

SCHEDULE

Regulation 9

“SCHEDULE 4

Regulation 10

FEEES OF COUNSEL FOR PROCEEDINGS IN THE
COURT OF SESSION AND SHERIFF COURT

1. Subject to the following provisions of this Schedule, the fees of counsel shall be calculated by the Board, or in the event of dispute by the auditor, in accordance with the fees prescribed in the Tables of Fees set out after paragraph 17 to this Schedule, and the fee of a solicitor-advocate for undertaking an item of work in the Court of Session shall be—

- (a) where that person is acting as a junior solicitor-advocate, the same as that allowable to a junior counsel for undertaking an item of work equivalent to that undertaken by the solicitor-advocate; or
- (b) where that person is acting as a senior solicitor-advocate, the same as that allowable to a senior counsel for undertaking an item of work equivalent to that undertaken by the solicitor-advocate.

2. Where the Tables of Fees in this Schedule prescribe a range of fees for any item of work the Board, or as the case may be the auditor, shall allow such fee as appears to provide reasonable remuneration for the work, subject to the following—

- (a) it shall be for counsel to identify any factors justifying a higher fee than the minimum prescribed;
- (b) where a fee relates to the drafting of any document the length of the document shall be a subordinate consideration to the content of the document;
- (c) in determining the appropriate fee for drafting a summons, petition, defences, or answers regard shall be had to the volume of documentation that required to be considered, and the novelty or difficulty of the work involved;
- (d) in determining the appropriate level of fee for a consultation, regard shall be had to the length of the consultation and any reasonable and proportionate preparation required which has not otherwise been reflected in an additional fee for preparation, or in a fee for a proof or other hearing; and
- (e) in determining the appropriate fee for drafting a note, regard shall be had to the issues involved, the importance, novelty or complexity of the applicable law and, as appropriate, the absence of previous authority or the existence of adverse authority.

3. Where the Tables of Fees in this Schedule do not prescribe a fee for any class of proceedings or any item of work, the Board, or as the case may be the auditor, shall allow such fee as appears to be appropriate to provide reasonable remuneration for the work with regard to all the circumstances, including the general levels of fees in the Tables of Fees.

4. Subject to paragraphs 5 to 7, the fees prescribed in the Tables of Fees in this Schedule include all associated preparation work.

5. Subject to paragraph 6, an additional fee for preparation shall only be allowed if it relates to a proof, debate or like hearing and the hearing—

- (a) does not proceed (a date or dates having been assigned for the hearing);
- (b) does not exceed a day in duration;
- (c) does not exceed four days in duration, and the Board is satisfied that the case is abnormal in magnitude, difficulty or any other respect; or

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- (d) exceeds four days in duration, and the Board is satisfied that the case is abnormal in magnitude, difficulty of any other respect, and also that counsel required to consider an abnormally large quantity of documentation.
- 6.** An additional fee for preparation as provided for in paragraph 5 above shall be allowed only on the following conditions—
- (a) the fee is only chargeable in respect of work undertaken following the instruction of counsel for the hearing;
 - (b) in respect of any hearing, except on cause shown, such a fee is allowable only once to junior or senior counsel, or as the case may be junior and senior counsel, notwithstanding that the applicant or assisted person is represented by more than one junior or senior counsel during the course of the proceedings;
 - (c) the Board, or as the case may be the auditor, must be satisfied that the time engaged in preparation was reasonable and proportionate in all the circumstances of the case; and
 - (d) counsel shall provide the Board with a detailed summary of the work undertaken and the documentation perused at each stage of the process and shall, if required by the Board, provide details of authorities referred to, the time engaged, dates and locations as to when and where the work was undertaken, and any contemporaneous records or notes made in the course of preparation.
- 7.** The additional fee for preparation shall be calculated by dividing the time allowed, as determined in accordance with paragraphs 5 and 6, into units of 8 hours, each unit being payable at the rate of two thirds of the daily rate applicable to that hearing as prescribed in the Tables of Fees.
- 8.** The fees prescribed in the Tables of Fees for drafting any summons, petition, other initiating document, defences or answers include any work involved in revising such a document.
- 9.** Paragraphs 10 and 11 apply where, in respect of any hearing, counsel claims a fee for keeping free from other commitments (“a commitment fee”), and regulation 9 shall apply subject to those paragraphs.
- 10.** A commitment fee is allowable only where—
- (a) counsel has accepted instructions to appear at a proof, debate or similar hearing assigned for 8 days or more over consecutive weeks;
 - (b) the proceedings settle on or before the first day of the hearing;
 - (c) counsel is notified that the hearing is not proceeding no more than two working days before the start of the hearing; and
 - (d) in the case of a hearing assigned for fewer than 12 days, counsel is not otherwise entitled to a fee for attendance at the first day of the hearing.
- 11.** Where a commitment fee is allowable the fee is payable at a unit rate equal to the daily rate applicable to the hearing to which it relates, as prescribed in the Tables of Fees, and—
- (a) 2 units shall be payable in the case of a hearing assigned for 12 days or more where counsel is not otherwise entitled to a fee for attendance at the first day of the hearing; and
 - (b) 1 unit shall be payable in any other case.
- 12.** In the calculation of counsel’s fees—
- (a) counsel’s fees are allowable only where the Board has approved the employment of counsel or where the approval of the Board is not required;
 - (b) junior counsel shall only be allowed the fees prescribed in Part 1 of the applicable Table of Fees even where sanction has been granted for the employment of senior counsel;

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- (c) except on cause shown, fees to counsel shall be allowed for no more than two consultations in the course of proceedings;
- (d) notwithstanding that sanction may have been granted for the employment of senior counsel, or for the employment of a second junior counsel, fees shall not be payable for the attendance of two counsel at a hearing which by its nature does not require the attendance of a second counsel, or for the attendance of senior counsel at a hearing that by its nature does not require the attendance of senior counsel; and
- (e) correspondence, telephone calls and meetings between counsel acting for the same assisted person are not allowable as separate items and shall be subsumed within the fees prescribed for the associated item of work in the Tables of Fees.

13. In the calculation of counsel's fees for proceedings in the sheriff court—

- (a) no fee shall be allowed to counsel for drafting defences in skeleton form;
- (b) except on cause shown, no fee shall be allowed to counsel for drafting or revising a motion or for attendance at the calling of a motion; and
- (c) except on cause shown, no fee shall be allowed to counsel for attendance at hearings which are routine, or procedural in nature, or unopposed.

14. The fee for time engaged in necessary travel specified in paragraph 13 of Chapter 6 of Part 1 and paragraph 7 of Part 2 of Table of Fees A and in paragraph 10 of Part 1 and paragraph 7 of Part 2 of Table of Fees B is chargeable only as follows—

- (a) the travel undertaken must involve a round trip exceeding 60 miles in each direction;
- (b) counsel shall, if required, produce vouching of the travel undertaken; and
- (c) the fee is chargeable only once in respect of each round trip, irrespective of the number of cases for which the travel is undertaken.

15.—(1) Travel costs are chargeable as an outlay only in circumstances where a fee for time engaged in necessary travel is chargeable under paragraph 14.

(2) Counsel shall if required provide vouching of the costs incurred.

16.—(1) The cost of necessary accommodation and subsistence is chargeable as an outlay up to the level specified in paragraph 14 of Chapter 6 of Part 1 and paragraph 8 of Part 2 of Table of Fees A and in paragraph 11 of Part 1 and paragraph 8 of Part 2 of Table of Fees B only in circumstances where a fee for time engaged in necessary travel is chargeable under paragraph 14, and on cause shown.

(2) Counsel shall if required provide vouching of the costs incurred.

17. In any taxation of counsel's fees in terms of regulation 12, the auditor shall have regard to information not previously made available to the Board only if the information was not available to be provided to the Board at the time it made the offer to counsel which is the subject of taxation, or on cause shown.

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TABLE OF FEES A
FEES OF COUNSEL FOR PROCEEDINGS IN THE COURT OF
SESSION

PART 1 – JUNIOR COUNSEL

CHAPTER 1 - FAMILY ACTIONS

1.	<i>Summons or other initiating writ</i>	£300.00
2.	<i>Minute</i>	
	(a) minute relating to orders for parental responsibilities or parental rights and/or aliment or financial provision	£200.00
	(b) any other minute containing a conclusion or crave	£150.00
3.	<i>Defences or answers</i>	
	(a) Defences or answers in purely skeleton form to preserve the rights of parties	£50.00
	(b) Defences or answers to which sub-paragraph (a) does not apply	£275.00
4.	<i>Joint minute or minute of agreement regulating aliment, financial provision, orders relating to parental responsibilities or parental rights or any other matter in respect of which orders may be sought</i>	
	(a) straightforward cases	£50.00

(b)	other cases	£125.00
(c)	minute of agreement	£200.00
5.	<i>Minute for decree</i>	£50.00
6.	<i>All other work</i>	

The fees prescribed in Chapter 6 shall apply

CHAPTER 2 - PETITIONS (OTHER THAN
PETITIONS TO WHICH CHAPTERS 3 TO 5 APPLY)

1.	<i>Petition</i>	
(a)	petition for interdict	
(i)	straightforward cases	£200.00
(ii)	other cases	£300.00
(b)	other Outer House petitions	£300.00
(c)	the fee for Inner House petitions shall be as appears to the Board, or as the case may be the auditor, to provide reasonable remuneration for the work having regard to the level of fees in this Table of Fees	
2.	<i>Answers</i>	
(a)	petition for interdict	£150.00
(b)	other Outer House petitions	£150.00
(c)	the fee for Inner House petitions shall be as appears to the Board, or as the case may be the auditor, to provide reasonable remuneration for the work having regard to the level of fees in this Table of Fees	

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3. *All other work*

The fees prescribed in Chapter 6 shall apply

CHAPTER 3 - PETITIONS FOR JUDICIAL REVIEW

1.	<i>Petition for judicial review</i>	£350.00
2.	<i>Motion for first orders</i>	
	(a) where the hearing does not exceed 30 minutes	£60.00
	(b) where the hearing exceeds 30 minutes, for each subsequent half hour or part thereof	£50.00
3.	<i>First or second hearing (per day)</i>	
	(a) junior alone	£900.00
	(b) junior with senior	£650.00
4.	Written statement of arguments	£200.00
5.	<i>All other work</i>	

The fees prescribed in Chapter 6 shall apply

CHAPTER 4 – PETITIONS ON CHILD ABDUCTION AND ON THE RECOGNITION AND ENFORCEMENT OF DECISIONS RELATING TO CHILDREN

1.	<i>Petition</i>	£325.00
2.	<i>Answers</i>	£325.00
3.	<i>Motion for interim orders</i>	
	(a) where the hearing does not exceed 30 minutes	£60.00

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(b)	where the hearing exceeds 30 minutes, for each subsequent half hour or part thereof	£50.00
4.	<i>First or second hearing (per day)</i>	
(a)	junior alone	£900.00
(b)	junior with senior	£650.00
5.	<i>Revising any affidavit which requires to be lodged</i>	£50.00
6.	<i>All other work</i>	

The fees prescribed in Chapter 1, which failing Chapter 6 shall apply

CHAPTER 5 - APPLICATIONS FOR ADOPTION ORDERS, CONVENTION ADOPTION ORDERS AND PERMANENCE ORDERS AND OTHER PROCEEDINGS UNDER THE ADOPTION AND CHILDREN (SCOTLAND) ACT 2007(1)

1.	<i>Petition</i>	£300.00
2.	<i>Revising any affidavit which requires to be lodged</i>	£50.00
3.	<i>Note for revocation of permanence order or other note in the adoption process</i>	£200.00
4.	<i>Hearing to set timetable or determine procedure (per half hour)</i>	£50.00
5.	<i>All other work</i>	

The fees prescribed in Chapter 1, which failing Chapter 6 shall apply

CHAPTER 6 – ORDINARY ACTIONS

1.	<i>Summons</i>	£300.00
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2.	<i>Defences</i>	
	(a) where in purely skeleton form to preserve rights of parties	£50.00
	(b) otherwise	£275.00
3.	<i>Adjustment of pleadings</i>	
	(a) adjustment of skeleton defences	£225.00
	(b) otherwise (each occasion)	£75.00
4.	<i>Specification of documents</i>	
	(a) specification with standard calls only	£50.00
	(b) other specification of documents	£125.00
5.	<i>Minutes etc</i>	
	(a) formal amendments or answers	£75.00
	(b) amendments or answers other than formal	£150.00
	(c) drafting, revising and signing tender or acceptance	£50.00
	(d) note of exceptions	£50.00
	(e) abandonment, sist, restriction, etc.	£50.00
	(f) issue or counter issue	£75.00
6.	<i>Notes</i>	
	(a) note on liability and/or quantum	£150.00–£350.00

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- (b) note advising on tender or extra-judicial offer, where not merely confirming advice at consultation £125.00
 - (c) note on line of evidence £200.00–£400.00
 - (d) other types of note £150.00
7. *Consultations*
- (a) before proof or trial, or otherwise involving a significant degree of preparation or lengthy discussion—
 - (i) junior alone £250.00–£400.00
 - (ii) junior with senior £200.00–£300.00
 - (b) other consultations—
 - (i) junior alone £125.00–£250.00
 - (ii) junior with senior £100.00–£200.00
8. *Pre-trial meetings*
- Pre-trial meeting with opponent with a view to settlement of the case (to include preparation of minute of pre-trial meeting and any associated joint minute)
- (i) junior alone £450.00
 - (ii) junior with senior £350.00
9. *Motions (including By Order hearings)*
- (a) where the hearing does not exceed 30 minutes £60.00

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- (b) where the hearing exceeds 30 minutes, for each subsequent half hour or part thereof £50.00

- 10. *Procedure roll, proof or jury trial (per day)*
 - (a) junior alone £900.00
 - (b) junior with senior £650.00

- 11. *Inner House*
 - (a) Single Bills
 - (i) where the hearing does not exceed 30 minutes £75.00
 - (ii) where the hearing exceeds 30 minutes, for each subsequent half hour or part thereof £50.00
 - (b) reclaiming motion (per day)
 - (i) junior opening or appearing alone £1,000.00
 - (ii) junior otherwise £700.00
 - (c) motion for new trial (per day)
 - (i) junior opening or appearing alone £750.00
 - (ii) junior otherwise £500.00

- 12. *Attendance at judgment*
 - (a) Outer House £50.00
 - (b) Inner House £50.00

13. *Time engaged in necessary travel*

Supplementary fee chargeable in addition to any of the above fees £100.00 where necessary travel is undertaken

14. *Accommodation and associated subsistence*

Payment of necessary accommodation and associated subsistence per £100.00 day

PART 2 – SENIOR COUNSEL

FAMILY ACTIONS, PETITIONS (INCLUDING JUDICIAL REVIEW, ABDUCTION AND ADOPTION) AND ORDINARY ACTIONS

1. *Drafting or revisal of pleadings*

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| (a) drafting of summons, defences, petition or answers | £425.00–£500.00 |
| (b) revisal of summons, defences, petition or answers | £150.00 |
| (c) adjustment fee (open record) (each occasion) | £125.00 |

2. *Minutes, etc – revisal fees*

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|---|---------|
| (a) amendments (other than formal) or answers | £200.00 |
| (b) admissions, tender or acceptance (in appropriate cases) | £75.00 |
| (c) note of exceptions | £100.00 |

3. *Notes*

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| (a) note on liability and/or quantum | £225.00–£550.00 |
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(b)	advice on tender or extra-judicial offer when not merely confirming advice at consultation	£200.00
(c)	note on line of evidence	£300.00–£600.00
(d)	other notes	£225.00
4.	<i>Consultations</i>	
	before proof or trial, or otherwise involving a significant degree of preparation or lengthy discussion with senior alone or with senior and junior	£300.00–£550.00
5.	<i>Pre-trial meetings</i>	
	Pre-trial meetings with opponent with a view to settlement of case (to include preparation of minute of pre-trial meeting and any associated joint minute)	£650.00
6.	<i>Day in court</i>	
(a)	Inner House	£1,500.00
(b)	Outer House	£1,350.00
7.	<i>Time engaged in necessary travel</i>	
	Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken	£100.00
8.	<i>Accommodation and associated subsistence</i>	
	Payment of necessary accommodation and associated subsistence per day	£100.00

TABLE OF FEES B
FEES OF COUNSEL FOR PROCEEDINGS IN THE SHERIFF COURT

PART 1 - JUNIOR COUNSEL

1.	<i>Initial writ (or minute in family action)</i>	£275.00
2.	<i>Defences (or answers to minute in family action)</i>	£225.00
3.	<i>Adjustment of pleadings</i>	
	Adjustment fee (each occasion)	£67.50
4.	<i>Specification of documents</i>	
	(a) straightforward cases	£45.00
	(b) other cases	£110.00
5.	<i>Minutes, etc.</i>	
	(a) formal amendments or answers	£45.00
	(b) amendments or answers other than formal	£115.00
	(c) drafting, revising and signing tender or acceptance	£45.00

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(d)	note of exceptions	£40.00
(e)	abandonment, sist, restriction, etc.	£40.00
6.	<i>Notes</i>	
(a)	note on liability and/or quantum	£135.00–£315.00
(b)	note advising on tender or extra-judicial offer, where not merely confirming advice at consultation	£110.00
(c)	note on line of evidence	£180.00–£360.00
(d)	other notes	£135.00
7.	<i>Applications for adoption orders and permanence orders and other proceedings under the Adoption and Children (Scotland) Act 2007</i>	
(a)	petition	£275.00
(b)	minute for revocation of permanence order or other minute in the adoption process	£225.00
(c)	revising each affidavit	£45.00
(d)	hearing to set timetable or determine procedure	£45.00
8.	<i>Applications under section 85(1) of the Children (Scotland) Act 1995(2)</i>	
	Written application under section 85(1) for a review of establishment of grounds of referral	£225.00
9.	<i>Motions</i>	
	Attendance at opposed motion for up to half hour, and for each subsequent half hour or part thereof	£45.00

(2) 1995 c.36.

10. <i>Time engaged in necessary travel</i>			
	Supplementary fee chargeable where necessary travel undertaken		£100.00
11. <i>Accommodation and associated subsistence</i>			
	Payment of necessary accommodation and associated subsistence per day		£100.00
		Junior with senior	Junior alone
12. <i>Consultations (including joint consultations with opponent with a view to negotiating settlement)</i>			
	Before proof, or otherwise involving a significant degree of preparation or lengthy discussion	£180.00– £270.00	£225.00– £360.00
13. <i>Child welfare hearing</i>			
	Attendance up to half hour, and for each subsequent half hour or part thereof	£40.00	£55.00
14. <i>Hearings under Part II of Chapter 3 of the Children (Scotland) Act 1995</i>			
	(a) under section 55 to defend an application for a child assessment order	£40.00	£55.00
	(b) under section 60(7) for an application to set aside or vary a child protection order	£40.00	£55.00
	(c) under section 67 to defend a warrant for further detention of a child	£40.00	£55.00
15. <i>Proof, debate (or like hearing) or appeal under section 51(1) of the Children (Scotland) Act 1995 (per day)</i>			

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(a)	up to 20 days	£625.00	£810.00
(b)	subsequent days	£562.50	£729.00
16.	<i>Appeal to the Sheriff Principal (per day)</i>	£650.00	£850.00

PART 2 - SENIOR COUNSEL

1. *Revisal of pleadings*

(a)	revisal of initial writ, defences, petition or answers	£135.00
(b)	adjustment fee (open record) (each occasion)	£112.50

2. *Other revisal fees*

(a)	amendments (other than formal) or answers	£180.00
(b)	admissions, tender or acceptance (in appropriate cases)	£67.50

3. *Notes*

(a)	note on liability and/or quantum	£202.50– £500.00
(b)	advice on tender or extra-judicial offer where not merely confirming advice at consultation	£270.00
(c)	note on line of evidence	£270.00– £540.00
(d)	other notes	£202.50

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4. *Consultations (including joint consultations with opponent with a view to negotiating settlement)*
- Before proof, or otherwise involving a significant degree of preparation or lengthy discussion £270.00–
£500.00
5. *Proof, debate (or like hearing) or appeal under section 51(1) of the Children (Scotland) Act 1995 (per day)*
- (a) up to 20 days £1,215.00
- (b) subsequent days £1,093.50
6. *Appeal to Sheriff Principal (per day)* £1,300.00
7. *Time engaged in necessary travel*
- Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken £100.00
8. *Accommodation and associated subsistence*
- Payment of necessary accommodation and associated subsistence per day £100.00”
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