

SCHEDULE 2

Regulation 5

FEES OF SOLICITORS FOR PROCEEDINGS IN THE SHERIFF COURT

1. Subject to the following provisions of this Schedule fees shall be calculated in accordance with the Table of Fees in this Schedule.

2. Chapter III of the Table of Fees in this Schedule shall have effect subject to the following provisions:—

- (a) in Parts I and II, in respect of paragraph 3 (attendance at court), no fee is allowable for attendance at a continuation of the first calling, unless specially authorised by the court;
- (b) in Part I, in respect of paragraph 1 (instruction fee), in relation to actions for reparation there are allowable such additional fees for precognitions and reports as are necessary to permit the framing of the writ;
- (c) in Part II, in respect of paragraph 7 (precognitions), in a case where a skilled witness prepares his own precognition or report half of the drawing fee is allowable to the solicitor for revising and adjusting it;
- (d) in Part II, the fee allowable in respect of paragraph 14 (supplementary note of defence) is a fixed fee allowable when leave to lodge a supplementary note of defence is granted by the court;
- (e) in Part II, in respect of paragraph 16 (final procedure), no fee shall be allowed in respect of accounts of expenses when the hearing on the claim for expenses takes place immediately on the sheriff or sheriff principal announcing his decision; and
- (f) all fees chargeable under Chapter III in respect of the actions mentioned in the left hand column of the following table shall unless the sheriff, on a motion in that behalf, otherwise directs be reduced by the amount of the percentage specified opposite those actions in the right hand column of the table—

TABLE

<i>Actions</i>	<i>Percentage reduction</i>
1. Of a value from £50 to £250	25%
2. Of a value of less than £50	50%
3. For recovery of possession of heritable property	50%
4. Under the following enactments—	50%
(i) Tenancy of Shops (Scotland) Act 1949 ⁽¹⁾ and	
(ii) section 3 of the Sheriff Courts (Civil Jurisdiction and Procedure) (Scotland) Act 1963 ⁽²⁾	

Provided that for the purposes of this sub-paragraph “value”, in relation to any action in which a counter-claim has been lodged, is the total of the sums craved in the writ and in the counter-claim.

⁽¹⁾ 1949 c. 25

⁽²⁾ 1963 c. 22; section 3 was amended by the Divorce (Scotland) Act 1976 (c. 39), section 8, by the Civil Jurisdiction and Judgments Act 1982 (c. 27), Schedule 14 and by S.I. 1985/626

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3. In this Schedule “process fee” means the fee set out in paragraph 17 of Chapter II of the Table of Fees in this Schedule.

TABLE OF FEES

CHAPTER I — UNDEFENDED ACTIONS (OTHER THAN ACTIONS TO WHICH CHAPTER III OR IV APPLIES)

Part I — All actions except those actions of divorce or separation and aliment to which Part II applies

- | | |
|----|---|
| 1. | <p>Actions (other than those specified in paragraph 2 of this Part) in which decree is granted without proof—</p> <p style="margin-left: 20px;">Inclusive fee to cover all work from taking instructions up to and including obtaining extract decree £46.85</p> <p style="margin-left: 20px;">In cases where settlement is effected after service of a writ but before the expiry of the period of notice £40.40</p> |
| 2. | <p>Actions of separation and aliment (not being actions to which Part II of this Chapter applies), adherence and aliment or custody and aliment where proof takes place—</p> <p style="margin-left: 20px;">Inclusive fee to cover all work from taking instructions to and including obtaining extract decree £222.00</p> |

Part II — Actions of divorce or separation and aliment where proof is by means of affidavits

- | | |
|----|---|
| 1. | <p>In any undefended action of divorce or of separation and aliment where—</p> <p style="margin-left: 20px;">(a) the facts set out in section 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976(3) are relied upon; and</p> <p style="margin-left: 20px;">(b) the pursuer seeks to prove those facts by means of affidavits—</p> <p style="margin-left: 40px;">the pursuer’s solicitor may in respect of the work specified in column</p> |
|----|---|

1 of Table A in this paragraph charge the inclusive fee specified in respect of that work in column 2 of that Table.

TABLE A

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i>
1. All work to and including the period of notice	£157.45
2. All work from the period of notice to and including swearing affidavits	£112.50
3. All work from swearing affidavits to and including sending extract decree	£33.75
4. All work to and including sending extract decree	£303.75
Add process fee to item 4	of 10%
2.	<p>In any undefended action of divorce or separation and aliment where—</p> <p>(a) the facts set out in section 1(2)(a) (adultery), 1(2)(c) (desertion), 1(2)(d) (two years' non-cohabitation and consent) or 1(2)(e) (five years' non-cohabitation) of the Divorce (Scotland) Act 1976 are relied on; and</p> <p>(b) the pursuer seeks to prove these facts by means of affidavits—</p> <p style="padding-left: 40px;">the pursuer's solicitor may in respect of the work specified in column 1 of Table B in this paragraph charge the inclusive fee specified in respect of that work in column 2 of that Table.</p>

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TABLE B

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i>
1. All work to and including period of notice	£129.35
2. All work from the period of notice to and including swearing affidavits	£61.90
3. All work from swearing affidavits to and including sending extract decree	£33.75
4. All work to and including sending extract decree	£225.00
Add process fee to item 4	of 10%

3. If—

- (a) the pursuer’s solicitor charges an inclusive fee under either paragraph 1 of paragraph 2 of this Part, and
- (b) the action to which the charge relates includes a crave relating to an ancillary matter—
 - in addition to that fee, he may charge in respect of the work specified in column 1 of Table C in this paragraph the inclusive fee specified in respect of that work in column 2 of that Table.

TABLE C

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i>
1. All work to and including calling of notice	£61.25
2. All work from the period of notice to and including swearing affidavits	£35.95
3. All work under items 1 and 2	£97.30

CHAPTER II — DEFENDED ACTIONS (OTHER THAN ACTIONS TO WHICH CHAPTER III OR IV APPLIES)

- 1. *Instruction fee* — to cover all work (except as hereinafter otherwise specially provided for in this Chapter) to the lodging of defences including copyings £101.50

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- Additional fee where separate statement of facts and counter claim answers lodged £35.65
2. *Adjustment fee* — to cover all work (except as hereinafter otherwise specially provided for in this Chapter) in connection with the adjustment of the record including (when appropriate) closing thereof, making up and lodging closed record and copyings—
- (a) (a) Fee to solicitor for any party £151.90
 - (b) (b) Fee to each original party's solicitor if action settled before record is closed £101.50
 - (c) (c) Additional fee to each original party's solicitor if additional defender brought in before closing of record £17.80
 - (d) (d) Additional fee to each original party's solicitor if additional defender brought in after closing of record £25.50
3. *Fee for framing affidavits — per sheet* £6.60
4. (a) (a) *Debate free* — to include preparation for and conduct of any hearing on debate other than on evidence, enquiring for cause at avizandum and noting interlocutor—
- When debate does not exceed 1 hour £76.05
- For every half hour engaged after the first hour £17.80

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(b) (b) *Interim
interdict hearings—*

Pursuer’s solicitor — the same fees as for debate fee above, but to include both the appearance at lodging of writ and the hearing at second diet.

Defender’s solicitor’s fee £44.45
where the debate does not exceed 1 hour

5. *Precognitions — taking amd drawing — per sheet* £15.40

Note: Where a skilled witness prepares hiw own precognition or report, the solicitor shall be allowed half of above drawing fee for revising and adjusting it.

5A. *Reports obtained under order of court, excluding auditor’s report*

(a) (a) Fee for £33.25
all work incidental thereto

(b) (b) Additional fee £4.75
per sheet of report to include all copies required (maximum £33.05)

6. *Commissions to take evidence*

(a) (a) On
interrogatories

Fee to solicitor applying £94.95
for commssion to include drawing, intimating and lodging motion, drawing and lodging interrogatories, instructing commissioner and all incidental work (except as otherwise specially provided for in this Chapter) but excluding attendance at execution of commission

Fee to opposing solicitor if £63.50
cross-interrogatories prepared and lodged

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If no cross-interrogatories lodged £19.00

(b) (b) Open commissions

Fee to solicitor applying 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 £57.00

Fee to solicitor for opposing party £31.50

Fee for attendance at execution of commission — per half hour £17.80

Travelling time — per half hour £13.05

7.

Specification of documents

Fee to cover drawing, intimating and lodging specification and relative motion and attendance at court debating specification £39.20

Inclusive fee to opposing solicitor £25.45

Fee for citation of havers, preparation for and attendance before commissioner at execution of commission—

Where attendance before commissioner does not exceed 1 hour £35.65

For each additional half hour after the first hour £17.80

If commission not executed — fee for serving each party with a copy of specification to include recovering and examining documents or productions referred to therein £7.80

8.

Amendment of record

Fee to cover drawing, intimating and lodging minute of amendment and relative

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motion and relative attendance
at court—

- (a) (a) Where £43.35
answers lodged
- (b) (b) Where no £28.55
answers lodged

Inclusive fee to opposing
solicitor—

- (a) (a) Where £35.65
answers lodged
- (b) (b) Where no £23.75
answers lodged

Additional fee to solicitor for £31.50
each party for adjustment of
minute and answers, where
applicable

9.

Motions and minutes

Fee to cover drawing,
intimating and lodging any
written motion or minute,
including a reponing note, and
relative attendances at court
(except as otherwise provided
for in this Chapter)—

- (a) (a) Where £44.45
opposed
- (b) (b) Where £31.50
unopposed (including
for each party a
joint minute other
than under paragraph
14(b))

Fee to cover considering
opponent's written motion,
minute or reponing note and
relative attendances at court—

- (a) (a) Where motion, £25.45
minute or reponing
note opposed
- (b) (b) Where motion, £16.10
minute or reponing
note unopposed

10.

Procedure preliminary to proof

- (a) (a) Fee to
cover fixing diet

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of proof, citation
of witnesses, and
generally preparing
for trial or proof
and if necessary
instructing shorthand
writer—

(i) if action settled or £111.20
abandoned not later than
14 days before the diet of
proof

(ii) in any other proceedings £185.30

(b) (b) Free to £38.00
cover preparing for
adjourned diet and
all incidental work as
in sub-paragraph (a)
above if diet
postponed for more
than 6 days — for
each additional diet

(c) (c) Drawing £16.10
and lodging and
inventory of
productions, lodging
the productions
specified therein,
and considering
opponent's
productions (to be
charged once only in
each process)

(d) (d) Where £8.35
only one party
lodges productions,
opponent's solicitor's
fee for considering
same

11.

Conduct of proof

Fee to cover conduct of proof £17.80
and debate on evidence is
taken at close of proof — per
half hour

If counsel employed, fee £13.05
to solicitor appearing with
counsel;—per half hour

12.

Debate on evidence

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	Where debate on evidence not taken at conclusion of proof, fee for preparing for debate	£31.50
	Fee for conduct of debate — per half hour	£17.80
	If counsel employed, fee to solicitor appearing with counsel — per half hour	£13.05
13.	<i>Appeals</i>	
	(a) (a) To sheriff principal	
	Fee to cover instructions, marking of appeal or noting that appeal marked, noting diet of hearing thereof and preparation for hearing	£59.40
	Fee to cover conduct of hearing — per half hour	£17.80
	If counsel employed, fee to solicitor appearing with counsel — per half hour	£13.05
	(b) (b) To Court of Session	
	Fee to cover instructions, marking appeal or noting that appeal marked and instructing Edinburgh correspondents	£29.65
14.	<i>Settlements</i>	
	(a) (a) Judicial tender	
	Fee for preparation and lodging or for consideration of minute of tender	£35.00
	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	£26.15
	(b) (b) Extra-judicial settlements	
	Fee to cover negotiations resulting in settlement, framing or revising joint minute and attendance at court when authority interponed thereto	£59.40

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15. *Final procedure*
- | | |
|---|--------|
| Fee to cover settling with witnesses, enquiries for cause at avizandum, noting final interlocutor | £46.85 |
| Fee to cover drawing account of expenses, arranging, intimating and attending diet of taxation and obtaining approval of auditor's report and adjusting account with opponent where necessary, ordering, procuring and examining extract decree | £38.00 |
| Fee to cover considering opponent's account of expenses and attending diet of taxation on adjusting account with opponent | £11.90 |
16. *Copying fees*
- | | |
|--|-------|
| Copying all necessary papers by any means— | |
| First copy — per sheet | £0.81 |
| Additional copies — per sheet | £0.34 |
- Note:* A sheet shall be 250 words. When copied by photostatic or similar process, each page shall be charged as one sheet.
17. *Process fee*
- | | |
|---|--|
| Fee to cover all consultations between solicitor and client during the progress of the cause and all communications, written or verbal, passing between them: | |
| 10% on total fees (including copying fees) allowed on taxation. | |
18. *Fee for instruction of counsel*
- | | |
|--|--------|
| Fee for instructing counsel to revise record | £19.50 |
| Fee for instructing counsel to conduct debate or proof | £39.20 |

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Fee for instructing counsel to conduct appeal to sheriff principal £39.20

Note: In each case to cover all consultations, revisal of papers and all incidental work.

CHAPTER III — SUMMARY CAUSE

Part I — Undefended actions

1. Fee, to include taking instructions, framing summons and statement of claim, obtaining warrant for service, serving, instructing service as necessary by sheriff officer (where appropriate), attendance endorsing minute for and obtaining decree in absence and extract decree and including posts and incidents £35.00

2. *Service*

(a) (a) Citation by post wheresoever after the first citation for each party £4.00

(b) (b) Framing and instructing service by advertisement — for each party £11.25

3. Attendance at court £11.25

Part II — Defended actions

1. (a) (a) Instruction fee for pursuer’s solicitor, to include taking instructions, framing summons and statement of claim, obtaining warrant for service, enquiring for notice of intention to defend, attendance at first calling, noting defence £48.10

(b) Instruction fee for defender’s solicitor, to include taking instructions (including

instructions for a counter-claim) and all work up to an including attendance at first calling and stating a defence
Such fee as appears to the auditor to provide reasonable remuneration for the work done but not to exceed the fee prescribed in sub-p[aragraph (a) above.

2.

Service

(a) (a) Citation £4.00
by post within the United Kingdom, Isle of Man, Channel Islands, or the Republic of Ireland — for each party

Citation by post elsewhere — £8.55
for each party

(b) (b) Instructing £4.00
service or reservice by sheriff officer including perusing execution of citation and settling sheriff officer's fee — for each party

(c) (c) Framing and £12.50
instructing service by advertisement — for each party

3.

Attendance at court

Attendance at any diet except £12.50
as otherwise specifically provided

4.

Preparing for proof, to include £43.45
all work in connection with proof not otherwise provided for

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|----|---|--------|
| 5. | Fee to cover preparing for adjourned diet and all incidental work if diet postponed for more than 6 days — for each adjourned diet | £21.75 |
| 6. | Drawing and lodging inventory of productions, lodging the productions specified therein and considering opponents' productions (to be charged once only in each process) | £18.50 |
| | Where only one party lodges productions, opponent's solicitor's fee for considering same | £8.55 |
| 7. | <i>Precognitions</i> | |
| | Drawing precognitions, including instructions, attendances with witnesses and all relative meetings and correspondence — per witness | £18.50 |
| | Where precognition exceeds 2 sheets — for each additional sheet | £8.55 |
| 8. | <i>Motions and minutes</i> | |
| | 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 | £26.40 |
| | (b) (b) Where unopposed (including for each party a joint minute or joint motion) | £15.85 |
| 9. | Fee to cover considering opponent's written motion or minute excluding a minute or motion to recall decree, and relative attendance at court— | |
| | (a) (a) Where motion or minute opposed | £21.75 |

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- (b) (b) Where motion £12.50
or minute unopposed
10. *Conduct of proof*
- Fee to cover conduct of proof £12.50
and debate on evidence taken
at close of proof — per half
hour
- Waiting time — per half hour £6.65
11. *Settlements*
- (a) (a) Judicial
tender—
- Fee for consideration of, £26.40
preparing and lodging minute
of tender
- Fee for consideration and £18.50
rejection of tenders
- Fee on acceptance of tender — £18.50
to include preparing and
lodging, or consideration of,
minute of acceptance and
attendance at court when
decree granted in terms thereof
- Extra-judicial settlement — £43.45
fee to cover negotiations
resulting in settlement, framing
or revising joint minute and
attendance at court when
authority interponed thereto
12. *Specification of documents*
- (a) (a) Fee to cover £21.75
drawing, intimating
and lodging
specification of
documents and
relative motion and
attendance at court
- (b) (b) Inclusive fee £19.85
to opposing solicitor
- (c) (c) Fee to solicitor £12.50
for each party for
citation of havers,
preparation for and
attendance before
commissioner — for
each half hour

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- (d) (d) If alternative £8.55
procedure adopted,
fee per person upon
whom order served

- 13. *Commission to take evidence*
 - (a) (a) Fee to cover
drawing, lodging and
intimating motion
and attendance at
court—
 - (i) Where opposed £26.40
 - (ii) Where unopposed £15.85
 - (b) (b) Fee to
cover considering
such motion and
attendance at court—
 - (i) Where opposed £21.75
 - (ii) Where unopposed £12.50
 - (c) (c) Fee to £12.50
cover instructing
commissioner and
citing witness
 - (d) (d) Fee to cover £8.55
drawing and lodging
interrogatories and
cross-
interrogatories — per
sheet
 - (e) (e) Attendance £11.90
before
commissioner — per
hour

- Travelling time — per hour £7.95

- 14. Supplementary note of defence £8.55
(when leave granted to lodge)

- 15. *Appeals*
 - Fee to cover instructions, £59.40
marking of appeal or noting
that appeal marked, noting
of diet of hearing thereof and
preparations for hearing
 - Fee to cover conduct of £12.50
hearing — per half hour

- 16. *Final Procedure*

Fee to cover settling with witnesses, enquiries at avizandum, noting final interlocutor £26.40

Fee to cover drawing account of expenses, arranging, intimating and attending hearing on expenses, and obtaining approval of sheriff clerk's report £26.40

Fee to cover considering opponent's account of expenses and attendance at hearing on expenses £12.50

**EXECUTRY BUSINESS
CHAPTER IV**

1. *Petition for decree dative*
Inclusive fee for taking instructions to present petition, drawing petition and making necessary copies, lodging and directing publications, attendance at court, moving for decree-dative, extracting decree where necessary and all matters incidental to petition £26.70
 2. *Restriction of Caution*
Inclusive fee for taking instructions to prepare petition drawing petition and making necessary copies, lodging, instructing advertiwement and all matters incidental to petition £26.70
 3. Fees for other work shall be chargeable according to Schedule 3
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