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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 89**

**SHERIFF COURT**

**The Sheriff Court Fees Amendment Order 2009**

*Made - - - - 5th March 2009*  
*Laid before the Scottish*  
*Parliament - - - - 6th March 2009*  
*Coming into force in accordance with article 1*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2 of the Courts of Law Fees (Scotland) Act 1895(1) and all other powers enabling them to do so.

**Citation and commencement**

1.—(1) This Order may be cited as the Sheriff Court Fees Amendment Order 2009 and, subject to paragraph (2), comes into force on 1st April 2009.

(2) Article 2(7)(b) comes into force on 6th April 2009.

**Amendment of the Sheriff Court Fees Order 1997**

2.—(1) The Sheriff Court Fees Order 1997(2) is amended in accordance with the following paragraphs.

(2) In article 2(3), for “22, 23 and 28” substitute “26, 27 and 30”.

(3) In article 4(1), for “1, 6 to 8, 14, 20 and 21” substitute “1, 5 to 7, 18 and 25”.

(4) Article 4(2) is amended as follows—

(a) for “11 and 30” substitute “12 and 15”; and

(b) for “11” when it occurs the second time substitute “12”.

(5) In article 4(3), for “6” substitute “5”.

(6) In articles 5(1) and 5(2), for “6 and 20” substitute “5 and 25”.

(7) Article 7 (exemption of certain persons from fees)(3) is amended as follows—

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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, and by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I.1999/1820), articles 2(1), 4, Schedule 2 Part 1, paragraph 9, and Part IV. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I. 1997/687 as amended by S.I. 1999/754, S.S.I. 2002/269, S.S.I. 2003/97, S.S.I. 2007/318 and S.S.I. 2008/239.

(3) Article 7 was substituted by S.S.I.2007/318, article 2(3), and replaced by S.S.I. 2008/239, article 2(2).

- (a) at the end of paragraph (f), omit “or”;
- (b) in paragraph (g), for “£16,017” substitute “£16,642”(4); and
- (c) after paragraph (g), insert–
  - “; or
  - (h) the person or his or her partner is in receipt of income-related employment and support allowance under the Welfare Reform Act 2007(5).”.

(8) In article 8, for “the fee payable in respect of an inventory of that estate under paragraph 3(a), (b) or (c) of the Table of Fees will, where that fee would amount to more than £2.00, be restricted to £2.00” substitute “there will be no fee payable in respect of the inventory of that estate under paragraph 3(a), (b) or (c) of the Table of Fees.”.

(9) In article 9(2), for “37” substitute “36”.

(10) In article 10, for “14(d), 22 to 25, 27 and 28” substitute “18(d), 26 to 29, 30 and 32”.

### **Amendment of the Sheriff Court Fees Amendment Order 2008**

**3.—**(1) The Table of Fees(6) in Schedule 2 to the Sheriff Court Fees Amendment Order 2008(7) (“the 2008 Order”) is amended in accordance with the following paragraphs.

(2) After paragraph 5 insert the following matter (column 1) with the corresponding fee payable (column 2) and the fee formerly payable (column 3):–

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European order for payment  
in terms of EU Regulation  
1896/2006(9)

|                            |        |    |
|----------------------------|--------|----|
| <b>5A.</b> Application     | for 80 | 75 |
| European order for payment |        |    |

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- (3) At paragraph 18, in column 1, insert–
  - (a) after “including small claim” the words “and European small claim procedure(10)”; and
  - (b) at the end of sub-paragraph (a) after “£200” the words “(or 250 euros for European Small Claims)”.

(4) At paragraph 25(a), in column 2, for “75” substitute “80”.

(5) At paragraph 34, in column 1, for “Preservation of deeds, each deed (Note: Recording and extracting to be charged as in paragraph 38 of this Table)” substitute “Preservation of deeds, each deed (Note: This includes recording and engrossing. If extracts are required, a separate fee is to be charged as in paragraph 38 of this Table)”.

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- (4) The original threshold for exemption from court fees for those in receipt of working tax credit was an annual gross income of £16,017 which was inserted into the Sheriff Court Fees Order 1997 by [S.S.I. 2007/318](#), article 2(3).
  - (5) [2007 c. 5](#). Section 1 of that Act which introduced the new benefit, the income-related employment and support allowance, was brought into force on 27th October 2008 by the Welfare Reform Act 2007 (Commencement No. 6 and Consequential Provisions) Order 2008 (S.I. [2008/787](#)), article 2(4)(a).
  - (6) The original Table of Fees in Schedule 1 to the Sheriff Court Fees Order 1997 (S.I. [1997/687](#)) was substituted by S.I. [1999/754](#), [S.S.I. 2002/269](#), [S.S.I. 2007/318](#) and [S.S.I. 2008/239](#).
  - (7) [S.S.I. 2008/239](#). No amendment is required to schedule 1 to that Order as it ceases to have effect on 1st April 2009. Schedule 2 to that Order comes into force on 1st April 2009.
  - (9) Regulation (EC) No. [1896/2006](#) of the European Parliament and of the Council of 12th December 2006 created a European order for payment procedure which came into force on 12th December 2008 (OJ L399, 30/12/06). The European Communities (European Order for Payment) (Scotland) Regulations 2009 ([S.S.I. 2009/99](#) which comes into force on 6th April 2009) restricts the effect of this regulation to the sheriff court only in Scotland.
  - (10) Regulation (EC) No. [861/2007](#) of the European Parliament and of the Council of 11th July 2007 established a European Small Claims Procedure which came into force on 1st January 2009 (OJ L199, 31/07/07). The reference to “European Small Claims” in article 3(3)(b) of this instrument is also a reference to claims under this procedure.

(6) At paragraph 36, in column 1, for “sale” substitute “auction”.

(7) At paragraph 38(a), in column 1, for “by photocopying” substitute “by photocopying or otherwise producing a printed or typed copy”.

4.—(1) The Table of Fees in Schedule 3(8) to the 2008 Order is amended in accordance with the following paragraphs.

(2) After paragraph 5 insert the following matter (column 1) with the corresponding fee payable (column 2) and the fee formerly payable (column 3):—

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European order for payment  
in terms of EU Regulation  
1896/2006

|                            |        |    |
|----------------------------|--------|----|
| 5A. Application            | for 80 | 75 |
| European order for payment |        |    |

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(3) At paragraph 18, in column 1, insert—

(a) after “including small claim” the words “and European small claim procedure(11)”; and

(b) at the end of sub-paragraph (a) after “£200” the words “(or 250 euros for European Small Claims(12))”.

(4) At paragraph 25(a)—

(i) in column 2, for “75” substitute “80”; and

(ii) in column 3, for “75” substitute “80”.

(5) At paragraph 33, in column 1, for “37” substitute “38”.

(6) At paragraph 34, in column 1, for “Preservation of deeds, each deed (Note: Recording and extracting to be charged as in paragraph 38 of this Table)” substitute “Preservation of deeds, each deed (Note: This includes recording and engrossing. If extracts are required, a separate fee is to be charged as in paragraph 38 of this Table)”.

(7) At paragraph 36, in column 1, for “sale” substitute “auction”.

(8) At paragraph 38(a), in column 1, for “by photocopying” substitute “by photocopying or otherwise producing a printed or typed copy”.

St Andrew’s House,  
Edinburgh  
5th March 2009

*FERGUS EWING*  
Authorised to sign by the Scottish Ministers

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(8) Schedule 3 to the 2008 Order comes into force, and schedule 2 to that Order ceases to have effect, on 1st April 2010.

(11) Regulation (EC) No. 861/2007, OJ L199, 31/07/07.

(12) Regulation (EC) No. 1896/2006, OJ L399, 30/12/06.

*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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## EXPLANATORY NOTE

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

This Order amends the Sheriff Court Fees Order 1997 (“the 1997 Order”) and the Sheriff Court Fees Amendment Order 2008 (“the 2008 Order”). This Order comes into force on 1st April 2009, except for article 2(7)(b) which comes into force on 6th April 2009.

Articles 2(1)–(6), (9), (10) amend the paragraph references contained in the 1997 Order that required to be updated as a result of the substitution of the Tables of Fees in the Schedule to the 1997 Order by the Table of Fees in Schedules 2 and 3 to the 2008 Order at the relevant dates.

Article 2(7)(b) amends the financial limit in article 7(g) of the 1997 Order in relation to the annual gross income taken into account for the calculation of the working tax credit for the purposes of exemption from court fees, increasing it from £16,017 to £16,642.

Article 2(7)(c) further amends article 7 of the 1997 Order by extending the available exemption from fees to those persons in receipt of income-related employment and support allowance. This amendment takes account of the coming into force of section 1 of the Welfare Reform Act 2007 which introduced this new benefit.

Article 2(8) reduces the fee, which was payable in respect of an inventory of the estate of a deceased person who is exempt from inheritance tax by virtue of section 154 of the Inheritance Tax Act 1984, from £2 to nil.

Article 3 makes various amendments to the Tables of Fees in Schedule 2 to the 2008 Order. Articles 3(2) and (3) insert a fee for an application for an European order for payment and insert text under the summary cause heading to refer to the European small claim procedure. Articles 3(4), (5) and (7) make minor amendments to clarify the charging of fees, respectively, for a defender’s response (so that it matches the fee for the initial writ), preservation of deeds, and photocopying. Article 3(6) of this Order reinstates an amendment which was made in relation to a change in the fee following the Debt Arrangement and Attachment (Scotland) Act 2002.

Article 4 makes similar amendments to the Table of Fees in Schedule 3 to the 2008 Order. In addition, article 4(5) corrects a cross-reference in that Table of Fees.

Schedule 2 to the 2008 Order comes into force on 1st April 2009. Schedule 3 to the 2008 Order comes into force, and Schedule 2 to the 2008 Order ceases to have effect, on 1st April 2010.