

SCHEDULE

Regulation 6

“CHAPTER I

SHERIFF COURT CIVIL FEES (UNDEFENDED)

**Notes on the operation of Chapter I**

Payment of the fees set out in the table in this chapter is subject to the following provisions.

1. A fee is payable under paragraph 2 of Part I where it can be demonstrated that following the grant of legal aid significant work was undertaken by the solicitor by way of negotiation with the opponent and/or the opponent’s solicitor. Where this fee is claimed the work done must be clearly documented on the file, for perusal, if required, by the Board.

2. The factors that the Board or, as the case may be, the Auditor shall take into account in assessing a claim based on any of the paragraphs within Part I are a lengthy meeting or series of meetings or correspondence or other communication between the parties which, together, justify the conclusion that, but for this significant work, the case would have proceeded further at potential cost to the Fund or the parties.

3. The fee provided in paragraph 2 of Tables A to C includes all the costs incurred in the swearing of affidavits, including defender’s affidavits where appropriate.

4. A fee is payable under either Table A or Table B. The fee under Table C relating to matters ancillary to those in Tables A and B is payable only once.

5. The fees payable under this chapter include all travel to court, except as otherwise provided for by paragraph 6.

6. In addition to the fees payable under Part II of this chapter, travel time is payable at 0.8 units per 15 minutes and is allowable only in relation to an attendance at court, subject to the following conditions:–

- (a) the solicitor claiming travel time is a solicitor with whom the client has had significant contact in relation to the conduct of the case;
- (b) the solicitor’s attendance is necessary for the advancement of the case;
- (c) the distance travelled is at least 10 miles in each direction from the solicitor’s normal place of work;
- (d) when payment for travel time is claimed for more than one case, the time shall be apportioned equally among the various cases for which the solicitor attended court (including non legally aided cases).

7. Travel expenses may be incurred only where travel time is chargeable.

8. Where it would be more cost effective to travel by public transport the solicitor shall do so.”

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<i>Work done</i>	<i>Inclusive Fee in Units</i>
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**Part I – Negotiation**

1. Cases where settlement is effected 10–19 without an action being raised where through negotiation, discussion, voluntary disclosure, meetings, correspondence and, as the case may be, other forms of participation by the solicitor a negotiated settlement is reached and minute of

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<i>Work done</i>	<i>Inclusive Fee in Units</i>
agreement or separation agreement, as the case may be, is entered into (subject to a maximum charge of 19); or	
<p>2. Cases where settlement is not effected but where without an action being raised the outcome or disposal is effected through negotiation, discussion, voluntary disclosure, meetings, correspondence and, as the case may be, other forms of participation by the solicitor (subject to a maximum charge of 10).</p>	5-10
<b><i>Part II – All actions except those actions of divorce or separation and aliment to which Part III applies</i></b>	
	<b><i>Inclusive Fee in Units</i></b>
<p>1. Actions (other than those specified in paragraph 2 of this Part) in which decree is granted without proof–</p>	
Inclusive fee to cover all work from taking instructions up to and including obtaining extract decree.	6
<i>Note:</i> In cases where settlement is effected after service of a writ but before the expiry of the period of notice.	5
Additional fee to cover–	
(a) (a) drawing, intimating and lodging any written motion for interim orders or diligence, including the first quarter hour of argument, even if involving appearances on different dates (to include instructing service and implementation);	6
(b) (b) thereafter, attendance fee at any hearing (including any continuation of the diet) per quarter hour (payable only in relation to time engaged in the conduct of the hearing)	1
To framing all necessary affidavits per sheet (to include notarial fee unless on cause shown the affidavit cannot be notarised within the principal agent’s firm, in which case a fee to the external notary is 1 unit).	1
<i>Note:</i> Charges levied by notaries outwith the United Kingdom shall be payable according to the circumstances of the case; and	
affidavits in this Part do not include those required to prove a divorce.	

<i>Work done</i>	<i>Inclusive Fee in Units</i>
<p><b>2.</b> Actions of separation and aliment (not being actions to which Part III of this chapter applies) or residence and aliment where proof takes place—</p> <p>inclusive fee to cover all work from taking instructions up to and including obtaining extract decree.</p>	20

***Part III – Actions of divorce or separation and aliment where proof is by means of affidavits***

- 1.** In any undefended action of divorce or separation and aliment where—
  - (a) the facts set out in section 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976(1) are relied upon; and
  - (b) the pursuer seeks to prove those facts by means of affidavits,

the pursuer’s solicitor may in respect of the work specified in column 1 of Table A in this paragraph charge the inclusive fee specified in respect of that work in column 2 of that Table.

**TABLE A**

<i>Column 1</i>	<i>Column 2 Inclusive Fee in Units</i>
<b>1.</b> All work to and including the period of notice.	16
<b>2.</b> All work from the period of notice to and including swearing affidavits.	13
<b>3.</b> All work from swearing affidavits to and including sending extract decree.	3
<b>4.</b> All work to and including sending extract decree.	32

- 2.** In any undefended action of divorce or separation and aliment where—
  - (a) the facts set out in section 1(2) (adultery), 1(2)(d) (one year’s non cohabitation and consent) or 1(2)(e) (two years’ non cohabitation) of the Divorce (Scotland) Act 1976(2) are relied on; and
  - (b) the pursuer seeks to prove those facts by means of affidavits,

the pursuer’s solicitor may, in respect of the work specified in column 1 of Table B in this paragraph, charge the inclusive fee specified in respect of that work in column 2 of that Table.

**TABLE B**

<i>Column 1</i>	<i>Column 2 Inclusive Fee in Units</i>
<b>1.</b> All work to and including the period of notice.	13

(1) 1976 c. 39.

(2) Section 1(2)(d) and (e) was amended by the [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), section 11.

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<i>Work done</i>	<i>Inclusive Fee in Units</i>
<b>Column 1</b>	<b>Column 2</b>
	<b><i>Inclusive Fee in Units</i></b>
2. All work from the period of notice to and including swearing affidavits.	8
3. All work from swearing affidavits to and including sending extract decree.	3
4. All work to and including sending extract decree.	24

3. If—

- (a) the pursuer’s solicitor charges an inclusive fee under paragraph 1 or 2 of this Part; and
- (b) the action to which the fee relates includes a crave relating to an ancillary matter,

in addition to that fee, he may charge in respect of the work specified in column 1 of Table C in this paragraph the inclusive fee specified in respect of that work in column 2 of that Table.

**TABLE C**

<i>Column 1</i>	<i>Column 2</i>
	<b><i>Inclusive Fee in Units</i></b>
1. All work to and including the period of notice.	6
2. All work from the period of notice to and including swearing affidavits.	3.5
3. All work under items 1 and 2.	9.5