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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 568**

**SHERIFF COURT**

**Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment No. 4) 2002**

*Made* - - - - 23rd December 2002  
*Laid before the Scottish Parliament* - - - - 23rd December 2002  
*Coming into force* - - 1st January 2003

The Lords of Council and Session, under and by virtue of the powers conferred upon 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 Solicitors in the Sheriff Court) (Amendment No. 4) 2002 and shall come into force on 1st January 2003.

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

**Amendment to Schedule**

2.—(1) The Schedule to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993(2) shall be amended in accordance with the following sub-paragraphs.

(2) In the General Regulations, in paragraph 14—

- (a) in paragraph (b), for “and II” there shall be substituted “, II and III”;
- (b) in paragraph (c) after “(attendance at court),” there shall be inserted “and in Part III (Defended Actions and Defended Actions: Personal Injury Claims only), in respect of paragraphs 5 (attendance at court)”;

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(1) 1907 c. 51; section 40 was amended by the Sheriff Courts (Scotland) Act 1913 c. 28, Schedule 1; the Secretaries of State Act 1926 c. 18, section 1(3); the Administration of Justice (Scotland) Act 1933 c. 41, Schedule; the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 c. 12, Schedule 1, paragraph 7 and Schedule 2; and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 c. 40, Schedule 9.

(2) S.I.1993/3080, amended by S.I. 1994/1142, 1995/1395, 1996/236, 1998/2675, S.S.I. 1999/149, S.S.I 2000/420 and S.S.I. 2001/438, S.S.I. 2002/235 and S.S.I. 2002/ 274.

- (c) in paragraph (d), after “(precognitions),” there shall be inserted “and in Part III (Defended Actions and Defended Actions: Personal Injury Claims only), in respect of paragraphs 6 (precognitions),”; and
  - (d) in paragraph (e), after “paragraph 15,” there shall be inserted “and in Part III (Defended Actions and Defended Actions: Personal Injury Claims only), in respect of paragraphs 19 (appeals),”.
- (3) In the Table of Fees, in Chapter IV,
- (a) after Part I (Un defended Actions) there shall be inserted the Table of Fees in the Schedule to this Act of Sederunt;
  - (b) for each of the headings “Part II – Defended Actions” and “Part II – Defended Actions: Personal Injury Claims Only” there shall be substituted “Part III – Defended Actions (commenced on or after 10th June 2002)” and “Part III – Defended Actions: Personal Injury Claims Only (commenced on or after 10th June 2002)” respectively.

#### **Application of Chapter IV, Parts II and III**

3.—(1) Chapter IV, Part II of the Table of Fees (as inserted by the Schedule to this Act of Sederunt) shall apply to fees chargeable in respect of work done or outlays incurred in relation to any summary cause commenced before 10th June 2002.

(2) Chapter IV, Part III of the Table of Fees (Defended Actions and Defended Actions: Personal Injury Claims Only) shall apply to fees chargeable in respect of work done or outlays incurred in relation to any summary cause commenced on or after 10th June 2002.

#### **Saving**

4. Paragraph 2(2) does not affect such fees as are chargeable in respect of work done or outlays incurred in relation to any summary cause commenced before 10 June 2002.

Edinburgh  
23rd December 2002

*W. Douglas Cullen*  
Lord President I.P.D.

## SCHEDULE

### Part II–

#### Defended Actions (commenced before 10th June 2002)}

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1. Instructions fee, to include taking 119.80  
instructions (including instructions for a  
counterclaim), framing summons and statement  
of claim, obtaining warrant for service,  
instructing service as necessary by sheriff officer  
(where appropriate), attendance endorsing  
minute for and obtaining decree in absence and  
extract decree

2. Service–

(a) (a) Citation by post within 9.90  
the United Kingdom, Isle of Man,  
Channel Islands, or the Republic of  
Ireland – for each party

Citation by post elsewhere – for each party 21.80

(b) (b) Instructing service or reservice 9.90  
by sheriff officer including perusing  
execution of citation and settling  
sheriff officer’s fee – for each party

(c) (c) Framing and instructing service 31.50  
by advertisement – for each party

3. Attendance at court– 31.50

Attendance at any diet except as otherwise  
specially provided

4. Preparing for proof, to include all work 109.00  
in connection with proof not otherwise provided  
for

5. Fee to cover preparing for adjourned diet 52.30  
and all incidental work if diet for more than six  
days – for each adjourned diet

(a) (a) Drawing and lodging 47.80  
inventory of productions, lodging  
the productions specified therein and  
considering opponent’s productions  
(to be charged only once in each  
process)

(b) (b) Where only one party lodges 21.90  
productions, opponent’s charges for  
considering same

7. Precognitions– 47.80

- (a) (a) Drawing precognitions, 47.80  
including instructions, attendances  
with witnesses and all relative  
meetings and correspondence – per  
witness
- (b) (b) Where precognitions exceed 2 21.90  
sheets – for each additional sheet

**8. Motions and minutes–**

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 65.10
- (b) (b) Where unopposed (including 40.20  
for each party a joint minute or joint  
motion)

**9. Fee to cover considering opponent’s**  
written motion or minute excluding minute or  
motion to recall decree and relative attendance  
at court–

- (a) (a) Where motion or minute 52.30  
opposed
- (b) (b) Where motion or minute 31.50  
unopposed

**10. Conduct of proof–**

- (a) (a) Fee to cover conduct of proof 31.50  
or trial and debate on evidence taken  
at close of proof – per half hour
- (b) (b) Waiting time – per half hour 16.50

**11. Settlements–**

- (a) (a) Judicial tender, fee for 65.10  
consideration of, preparing and  
lodging minute of tender
- (i) Fee for consideration and rejection of 47.80  
tenders
- (ii) Fee on acceptance of tender – to include 47.80  
preparing and lodging, or consideration  
of minute of acceptance and attendance  
at court when decree granted in terms  
thereof
- (b) (b) Extra-judicial settlement – 109.00  
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 drawing, 54.30  
intimating and lodging specification  
of documents and relative motion and  
attendance at court
- (b) (b) Inclusive fee to opposing 48.80  
solicitor
- (c) (c) Fee for citation of havers, 31.50  
preparation for and attendance before  
commissioner, to each party – for each  
half hour
- (d) (d) If alternative procedure 21.90  
adopted, a fee per person upon whom  
order served

**13. Commissions to take evidence–**

- (a) Fee to cover drawing, lodging and  
intimating motion and attendance at  
court
  - (i) Where opposed 65.10
  - (ii) Where unopposed 40.20
- (b) (b) Fee to cover considering such  
motion and attendance at court
  - (i) Where opposed 52.30
  - (ii) Where unopposed 31.50
- (c) (c) Fee to cover instructing 31.50  
commissioner and citing witness
- (d) (d) Fee to cover drawing and 21.90  
lodging interrogatories and cross-  
interrogatories – per sheet
- (e) (e) Attendance before 30.50  
commissioner – per hour
- (f) (f) Travelling time – per hour 21.90

**14. Supplementary note of defence (when 21.90  
ordered)**

**15. Appeals–**

- (a) (a) Fee to cover instructions, 147.10  
marking of appeal or noting that  
appeal marked, noting of diet of  
hearing thereof and preparation for  
hearing

- (b) (b) Fee to cover conduct of hearing 31.50  
– per half hour

**16. Final Procedure–**

- (a) (a) Fee to cover settling with 65.10  
witnesses, enquiring for cause at  
avizandum, noting final interlocutor
  - (b) (b) Fee to cover drawing account 65.10  
of expenses, arranging, intimating and  
attending hearing on expenses, and  
obtaining approval of sheriff clerk's  
report
  - (c) (c) Fee to cover considering 31.50  
opponents' account of expenses and  
attendance at hearing on expenses
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**EXPLANATORY NOTE**

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

This Act of Sederunt re-introduces the Table of Fees previously contained in Chapter IV Part II of the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993 which shall apply to any summary cause commenced before 10 June 2002. The Act also re-names the new Tables introduced by Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment) 2002 ([S.S.I 2002/235](#)) as Part III of Chapter IV of the Table of Fees and provides that Part III shall apply in relation to any summary cause commenced on or after 10th June 2002.

The Act makes consequential changes to paragraph 14 of the General Regulations in relation to Part III of the Table of Fees.