

SCHEDULE 1

SUMMARY CAUSE RULES 2002

CHAPTER 23

Decrees, extracts, execution and variation

Expenses

23.3.—(1) Subject to paragraphs (2) to (4), the sheriff clerk must, with the approval of the sheriff, assess the amount of expenses including the fees and outlays of witnesses awarded in any cause, in accordance with the statutory table of fees of solicitors appropriate to the action.

(2) A party litigant, who is not represented by a solicitor or advocate and who would have been entitled to expenses if he had been so represented, may be awarded any outlays or expenses to which he might be found entitled by virtue of the 1975 Act or any enactment under that Act.

(3) A party who is or has been represented by an authorised lay representative and who would have been found entitled to expenses if he had been represented by a solicitor or an advocate may be awarded any outlays or expenses to which a party litigant might be found entitled in accordance with paragraph (2).

(4) A party who is not an individual, and—

(i) is or has been represented by an authorised lay representative;

(ii) if unrepresented, could not represent itself; and

(iii) would have been found entitled to expenses if it had been represented by a solicitor or an advocate,

may be awarded any outlays to which a party litigant might be found entitled under the 1975 Act or any enactment made under that Act.

(5) In every case including an appeal where expenses are awarded, the sheriff clerk shall hear the parties or their solicitors on the claims for expenses including fees, if any, and outlays.

(6) Except where the sheriff principal or the sheriff has reserved judgment or where he orders otherwise, the hearing on the claim for expenses must take place immediately upon the decision being pronounced.

(7) When that hearing is not held immediately, the sheriff clerk must—

(a) fix the date, time and place when he shall hear the parties or their solicitors; and

(b) give all parties at least 14 days' notice in writing of the hearing so fixed.

(8) The party awarded expenses must—

(a) lodge his account of expenses in court at least seven days prior to the date of any hearing fixed under paragraph (7); and

(b) at the same time forward a copy of that account to every other party.

(9) The sheriff clerk must—

(a) fix the amount of the expenses; and

(b) report his decision to the sheriff principal or the sheriff in open court for his approval at a diet which the sheriff clerk has intimated to the parties.

(10) The sheriff principal or the sheriff, after hearing parties or their solicitors if objections are stated, must pronounce final decree including decree for payment of expenses as approved by him.

(11) In an appeal, the sheriff may pronounce decree under paragraph (10) on behalf of the sheriff principal.

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(12) Failure by—

- (a) any party to comply with any of the foregoing provisions of this rule; or
- (b) the successful party or parties to appear at the hearing on expenses,

must be reported by the sheriff clerk to the sheriff principal or the sheriff at a diet which the sheriff clerk has intimated to the parties.

(13) In either of the circumstances mentioned in paragraphs (12)(a) or (b), the sheriff principal or sheriff must, unless sufficient cause be shown, pronounce decree on the merits of the action and find no expenses due to or by any party.

(14) A decree pronounced under paragraph (13) shall be held to be the final decree for the purposes of these Rules.

(15) The sheriff principal or sheriff may, if he thinks fit, on the application of the solicitor of any party to whom expenses may be awarded, made at or before the time of the final decree being pronounced, grant decree in favour of that solicitor for the expenses of the action.