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STATUTORY INSTRUMENTS

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**1992 No. 1878 (S.186)**

**SHERIFF COURT, SCOTLAND**

**Act of Sederunt (Fees of Witnesses and  
Shorthand Writers in the Sheriff Court) 1992**

<i>Made</i>	- - - -	<i>23rd July 1992</i>
<i>Laid before Parliament</i>		<i>3rd August 1992</i>
<i>Coming into force</i>	- -	<i>24th August 1992</i>

The Lords of Council and Session, under and by virtue of the powers conferred on 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 Witnesses and Shorthand Writers in the Sheriff Court) 1992 and shall come into force on 24th August 1992.

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

**Fees of witnesses**

2. Schedule 1 to this Act of Sederunt shall have effect to regulate the fees charged and outlays incurred, by a witness in civil proceedings in the sheriff court.

**Fees of shorthand writers**

3. Schedule 2 to this Act of Sederunt shall have effect to regulate the fees charged by a shorthand writer in civil proceedings in the sheriff court.

**Application, revocation and saving**

4.—(1) Schedules 1 and 2 to this Act of Sederunt apply to fees and outlays incurred or work done on or after the date on which this Act of Sederunt comes into force.

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(1) 1907 c. 51 (7 Edw. 7); section 40 was amended by section 1(3) of the Secretaries of State Act 1926 (c. 18), by the Schedule to the Administration of Justice (Scotland) Act 1933 (c. 41) and by paragraph 7 of Schedule 1 to, and Schedule 2 to, the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12).

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**Status:** This is the original version (as it was originally made).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

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(2) The Act of Sederunt of 7th May 1935((2)) is hereby revoked, but shall continue to have effect in respect of fees and outlays incurred or work done before the date on which this Act of Sederunt comes into force.

Edinburgh  
23rd July 1992

*J.A.D. Hope*  
Lord President. IPD

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(2) S.R. & O. 1935/488; the relevant amending instruments are S.I.1957/1832, 1963/1829, 1969/1807, 1971/1161, 1973/462, 1974/1744, 1976/848, 2198, 1980/908, 1982/182, 1722 and 1991/1135.

## SCHEDULE 1

Paragraph 2

### WITNESSES' FEES

#### **Managers, executives, and officers in HM Forces and merchant shipping**

1. A person in managerial or like executive position, officer in Her Majesty's Forces or in a merchant ship who is cited to give evidence,

maximum per half day (including travelling time) ... ..£140.00

#### **Professional persons**

2. A professional person who is a witness to matters of fact—

(a) if cited to give evidence and in consequence—

(i) requires to be absent from his practice, maximum per half day  
(including travelling time) ... ..£98.00

(ii) necessarily employs a locum or other substitute to act for him in his absence whom he requires to remunerate,  
maximum per half day ... ..£56.00

(iii) examines papers for the purpose of giving evidence,  
maximum ... ..£168.00

(b) if cited to give evidence but where the citation is cancelled—

(i) more than 48 hours but less than 7 days before the date for which he has been cited,  
maximum ... ..£168.00

(ii) less than 48 hours before that date, the sum he would have been paid under sub-paragraph 2(a) above if he had been called to give evidence.

#### **Other persons**

3. A person not included in paragraphs 1 or 2 above who is cited to give evidence and in consequence incurs loss of wages or the payment of a substitute—

(a) in respect of lost wages,  
maximum per half day ... ..£52.00

(b) in respect of payment of a substitute,  
maximum per half day ... ..£29.00

4. A person not included in paragraphs 1, 2 or 3 above who is cited to give evidence and attends at court,

maximum per half day ... ..£14.00

#### **Travelling allowance**

5. A witness shall be allowed a travelling allowance being such sum as the Auditor may determine to have been necessarily incurred by the witness in travelling from and to his residence or place of business and the court.

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### **Subsistence allowance**

6. A witness shall be allowed a subsistence allowance being such a sum as the Auditor may determine to have been reasonably incurred by the witness for the extra cost of subsistence during his absence from his home or place of business for the purpose of giving evidence, as the case may be where the witness is necessarily detained overnight for the cost of board and lodging,

- (a) where absence is not more than 4 hours,  
maximum ... ..£7.00
- (b) where absence is more than 4 hours,  
maximum ... ..£14.00
- (c) in addition where absence extends overnight,  
maximum per night ... ..£70.00

### **Receipts and vouchers**

7. Receipts and detailed vouchers for all payments claimed in respect of a witness shall be produced to the party found liable in expenses, prior to the taxation of the Account of Expenses, and to the Auditor if required by him.

### **Witness present but not called**

8. Charges for the attendance of a witness present at a proof but not called nor held as concurring with another witness who has been called may be allowed provided that the Court grants a motion to this effect at the close of the proof and the witness's name is recorded in the interlocutor.

### **Investigations by and attendance of skilled witness**

9. Where it is necessary to employ a skilled person to make investigations prior to a proof in order to qualify him to give evidence, charges therefor, and for attendance at such proof, shall be allowed in addition to the ordinary witness fees of such person at such rate which the Auditor in his discretion shall determine is fair and reasonable provided that the court grants a motion to this effect not later than the time at which it awards expenses and the witness's name is recorded in the interlocutor.

### **Maritime witness**

10. Where a witness who is a seaman or off-shore worker is detained ashore to give evidence then, provided reasonable notice of intention to detain has been given to the party found liable in expenses, charges for no more than 28 days' detention may be allowed.

### **Account of witness's fees**

11. The fees and outlays charged for a witness shall be stated in the body of the Account of Expenses in a lump sum and the details of the charges shall be entered in a separate schedule appended to the account as follows:—

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Name and Designation	Where From	Days Charged	Rate per Day	Travelling and Subsistence Allowance	Total	Taxed off

**Value added tax**

12. Where a witness is a taxable person in terms of the Value Added Tax Act 1983((3)) the amount of value added tax paid by him may be added by him to his claim of fees.

SCHEDULE 2

Paragraph 3

SHORTHAND WRITERS' FEES

*Attendance*

1. Attending at proofs or commissions—
  - (a) subject to (b) below, per hour ... ..£17.11
  - (b) where the shorthand writer carries on business—
    - (i) within a distance of 5 miles from the court, minimum per day ... ..£51.35
    - (ii) outwith such a distance, minimum per day ... ..£61.06

*Cancellation*

2. Where intimation of cancellation of attendance is made to the shorthand writer—
  - (a) more than 21 days prior to the date of attendance no fee shall be charged;
  - (b) 21 days or less prior to, and before 4 pm on the day prior to the date of attendance 75% of the minimum daily fee in paragraph 1 shall be charged;
  - (c) on or after 4 pm on the day prior to the date of attendance the minimum daily fee in paragraph 1 shall be charged.

*Subsistence Allowance*

3. A shorthand writer shall be allowed a subsistence allowance appropriate to civil servants entitled to class 2 rates.

*Transcripts*

4. Extending notes of evidence

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(3) 1983 c. 55.

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- (a) subject to (b) below, per sheet of 250 words ... ..£3.65
- (b) overnight, per sheet of 250 words ... ..£4.39

*Carbon Copies*

- 5. Carbon copies of notes of evidence—  
per sheet ... ..£0.28

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**EXPLANATORY NOTE**

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

This Act of Sederunt—

- (a) revokes the Act of Sederunt of 7th May 1935 (paragraph 4(2));
- (b) provides updated regulations regarding the fees of witnesses and shorthand writers in civil proceedings in the sheriff court, (paragraphs 2 and 3, and Schedules 1 and 2);
- (c) increases the fees of witnesses by restoring their value to about that of 1974, being the last year that a comprehensive increase of such fees took place (Schedule 1); and
- (d) increases the fees of shorthand writers by about 8 per cent (Schedule 2).