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STATUTORY INSTRUMENTS

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**1997 No. 687 (S.47)**

**SHERIFF COURT, SCOTLAND**

**The Sheriff Court Fees Order 1997**

*Made* - - - - *4th March 1997*  
*Laid before Parliament* *11th March 1997*  
*Coming into force* - - *1st April 1997*

The Secretary of State, in exercise of the powers conferred on him by section 2 of the Courts of Law Fees (Scotland) Act 1895(1) and of all other powers enabling him in that behalf, and with the concurrence of the Treasury, hereby makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Sheriff Court Fees Order 1997 and shall come into force on 1st April 1997.

**Interpretation**

- 2.—(1) In this Order, unless the context otherwise requires—
- “extract decree” includes any duly authenticated extract of an order made by the sheriff in respect of any licence, appointment, discharge or like matter;
- “minute” means—
- (a) a minute in terms of rule 14.2 of the Ordinary Cause Rules 1993(2); or
  - (b) in the case of a cause commenced before 1st January 1994, a minute lodged under the Ordinary Cause Rules 1983(3) other than—
    - (i) a joint minute;
    - (ii) a minute of amendment;
    - (iii) a minute of abandonment;
    - (iv) a minute of admission;
    - (v) a minute of agreement;

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(1) 1895 c. 14; section 2 was substituted by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12), section 4.  
(2) See the First Schedule to the Sheriff Courts (Scotland) Act 1907 (c. 51), as substituted by S.I. 1993/1956.  
(3) See S.I. 1983/747.

- (vi) a minute of tender or acceptance of tender; and
- (vii) a minute for decree in absence;

“motion” means–

- (a) a written motion to which Chapter 15 of the Ordinary Cause Rules 1993 applies;
- (b) a written motion made in an undefended family action in terms of Chapter 33 of the Ordinary Cause Rules 1993 in which no notice of intention to defend has been lodged; or
- (c) in the case of a cause commenced before 1st January 1994, a written motion made under the Ordinary Cause Rules 1983;

“sheriff clerk” includes the Sheriff Clerk of Chancery, the Commissary Clerk of Edinburgh and sheriff clerk depute;

“small claim” has the meaning assigned to it by the Small Claims (Scotland) Order 1988(4);

“summary cause” has the meaning assigned to it by section 35(1) of the Sheriff Courts (Scotland) Act 1971(5);

“Table of Fees” means the Table of Fees specified in Schedule 1 to this Order;

“writ” means any document containing written pleadings relating to proceedings in the sheriff court and includes an inventory of estate, a precept of arrestment on a liquid document of debt, a notice of intention to defend and a notice of appearance lodged in an action of multiplepoinding under rule 35.8 of the Ordinary Cause Rules 1993.

(2) For the purpose of any reference in this Order to a defender, compeerer or party, any defenders, compeerers or parties who have the same interest and who lodge, or are preparing to lodge, a writ in their joint names shall be treated as a single defender, compeerer or party.

(3) The fees payable in respect of the matters referred to in paragraphs 22, 23 and 28 of the Table of Fees shall be payable on one occasion only in respect of a cause.

### **Fees payable to sheriff clerk**

3. Subject to articles 4 to 10 of this Order, the fees payable to the sheriff clerk or the auditor of court in respect of the matters specified in column 1 of the Table of Fees shall be the fees specified in relation to those matters in column 2 of that Table (the fees previously payable being shown in column 3 of that Table).

### **Matters included in fees**

4.—(1) The matters specified in paragraphs 1, 6 to 8, 14, 20 and 21 of the Table of Fees include, where appropriate, issue of an extract decree.

(2) The matters specified in paragraphs 11 and 30 of the Table of Fees include, where appropriate, the issue of extracts and the matter specified in the said paragraph 11 also includes, where appropriate, the issue of an abbreviate.

(3) The matter specified in paragraph 6 of the Table of Fees does not include, in the case of an application for registration or renewal of registration of a club or miners' welfare institute under the Gaming Act 1968(6), the registration or renewal of registration upon such application.

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(4) S.I. 1988/1999.

(5) 1971 c. 58; section 35(1) was amended by S.I. 1988/1993.

(6) 1968 c. 65.

### **Cases in which an extra fee is payable**

5.—(1) When a summary cause is remitted to the ordinary cause roll, the fees specified in paragraphs 6 and 20 of the Table of Fees shall become payable in respect of the cause by the persons who would have been required to pay them if the cause had been from its commencement an ordinary cause, less the amount of any fee previously paid by the person concerned in respect of the cause.

(2) When any commissary proceedings, bankruptcy proceedings or proceedings under section 4 of the Requirements of Writing (Scotland) Act 1995(7) are opposed, the fees specified in paragraphs 6 and 20 of the Table of Fees shall become payable in respect of the proceedings by the persons who would have been required to pay them if the proceedings had been from their commencement proceedings to which those paragraphs applied, less the amount of any fee previously paid by the person concerned in respect of the proceedings.

### **Exemption of Crown from fees under this Order**

6. The fees regulated by this Order shall not be payable by the Crown in the enforcement of the criminal law or in the exercise of powers or the performance of duties arising out of or relating to that enforcement.

### **Exemption of certain persons from fees in simplified divorce applications**

7. The fees specified in paragraphs 8 and 31 of the Table of Fees shall not be payable by a person making a simplified divorce application who is in receipt of—

- (a) income support or family credit under Part VII of the Social Security Contributions and Benefits Act 1992(8);
- (b) an income-based jobseeker's allowance (payable under the Jobseekers Act 1995(9)); or
- (c) advice and assistance from a solicitor under the Legal Aid (Scotland) Act 1986(10) in respect of the simplified divorce application.

### **Modification of fees under this Order**

8. Where the estate of a deceased person is exempt from inheritance tax by virtue of section 154 of the Inheritance Tax Act 1984(11) (death on active service etc.), the fee payable in respect of an inventory of that estate under paragraph 3(a), (b) or (c) of the Table of Fees shall, where that fee would amount to more than £2.00, be restricted to £2.00.

### **Proceedings to which fees under this Order do not apply**

9.—(1) The fees regulated by this Order do not apply to—

- (a) any application under—
  - (i) any enactment relating to registration of births, deaths and marriages;
  - (ii) Part III of the Social Work (Scotland) Act 1968(12); or
  - (iii) the Mental Health (Scotland) Act 1984(13); or
- (b) any application or appeal under Part II of the Children (Scotland) Act 1995(14).

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(7) 1995 c. 7.  
(8) 1992 c. 4.  
(9) 1995 c. 18.  
(10) 1986 c. 47.  
(11) 1984 c. 51.  
(12) 1968 c. 49.  
(13) 1984 c. 36.  
(14) 1995 c. 36.

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(2) Except in relation to the fee specified in paragraph 37 of the Table of Fees, the fees otherwise payable by a debtor or creditor in terms of this Order shall not apply to any proceedings under the Debtors (Scotland) Act 1987(15).

10. Paragraphs 14(d), 22 to 25, 27 and 28 of the Table of Fees shall not apply to causes commenced before 1st January 1994.

### **Revocations**

11. The Orders specified in Schedule 2 to this Order are hereby revoked.

St Andrew's House,  
Edinburgh  
27th February 1997

*James Douglas-Hamilton*  
Minister of State, Scottish Office

We concur,

4th March 1997

*Patrick McLoughlin*  
*Bowen Wells*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## SCHEDULE 1

Article 3

## TABLE OF FEES

| <i>Column 1<br/>(Matters)</i>  | <i>Column 2<br/>(Fee Payable)</i> | <i>Column 3<br/>(Fee Formerly Payable)(16)</i> |
|--|-----------------------------------|--|
| <b>PART I-COMMISSARY PROCEEDINGS</b>   |                                   |  |
| 1. Petition for appointment of executor, restriction of caution, special warrant, (d) sealing up of repositories or the like, or (e) appointment of Commissary factor  | (a) £10.00                        | £10.00   |
| 2. Sealing up repositories or the like, per hour   | £15.00                            | £15.00   |
| (a) (a) Receiving and examining inventory of estate, except where sub-paragraph (b) or (c) of this paragraph applies—  | No fee                            | No fee   |
| (i) where the amount of the estate vested in or belonging beneficially to the deceased, of which confirmation is required, or for which resealing under the Colonial Probates Act 1892((17) is required does not exceed— |                                   |  |
| £5,000   |                                   |  |
| £50,000  | £72.00                            | £70.00   |
| (ii) where the amount of the said estate exceeds £50,000   | £103.00                           | £100.00  |

(16) Column 3 shows the fees which were payable under S.I. 1985/827 as amended by S.I. 1996/628 before the coming into force of this Order.

(17) 1892 c. 6.

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| <i>Column 1<br/>(Matters)</i>   | <i>Column 2<br/>(Fee Payable)</i> | <i>Column 3<br/>(Fee Formerly Payable)(16)</i> |
|---|-----------------------------------|--|
| (b) (b) Receiving and examining additional or corrective inventory of estate or inventory of estate ad <i>non executa</i>   | £72.00                            | £70.00   |
| (c) (c) Receiving and examining inventory of estate where it is declared that confirmation is not required:   |                                   |  |
| <p>The fees payable shall be half those specified in sub-paragraph (a) or (b) of this paragraph. If confirmation is subsequently required the remaining half of the fees specified in sub- paragraph (a) or (b) shall be payable.</p> |                                   |  |
| <p><b>4. Commissary copying and extracting</b></p>  |                                   |  |
| (1) Issuing certificate of confirmation   | £3.00                             | £3.00  |
| (a) if ordered when lodging inventory- each certificate   |                                   |  |
| (b) (b) if ordered subsequent to lodging inventory-   | £9.00                             | £9.00  |
| (i) first certificate- including search fee   |                                   |  |
| (ii) each subsequent certificate  | £3.00                             | £3.00  |
| (2) Copy or duplicate confirmation-   | £5.00                             | £5.00  |
| (a) if ordered when lodging inventory   |                                   |  |
| (b) (b) if ordered subsequent to lodging inventory-   | £11.00                            | £11.00   |

(16) Column 3 shows the fees which were payable under S.I. 1985/827 as amended by S.I. 1996/628 before the coming into force of this Order.

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| <i>Column 1<br/>(Matters)</i>   | <i>Column 2<br/>(Fee Payable)</i> | <i>Column 3<br/>(Fee Formerly Payable)(16)</i> |
|---|-----------------------------------|--|
| (i) first duplicate-including search fee  |                                   |  |
| (ii) each subsequent duplicate if ordered at the same time as the first duplicate                                     | £5.00                             | £5.00  |
| (3) Certified extract confirmation and will (if any)–   | £11.00                            | £11.00   |
| (a) if ordered when lodging inventory   |                                   |  |
| (b) (b) if ordered subsequent to lodging inventory–   | £17.00                            | £17.00   |
| (i) first certified extract-including search fee  |                                   |  |
| (ii) each subsequent certified extract if ordered at the time of the first certified extract                          | £11.00                            | £11.00   |
| (4) Copy will–  | £3.50                             | £3.50  |
| (a) if ordered when lodging inventory   |                                   |  |
| (b) (b) if ordered subsequent to lodging inventory–   | £9.50                             | £9.50  |
| (i) first copy-including search fee   |                                   |  |
| (ii) each subsequent copy, if ordered at the same time as the first copy  | £3.50                             | £3.50  |
| 5. Application under section 4 of the Requirements of Writing (Scotland) Act 1995                                     | £10.00                            | £10.00   |
| <b>PART II-SHERIFF COURT PROCEEDINGS</b>  |                                   |  |
| 6. Initial writ in any proceedings not being proceedings for which any other paragraph of this Table prescribes a fee | £45.00                            | £44.00   |

(16) Column 3 shows the fees which were payable under S.I. 1985/827 as amended by S.I. 1996/628 before the coming into force of this Order.

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| <i>Column 1<br/>(Matters)</i>  | <i>Column 2<br/>(Fee Payable)</i> | <i>Column 3<br/>(Fee Formerly Payable)(16)</i> |
|--|-----------------------------------|--|
| <i>Actions of divorce (other than simplified divorce application)</i>  | £72.00                            | £70.00   |
| 7. Initial writ in an action of divorce other than a simplified divorce application  |                                   |  |
| <i>Simplified divorce application</i>  | £56.00                            | £55.00   |
| 8. Simplified divorce application (inclusive of all procedures other than those specified at paragraphs 31 and 32 of this Table) |                                   |  |
| <i>Summary warrants</i>  | £35.00                            | £34.00   |
| 9. Application for summary warrant   |                                   |  |
| <i>Bankruptcy proceedings</i>  | £57.00                            | £56.00   |
| 10. Petition for sequestration of estates  |                                   |  |
| 11. Petition for discharge of a bankrupt or application for approval of composition or deed of arrangement                       | £17.00                            | £17.00   |
| 12. Miscellaneous applications including appeals under the Bankruptcy (Scotland) Act 1985(18)                                    | £28.00                            | £27.00   |
| <i>Service of heirs</i>  | £113.00                           | £110.00  |
| 13. Petition for general or special service or completion of title, or note for a Crown or Prince's charter, writ or precept     |                                   |  |
| <i>Summary cause</i>   | £6.00                             | £6.00  |
| 14. Summons-summary cause (including small claim)–   |                                   |  |
| (a) Actions for payment of money less than £50   |                                   |  |
| (b) (b) Other actions  | £35.00                            | £34.00   |
| (c) (c) In relation to a small claim   | £23.00                            | £22.00   |

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(18) 1985 c. 66.



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|--|-----------------------------------|--|
| summons, citation of,<br>or intimation to,<br>any party by sheriff<br>officer  |                                   |  |
| (d) (d) On the<br>marking of an appeal   | £28.00                            | £27.00   |
| <i>Miscellaneous</i>   | £10.00                            | £10.00   |
| <b>15.</b> Application under<br>section 4 of the Requirements of<br>Writing (Scotland) Act 1995  |                                   |  |
| <b>16.</b> Caveat  | £17.00                            | £17.00   |
| <i>Enforcement of UK judgments</i>   | £12.00                            | £12.00   |
| <b>17.</b> Any proceedings under<br>section 12 or 18 of the Civil<br>Jurisdiction and Judgments Act<br>1982((19)   |                                   |  |
| <i>Criminal Procedure</i>  | £17.00                            | £17.00   |
| <b>18.</b> Complaint   |                                   |  |
| <i>Road Traffic Offenders Act<br/>1988(20)</i>   | £45.00                            | £44.00   |
| <b>19.</b> Petition for removal of<br>disqualification   |                                   |  |
| <i>Defender's responses – non-<br/>divorce cases</i>   | £45.00                            | £44.00   |
| <b>20.</b> First writ, reponing note<br>or attendance to state a defence,<br>or oppose an interim order in<br>proceedings to which paragraph<br>6 of this Table applies, each<br>defender or compeerer |                                   |  |
| <i>Defender's responses—<br/>divorces</i>  | £72.00                            | £70.00   |
| <b>21.</b> First writ or attendance<br>to state a defence or oppose<br>an interim order, each defender<br>or compeerer in an action of<br>divorce other than a simplified<br>divorce application       |                                   |  |

(16) Column 3 shows the fees which were payable under S.I. 1985/827 as amended by S.I. 1996/628 before the coming into force of this Order.

(19) 1982 c. 27.

(20) 1988 c. 53.

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|---|-----------------------------------|--|
| <i>Civil court procedure</i>  | £57.00                            | £56.00   |
| 22. Fee to be paid by the pursuer on the lodging of a certified copy record under the standard procedure of the Ordinary Cause Rules 1993                       |                                   |  |
| 23. Fee to be paid by the pursuer on the lodging of a certified closed record under the additional procedure of the said Rules                                  | £57.00                            | £56.00   |
| 24. Fee to be paid by pursuer on the fixing of a proof, a debate or a hearing in a summary or miscellaneous application on the merits of the cause              | £25.00                            | £24.00   |
| 25. Fee to be paid by the pursuer for each day or part thereof of proof, debate or hearing in a summary or miscellaneous application on the merits of the cause | £57.00                            | £56.00   |
| NOTE: The above fee does not apply if the proof, debate or hearing does not proceed on that day.  |                                   |  |
| 26. Fee to be paid by any party lodging a written motion or minute; and any party lodging written opposition to any such motion or minute                       | £23.00                            | £22.00   |
| 27. Fee to be paid on marking an appeal to the Sheriff Principal in any proceedings (other than as provided for in paragraph 14(d) of this Table)               | £57.00                            | £56.00   |
| 28. Fee to be paid by the pursuer on the endorsing of a minute in Form F27 in terms of rule 33.29(1)(b) of the Ordinary Cause Rules 1993                        | £33.00                            | £32.00   |

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|--|-----------------------------------|--|
| <i>Bankruptcy (Scotland) Act 1985</i>  | £23.00                            | £22.00   |
| 29. Act and warrant of trustee   |                                   |  |
| 30. Application (written or oral) for discharge of trustee   | £17.00                            | £17.00   |
| <i>Simplified divorce</i>  | £31.00                            | £30.00   |
| 31. In relation to a simplified divorce application, citation of, or intimation to, any person or persons by sheriff officer |                                   |  |
| 32. Subsequent application upon change of circumstances by party to a simplified divorce application                         | £16.00                            | £16.00   |
| <i>Miscellaneous</i>   | £17.00                            | £17.00   |
| 33. Note in a liquidation or judicial factory  |                                   |  |
| <i>Sheriff court books</i>   | £12.00                            | £12.00   |
| 34. Recording protest of a bill or promissory note   |                                   |  |
| NOTE: Extract to be charged as in paragraph 39 of this Table.  |                                   |  |
| 35. Preservation of deeds, each deed   | £5.00                             | £5.00  |
| NOTE: Recording and extracting to be charged as in paragraph 39 of this Table.   |                                   |  |
| <i>Miscellaneous office procedures</i>   | £35.00                            | £34.00   |
| 36. Lodging each set of plans or other Parliamentary deposit   |                                   |  |
| 37. Inspection of report of sale and the auditor of court's report   | £8.00                             | £8.00  |
| 38. Inspection by a trade protection society, licensed credit reference agency or trade                                      | £170.00                           | £166.00  |

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|---|-----------------------------------|--|
| publication of protests, Act<br>Book and Court Rolls–   |                                   |  |
| (a) Weekly for twelve<br>months (payable in<br>advance)   |                                   |  |
| (b) (b) Twice weekly<br>for twelve months<br>(payable in advance)   | £339.00                           | £331.00  |
| (c) (c) Four times<br>weekly for twelve<br>months (payable in<br>advance)   | £679.00                           | £662.00  |
| <b>39.</b> Recording, engrossing,<br>extracting or copying all<br>documents except as provided<br>for at paragraph 4 of this Table– | £6.00                             | £6.00  |
| (a) By manuscript or<br>typescript per sheet<br>or part thereof   |                                   |  |
| (b) (b) By copying by<br>any other means per<br>page:   | £1.00                             | £1.00  |
| First copy–<br>each of<br>first 10<br>pages   |                                   |  |
| each page after first 10  | £0.30                             | £0.30  |
| Subsequent copies: each<br>page   | £0.30                             | £0.30  |
| NOTE: Recording in Sheriff<br>Court Register of Deeds to be<br>charged as in (a) or (b).  |                                   |  |
| <b>40.</b> Searches: for each<br>search of records or archives,<br>except as provided for at<br>paragraph 4 of this Table–          | £6.00                             | £6.00  |
| (a) For first half hour of<br>time taken  |                                   |  |
| (b) (b) For more than<br>one half hour up to<br>a maximum of two<br>hours   | £12.00                            | £12.00   |

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|--|-----------------------------------|--|
| (c) (c) For each half hour or part thereof in excess of two hours  | £6.00                             | £6.00  |
| (d) (d) Plus correspondence fee where applicable   | £6.00                             | £6.00  |
| <b>PART III-AUDITOR OF COURT</b>   |                                   |  |
| <b>41.</b> For taxing accounts of expenses incurred in judicial proceedings remitted to the auditor of court for taxation— |                                   | £12.00   |
| (1) auditor's fee on lodging account for taxation  |                                   |  |
| (2) auditor's fee for taxing accounts of expenses etc.—  | £12.00                            | £12.00   |
| (a) Up to £300   |                                   |  |
| (b) (b) For every additional £100 or part thereof  | £4.00                             | £4.00  |
| NOTE: Fee to be determined by auditor of court on amount of account as submitted.  |                                   |  |

## SCHEDULE 2

Article 11

## REVOCATIONS

| <i>Orders Revoked</i>                              | <i>Reference</i> |
|--|------------------|
| The Sheriff Court Fees Order 1985                  | S.I. 1985/827    |
| The Sheriff Court Fees Amendment Order 1986        | S.I. 1986/451    |
| The Sheriff Court Fees Amendment Order 1987        | S.I. 1987/39     |
| The Sheriff Court Fees Amendment Order 1988        | S.I. 1988/966    |
| The Sheriff Court Fees Amendment (No.2) Order 1988 | S.I. 1988/1893   |
| The Sheriff Court Fees Amendment (No.2) Order 1993 | S.I. 1993/2957   |
| The Sheriff Court Fees Amendment Order 1996        | S.I. 1996/628    |

(16) Column 3 shows the fees which were payable under S.I. 1985/827 as amended by S.I. 1996/628 before the coming into force of this Order.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order specifies for proceedings in the sheriff court new fee levels in substitution for those applicable since 1st April 1996. Many fee levels remain unchanged and the increases represent an average of 2.5%. This Order replaces the Sheriff Court Fees Order 1985 which, along with its amending orders, is revoked by Schedule 2.