
 STATUTORY INSTRUMENTS

1974 No. 1686 (S. 153)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No.6) 1974

Made - - - -

9th October 1974

Coming into Operation

1st November 1974

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(a) and of all other powers competent to them in that behalf, do hereby enact and declare as follows:—

1. In the case of any work done or expenses incurred on or after 1st November 1974 the provisions of Rule 347 of the Rules of Court(b) shall apply in so far as amended by paragraph 2 hereof, and said amended Rule shall apply to and only to said work or expenses.

2. The Rules of Court are hereby amended as follows:—

(1) At the end of Rule 347(a) there shall be added:—

“In all Party and Party Accounts, the Account shall be taxed as if it was a chronological account of the work done in the litigation, and as though that work had been performed by one solicitor. Only such expenses shall be allowed as are reasonable for conducting the case in a proper manner”.

(2) Rule 347(g) shall be deleted and there shall be substituted therefor:—

“(g) Posts and incidents are allowed at 12 per cent of the taxed amount of fees subject to the Auditor’s discretion, in terms of the Act of Sederunt (Rules of Court Amendment No. 2) 1973(c) made on 28th February 1973, which Act of Sederunt also authorises the surcharging of the amount of Value Added Tax in appropriate cases”.

(3) Chapter II(a) of Rule 347 shall be amended by deleting from the first line of the second paragraph thereof the figures “£26”, and by substituting therefor: “£40”.

(4) Chapter II(b) of Rule 347 shall be amended by deleting from the first line of the second paragraph therefor the figure “£1”, and by substituting therefor: “£2”.

(5) Chapter II(c) of Rule 347 shall be amended by deleting from the second line thereof the figure “£1” and by substituting therefor: “£2”.

(6) Note 1(a) appended to Chapter II shall be amended by deleting therefrom the figures “£0.50” and by substituting therefor “£1”.

(a) 1933 c. 41.

(c) S.I. 1973/360 (1973 I, p. 1264).

(b) S.I. 1965/321 (1965 I, p. 803).

(7) Note 1(b) appended to Chapter II shall be amended by deleting therefrom where they occur in the first and second lines thereof the figures “£1” and “£3” and by substituting therefor respectively “£2” and “£5”.

(8) Chapter III, Part I of Rule 347 shall be amended by deleting therefrom the figures “£20·00” and “£19” and by substituting therefor respectively the figures “£25·00” and “£25”.

(9) Chapter III Part II section 1 shall be amended by deleting therefrom the figures “£15·50” and by substituting therefor “£35·00”.

(10) Chapter III Part II section 2 shall be amended by deleting therefrom the figures “£10·00” and by substituting therefor “£20·00”.

(11) Chapter III Part II section 3 shall be deleted and there shall be substituted therefor:—

“3. Amendment—

- | | | |
|--|--------|--------|
| (a) Where Summons amended, where re-service is not ordered and motion is not starred | | 5·00 |
| (b) Where Summons amended, where re-service is not ordered and motion is starred | | 8·00 |
| (c) Where Summons amended and re-service is ordered | | 10·00” |

(12) Chapter III Part II section 4 shall be deleted and there shall be substituted therefor:—

“4A. Commissions to take evidence on Interrogatories

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|---|--------|------|
| (a) Basic fee to cover all work up to and including lodging completed interrogatories but excluding attendance at execution of Commission | | 7·50 |
| (b) Attendance at execution of Commission (if required) per half hour | | 3·00 |
| (c) In addition to above, a fee per sheet for completed interrogatories, including all copies, of | | 1·50 |

“4B. Commissions to take evidence on Open Commission

- | | | |
|---|--------|-------|
| (a) Basic fee to Solicitor applying for Commission up to and including Report of Commission but excluding attendance at execution thereof | | 8·50 |
| (b) Attendance at execution of Commission per half hour | | 3·00” |

(13) Chapter III Part II section 5 shall be deleted and there shall be substituted therefor:

“5. Where applicable, charges under Part IV Sections 5, 6, 7, 10, 14, 16 and 21 (unless otherwise provided in this Part”.

(14) Chapter III Part II section 6 shall be deleted and there shall be substituted therefor:—

“6. Proof and Completion fee—

excluding Accounts of Expenses but including instructing Counsel for Proof, attendance at Proof, settling with witnesses, borrowing and returning productions, procuring Interlocutor and obtaining Extract Decree of Divorce	25·00”
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(15) Chapter III Part II section 7 shall be amended by deleting therefrom the figures “4·00” and by substituting therefor “8·00”.

(16) Chapter III Part III shall be deleted and there shall be substituted therefor:—

“PART III.	OUTER HOUSE PETITIONS UNOPPOSED PETITIONS	£
	1. <i>Fee for all work</i> , including precognitions and all copyings, up to and obtaining Extract Decree	50·00
	Outlays including Duplicating Charges to be allowed in addition.	
	OPPOSED PETITIONS	
	2. <i>Fee for all work</i> (other than precognitions) up to and including lodging Petition, obtaining and executing warrant for service	25·00
	Outlays including Duplicating Charges to be allowed in addition.	
	3. Where applicable, charges under Part IV Sections 5, 6, 7, 10, 12, 14, 18, 19, 20 and 21 of this Table.	
	4. <i>Reports in Opposed Petitions</i>	
	(a) for each Report by Accountant of Court ...	5·00
	(b) for any other Report as under Part IV section 6	
	5. <i>Obtaining Bond of Caution</i>	5·00”

(17) Chapter III Part IV shall be deleted and there shall be substituted therefor:

“PART IV.	DEFENDED ACTIONS	
	1. <i>Instruction Fee</i>	
	(a) To cover all work (apart from precognitions) until lodgment of Open Record	37·50
	(b) Instructing re-service where necessary	4·00
	(c) If Counter-claim lodged, additional fee for each party	8·00
	2. <i>Record Fee</i>	
	(a) To cover all work in connection with adjustment and closing of Record including subsequent work in connection with “By Order Adjustment Roll”	40·00
	(b) To cover all work as above, so far as applicable, where action settled or disposed of before Record closed ...	25·00
	(c) If consultation held before Record closed, additional fees may be allowed as follows:—	
	(i) arranging consultation	4·00
	(ii) attendance at consultation—	
	per half-hour	3·00

	£
(d) Additional fee to (a) and (b), (to include necessary amendments) to the pursuer and existing defender, to be allowed for each pursuer, defender or third party brought in prior to the Record being closed, each of ...	12-00
(e) If an additional pursuer, defender or third party is brought in after Record closed, an additional fee shall be allowed to the existing pursuer and the existing defender or defenders each of	18-00
3. Procedure Roll or Debate Roll	
(a) Preparing for discussion and all work incidental thereto including instruction of Counsel	8-00
(b) Attendance at Court per half-hour	3-00
4. Adjustment of Issues and Counter-Issues	
(a) Fee to pursuer to include all work in connection with and incidental to the lodging of an Issue, and adjustment and approval thereof	10-00
(b) If one Counter Issue, additional fee to pursuer of ...	2-00
(c) Where more than one Counter-Issue, an additional fee to pursuer for each additional Counter-Issue ...	1-00
(d) Fee to defender or third party for all work in connection with lodging of Counter-Issue and adjustment and approval thereof	10-00
(e) Fee to defender or third party for considering Issue where no Counter-Issue lodged	2-00
(f) Fee to defender or third party for considering each additional Counter-Issue	1-00
5. Precognitions	
Taking and drawing precognitions—per sheet	5-00
Notes 1. In addition each Solicitor shall be entitled to charge for copies of the precognitions for the use of Counsel and himself.	
2. Charges for the precognitions and attendances of witnesses present at a Proof or Trial but not examined nor held as concurring with a witness who has been examined may be allowed, provided a motion to this effect is made at the close of the Proof or Trial and the Court grants the same and the witnesses names are noted.	
3. Where a skilled witness prepares his own precognition or report the Solicitor shall be allowed, for revising and adjusting it, half of the taking and drawing fee per sheet.	

	£
<i>6. Reports obtained under Order of Court excluding Auditor's Report</i>	
(a) Fee for all work incidental thereto	8.50
(b) Additional fee per sheet of Report to include all copies required (maximum £25)	1.50
<i>7. Specification of Documents</i>	
(a) Basic fee to cover instructing Counsel, revising and lodging, and all incidental procedure to obtain a diligence up to and including obtaining Interlocutor	12.00
(b) Fee to Opponent's Solicitor	6.00
(c) If Commission executed, an additional fee per half-hour engaged of	3.00
(d) If alternative procedure adopted, a fee per person upon whom Order served, of	4.00
<i>8. Commission to take Evidence</i>	
ON INTERROGATORIES	
(a) Basic fee to solicitor applying for Commission, to cover all work up to and including lodging Report of Commission with completed Interrogatories and Cross-Interrogatories	10.00
(b) Basic fee to opposing Solicitor if Cross-Interrogatories lodged	8.00
(c) Fee to opposing Solicitor if no Cross-Interrogatories lodged	3.00
(d) In addition to above, fee per sheet to each party for completed Interrogatories or Cross-Interrogatories, including all copies, of	1.50
<i>9. Commission to take Evidence</i>	
OPEN COMMISSIONS	
(a) Basic fee to Solicitor applying for Commission up to and including lodging Report of Commission, but excluding (c)	10.00
(b) Basic fee to opposing Solicitor	8.00
(c) Fee for attendance at execution of Commission at the rate per half-hour of	3.00
<i>10. Miscellaneous Motions Where Not Otherwise Covered by This Table</i>	
(a) Where attendance of Counsel and/or Solicitor not required	2.00
(b) Where attendance of Counsel and/or Solicitor required, inclusive of instruction of Counsel—not exceeding half-hour	6.00
(c) Thereafter attendance fee per additional half-hour ...	3.00

	£
11. <i>Incidental Procedure</i> (not chargeable prior to approval of Issue or allowance of proof)	
Fixing diet, obtaining Note on the Line of Evidence, etc., borrowing and returning process, lodging productions, considering opponent's productions, and all other work prior to the consultation on the sufficiency of evidence ...	35·00
12. <i>Amendment of Record</i>	
(a) Amendment of Conclusions only —Pursuer	6·00
(b) „ „ „ „ —fee to Opponent...	2·00
(c) Amendment of Pleadings after Record closed, where no Answers to the Amendment are lodged—fee to Proposer	9·00
(d) In same circumstances—fee to Opponent	4·00
(e) Amendment of Pleadings after Record closed, where Answers are lodged—fee for each party lodging Answers	20·00
(f) Fee for Adjustment of Minute and Answers, where applicable to be allowed in addition to each party of ...	15·00
13. <i>Preparation for Trial or Proof</i> to include fixing consultation on the sufficiency of evidence and attendance thereat, fee-funding precept, adjusting Minute of Admissions, citing witnesses, all work checking and writing up process, and preparing for trial or proof—	
(a) If action settled before Trial or Proof, or the same lasts only one day, to include, where applicable, instruction of Counsel	50·00
(b) For each day or part of a day after the first, including instruction of Counsel	10·00
14. <i>Copyings</i>	
Productions, Reports of Commissions, Duplicate Inventory, Jury List, List of Witnesses, Lord Ordinary's Opinion, etc.—as per Chapter I Section 2.	
When copied by photostatic or similar process each page to be charged as one sheet.	
15. <i>Settlement by Tender</i> —Fees for Either Party.	
(a) Basic fee for lodging, or for considering, first Tender	12·00
(b) Fee for lodging, or for considering each further Tender	8·00
(c) If Tender accepted, an additional fee of	8·00
16. <i>Extrajudicial Settlement</i>	
Fee inclusive of Joint Minute (not based on a Judicial Tender)	20·00
17. <i>Proof or Trial</i>	
Attendance fee—per half -hour	3·00

	£
18. Accounts—to include framing and lodging Account, intimating diet, and attending taxation, uplifting account and noting and intimating taxations	15·00
19. <i>Ordering and Obtaining Extract</i>	3·00
20. <i>Final Procedure</i>	
(a) If case goes to Trial or Proof, to include all work to close of litigation, so far as not otherwise provided for, including in particular settling with witnesses and procuring and booking verdict, or attendance at judgment	20·00
(b) If case disposed of before Trial or Proof	5·00
21. <i>Session Fee</i> —to cover communications with client and Counsel	
(a) Where no correspondent—7½% of total fees and copyings allowed on taxation	
(b) Where correspondent involved—10% of total fees and copyings allowed on taxation	
Note—To be charged only on that part of the account charged under Chapter III.	
(18) Chapter III Part V shall be deleted and there shall be substituted therefor:—	

“PART V. INNER HOUSE BUSINESS

1. <i>Reclaiming Motions</i>	
(a) Fee for Appellant for all work up to Interlocutor sending case to Roll	12·00
(b) Fee for Respondent	6·00
(c) Additional fee for each party for every 50 pages of Appendix	5·00
2. <i>Appeals from Inferior Courts</i>	
(a) Fee for Appellant	15·00
(b) Fee for Respondent	7·50
(c) Additional fee for each party for every 50 pages of Appendix	5·00
3. <i>Summar or Short Roll</i>	
(a) Preparing for discussion, instructing Counsel, and preparing Appendix	12·00
(b) Attendance fee—per half hour	3·00
4. Where applicable charges under Part IV of the Table	
5. Special Cases and Inner House Petitions	
According to circumstances of the case	

	£
6. Obtaining Bond of Caution	5-00

(19) Chapter V (formerly VI) (i) and (ii) shall be amended by the deletion therefrom of the figures "50-00" and "65-00" and by substituting therefor respectively "85-00" and "120-00".

(20) Chapter V shall be further amended by deleting from the penultimate and ultimate paragraphs thereof the figures "£26" wherever they occur and by substituting therefor "£60".

3. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 6) 1974 and shall come into operation on 1st November 1974. And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

G. C. Emslie,
I.P.D.

EDINBURGH,
9th October 1974.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt amends the Rules of Court by making alterations to the Table of Fees of Solicitors in the Court of Session from and after the date of coming into operation of the Act of Sederunt. In particular with a view to saving labour and costs, the Act of Sederunt is concerned to establish a Table of realistic Alternative Fees, so that their use may be encouraged in the preparation of Accounts, which in recent times have been charged under the Table of Detailed Charges.

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