

This Scottish Statutory Instrument has been made in consequence of a defect in S.S.I. 2002/235 and is being issued free of charge to all known recipients of that instrument.

SCOTTISH STATUTORY INSTRUMENTS

2002 No. 568

SHERIFF COURT

**Act of Sederunt (Fees of Solicitors in the Sheriff Court)
(Amendment No. 4) 2002**

Made - - - - - *23rd December 2002*
Laid before the Scottish Parliament *23rd December 2002*
Coming into force - - - *1st January 2003*

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(a), 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 No. 4) 2002 and shall come into force on 1st January 2003.

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

Amendment to Schedule

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

(2) In the General Regulations, in paragraph 14—

- (a) in paragraph (b), for “and II” there shall be substituted “, II and III”;
- (b) in paragraph (c) after “(attendance at court),” there shall be inserted “and in Part III (Defended Actions and Defended Actions: Personal Injury Claims only), in respect of paragraphs 5 (attendance at court)”;

(a) 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.

(b) 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, S.S.I. 2002/235 and S.S.I. 2002/ 274.

- (c) in paragraph (d), after “(precognitions),” there shall be inserted “and in Part III (Defended Actions and Defended Actions: Personal Injury Claims only), in respect of paragraphs 6 (precognitions),”; and
 - (d) in paragraph (e), after “paragraph 15,” there shall be inserted “and in Part III (Defended Actions and Defended Actions: Personal Injury Claims only), in respect of paragraphs 19 (appeals),”.
- (3) In the Table of Fees, in Chapter IV,
- (a) after Part I (Un defended Actions) there shall be inserted the Table of Fees in the Schedule to this Act of Sederunt;
 - (b) for each of the headings “Part II – Defended Actions” and “Part II – Defended Actions: Personal Injury Claims Only” there shall be substituted “Part III – Defended Actions (commenced on or after 10th June 2002)” and “Part III – Defended Actions: Personal Injury Claims Only (commenced on or after 10th June 2002)” respectively.

Application of Chapter IV, Parts II and III

3.—(1) Chapter IV, Part II of the Table of Fees (as inserted by the Schedule to this Act of Sederunt) shall apply to fees chargeable in respect of work done or outlays incurred in relation to any summary cause commenced before 10th June 2002.

(2) Chapter IV, Part III of the Table of Fees (Defended Actions and Defended Actions: Personal Injury Claims Only) shall apply to fees chargeable in respect of work done or outlays incurred in relation to any summary cause commenced on or after 10th June 2002.

Saving

4. Paragraph 2(2) does not affect such fees as are chargeable in respect of work done or outlays incurred in relation to any summary cause commenced before 10 June 2002.

W. Douglas Cullen
Lord President
I.P.D.

Edinburgh
23rd December 2002

SCHEDULE

Part II – Defended Actions (commenced before 10th June 2002)}

1.	Instructions fee, to include taking instructions (including instructions for a counterclaim), framing summons and statement of claim, obtaining warrant for service, instructing service as necessary by sheriff officer (where appropriate), attendance endorsing minute for and obtaining decree in absence and extract decree	119.80
2.	Service–	
	(a) Citation by post within the United Kingdom, Isle of Man, Channel Islands, or the Republic of Ireland – for each party	9.90
	Citation by post elsewhere – for each party	21.80
	(b) Instructing service or reservice by sheriff officer including perusing execution of citation and settling sheriff officer’s fee – for each party	9.90
	(c) Framing and instructing service by advertisement – for each party	31.50
3.	Attendance at court -	31.50
	Attendance at any diet except as otherwise specially provided	
4.	Preparing for proof, to include all work in connection with proof not otherwise provided for	109.00
5.	Fee to cover preparing for adjourned diet and all incidental work if diet for more than six days – for each adjourned diet	52.30
6	(a) Drawing and lodging inventory of productions, lodging the productions specified therein and considering opponent’s productions (to be charged only once in each process)	47.80
	(b) Where only one party lodges productions, opponent’s charges for considering same	21.90
7.	Precognitions -	47.80
	(a) Drawing precognitions, including instructions, attendances with witnesses and all relative meetings and correspondence – per witness	47.80
	(b) Where precognitions exceed 2 sheets – for each additional sheet	21.90
8.	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) Where opposed	65.10

(b) Where unopposed (including for each party a joint minute or joint motion)	40.20
9. Fee to cover considering opponent's written motion or minute excluding minute or motion to recall decree and relative attendance at court -	
(a) Where motion or minute opposed	52.30
(b) Where motion or minute unopposed	31.50
10. Conduct of proof -	
(a) Fee to cover conduct of proof or trial and debate on evidence taken at close of proof – per half hour	31.50
(b) Waiting time – per half hour	16.50
11. Settlements -	
(a) Judicial tender, fee for consideration of, preparing and lodging minute of tender	65.10
(i) Fee for consideration and rejection of tenders	47.80
(ii) Fee on acceptance of tender – to include preparing and lodging, or consideration of minute of acceptance and attendance at court when decree granted in terms thereof	47.80
(b) Extra-judicial settlement – fee to cover negotiations resulting in settlement, framing or revising joint minute and attendance at court when authority interponed thereto	109.00
12. Specification of documents -	
(a) Fee to cover drawing, intimating and lodging specification of documents and relative motion and attendance at court	54.30
(b) Inclusive fee to opposing solicitor	48.80
(c) Fee for citation of havers, preparation for and attendance before commissioner, to each party – for each half hour	31.50
(d) If alternative procedure adopted, a fee per person upon whom order served	21.90
13. Commissions to take evidence -	
(a) Fee to cover drawing, lodging and intimating motion and attendance at court	
(i) Where opposed	65.10
(ii) Where unopposed	40.20
(b) Fee to cover considering such motion and attendance at court	

(i)	Where opposed	52.30
(ii)	Where unopposed	31.50
(c)	Fee to cover instructing commissioner and citing witness	31.50
(d)	Fee to cover drawing and lodging interrogatories and cross-interrogatories – per sheet	21.90
(e)	Attendance before commissioner – per hour	30.50
(f)	Travelling time – per hour	21.90
14.	Supplementary note of defence (when ordered)	21.90
15.	Appeals -	
(a)	Fee to cover instructions, marking of appeal or noting that appeal marked, noting of diet of hearing thereof and preparation for hearing	147.10
(b)	Fee to cover conduct of hearing – per half hour	31.50
16.	Final Procedure -	
(a)	Fee to cover settling with witnesses, enquiring for cause at avizandum, noting final interlocutor	65.10
(b)	Fee to cover drawing account of expenses, arranging, intimating and attending hearing on expenses, and obtaining approval of sheriff clerk’s report	65.10
(c)	Fee to cover considering opponents’ account of expenses and attendance at hearing on expenses	31.50

EXPLANATORY NOTE

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

This Act of Sederunt re-introduces the Table of Fees previously contained in Chapter IV Part II of the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993 which shall apply to any summary cause commenced before 10 June 2002. The Act also re-names the new Tables introduced by Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment) 2002 (S.S.I 2002/235) as Part III of Chapter IV of the Table of Fees and provides that Part III shall apply in relation to any summary cause commenced on or after 10th June 2002.

The Act makes consequential changes to paragraph 14 of the General Regulations in relation to Part III of the Table of Fees.

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£2.00

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Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
150 01/03 19593

ISBN 0-11-061843-2



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