adjustment thereof, preparation for
hearing

(b) (b) Fee to cover conduct of hearing 21.70
on Adjustments – per quarter hour

(c) (c) Conduct of Appeal – per quarter 21.70
hour

20. Final Procedure–

(a) (a) Fee to cover settling with 109.10
witnesses and noting final interlocutor

(b) (b) Fee to cover drawing 94.60
of expenses, arranging, intimating
and attending diet of taxation
and obtaining approval of auditor's
report and where necessary, ordering,
procuring and examining extract
decree or adjusting account with
opponent

(c) (c) Fee to cover considering 19.55
opponent's account of expenses,
objections and attendance at hearing
on expenses – per quarter hour

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**Chapter IV –
Summary Cause
Part II –
Defended Actions**

Personal Injury Claims Only

1. Work before action commences – to 284.60
cover all work of a pre-litigation basis,
to include discussions/correspondence with
opposing party, exchange of documentation, etc
(not exceeding 3 hours)

- (a) (a) Instruction fee to include 300.00
taking instructions, framing summons
and statement of claim, statement
of valuation, obtaining warrant
for service, enquiring for and
consideration of Response Form (not
exceeding 2_ hours)
- (b) (b) Where counter claim and 150.00
answers lodged, additional fee of (not
exceeding 1½ hours)
- (c) (c) If additional defender/third 150.00
party brought in, additional fee to each
original party’s agent (not exceeding
1½ hours)

3. Service–

- (a) (a) Citation by post within 12.35
the United Kingdom, Isle of Man,
Channel Islands, or the Republic of
Ireland – for each party
- Citation by post elsewhere – for each party 27.25
- (b) (b) Instructing service or reservice 12.35
by sheriff officer including perusing
execution of citation and settling
sheriff officer’s fee – for each party
- (c) (c) Framing and instructing service 32.85
by advertisement – for each party

4. Attendance at first calling–

- (a) (a) To include necessary 195.60
preparation for and conduct of
(each of) such hearings and noting
interlocutor (2 hours)

- (b) (b) Where waiting/hearing exceeds 27.15
one half hour – for every extra quarter
hour

5. Attendance at Court–

Attendance at any diet except as otherwise 54.50
specially provided – per half hour

**6. Precognitions– taking and drawing – per 45.50
sheet**

Note: Where a skilled witness prepares his own
precognition or report, the solicitor shall be
allowed half of above drawing fee for perusing
it (whether or not in the course of doing so he
revises or adjusts it).

7. Reports obtained under Order of Court–

- (a) (a) All work incidental to it 100.00
- (b) (b) Additional fee for perusal of 12.65
report, per quarter hour

8. Productions–

- (a) (a) For lodging productions – each 54.50
inventory
- (b) (b) For considering opponent’s 27.15
productions – each inventory

**9. Affidavits– to framing affidavits (where 18.15
ordered) per sheet**

10. Motions and minutes–

Fee to cover drawing, intimating and lodging
of any written motion or minute, excluding a
minute or motion to recall decree, and relative
attendance at court (except as otherwise
provided in this Chapter)–

- (a) (a) Where opposed 127.35
- (b) (b) Where unopposed – including 54.50
for each party a joint minute or joint
motion (other than under paragraph
14(b))
- (c) (c) Where motion exceeds half 27.15
hour, additional fee per quarter hour

**11. Fee to cover considering opponent’s
written motion or minute excluding minute or
motion to recall decree and relative attendance
at court–**

- (a) (a) Where motion or minute 127.35
opposed

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- (b) (b) Where motion or minute unopposed 54.50
- (c) (c) Where motion exceeds half hour, additional fee per quarter hour 27.15

12. Procedure preliminary to proof–

- (a) Fee to cover all work preparing proof – as follows – exchanging of witness list, documents list, skilled witnesses, reports, consideration of defender’s schedule of damages, citation of witnesses, general preparation for Proof (except as otherwise specially provided for in this chapter) (not exceeding 3 hours)
- (i) If action settled or abandoned not later than 7 days before the diet of proof 400.00
- (ii) In any other case 526.95
- (b) (b) Fee to cover preparing for adjourned diet and all incidental work as in (a) if diet postponed for more than 6 days, for each additional diet 118.25

13. Hearing Limitation–

Fee to include work done (except as otherwise specially provided for in this Chapter) undertaken with a view to limiting the scope of any hearing and including the agreement of evidence generally, including the agreement of photographs, sketch plans, documents, precognitions and expert reports, agreeing any fact, statement or documents, agreeing Schedule of Damages and preparing and lodging joint minute of admissions (not exceeding 3 hours) 400.00

14. Conduct of proof–

- (a) (a) Fee to cover conduct of proof or trial and debate on evidence taken at close of proof – per quarter hour 27.15
- (b) (b) Waiting Time – per half hour 24.45

15. Debate on Evidence–

- (a) (a) Where debate on evidence not taken at conclusion of proof, preparing for debate 90.85
- (b) (b) Fee for conduct of debate – per quarter hour 27.15

16. Settlements–

(a) Judicial tender–	
(i) Fee for preparation and lodging or for consideration of each minute of tender	99.90
(ii) 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	81.85
(b) (b) Extra judicial settlement–	
Fee to cover negotiations resulting in settlement, framing or revising joint minute and attendance at court when authority interposed thereto	181.65
(c) (c) Whether or not fees are payable under (a) or (b) above where additional work has been undertaken with a view to effecting settlement, including offering settlement, although settlement is not agreed – not exceeding	136.40
17. Specification of documents–	
(a) Fee to cover drawing, intimating and lodging specification and relative motion	
(i) Where motion unopposed	99.90
(ii) Where motion opposed – additional fee per quarter hour	24.45
(b) (b) Fee to opposing solicitor	
(i) Where motion unopposed	99.90
(ii) Where motion opposed – additional fee per quarter hour	24.45
(c) (c) Fee for citation of havers, preparation for and attendance before commissioner at execution of commission–	
(i) Where attendance before commissioner does not exceed one hour	99.90
(ii) For each additional quarter hour after the first hour	27.15
(d) (d) If optional procedure adopted – fee per person upon whom order is served	24.45
(e) (e) Fee for perusal of documents recovered – per quarter hour	24.45

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18. Commissions to take evidence–

Open Commissions–

- (a) (a) Fee to solicitor applying 181.75
for commission to include all
work (except as otherwise specially
provided for in this chapter) up to
lodging report of commission but
excluding attendance thereat
- (b) (b) Fee to opposing solicitor 90.85
- (c) (c) Fee for attendance at execution 27.15
of commission – per quarter hour

19. Appeals–

- (a) (a) Fee to cover instructions, 272.65
marking of appeal or noting that
appeal marked, noting of diet of
hearing thereof, perusing Stated Case,
framing Questions in Law and
Adjustment thereof, preparation for
hearing
- (b) (b) If Counsel employed 154.60
- (c) (c) Fee to cover conduct of hearing 27.15
on Adjustments – per quarter hour
- (d) (d) Conduct of Appeal – per quarter 27.15
hour

20. Final Procedure–

- (a) (a) Fee to cover settling with 136.40
witnesses and noting final interlocutor
- (b) (b) Fee to cover drawing 118.25
of expenses, arranging, intimating
and attending diet of taxation
and obtaining approval of auditor’s
report and where necessary, ordering,
procuring and examining extract
decree or adjusting account with
opponent
- (c) (c) Fee to cover considering 24.45
opponent’s account of expenses and
attendance at hearing on expenses

21. Instruction of Counsel–

- (a) (a) Fee for instructing counsel to 118.25
attend court
- (b) (b) Fee for attending consultation
with counsel–

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|---|--------|
| (i) Where total time engaged does not exceed one hour | 118.25 |
| (ii) For each additional quarter hour | 24.45 |

Note: Excludes Adjustment, Debate, Amendment, Interrogatories, Process Fee.

EXPLANATORY NOTE

(This note is not part of the Order)

This Act of Sederunt amends Chapter IV Part II of the Table of Fees (defended summary causes) in the Schedule to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993 by substituting two new tables. The new tables regulate fees under the procedure for non personal injury summary causes and personal injury summary causes introduced by new summary cause rules.

It also increases the values of actions to which reduced fees apply and removes undefended actions for recovery of possession of heritable property from the list of actions to which reduced fees apply.

The Act of Sederunt does not apply as respects fees chargeable for work done before it comes into force.