
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 319

COURT OF SESSION

The Court of Session etc. Fees Amendment Order 2007

<i>Made</i>	- - - -	<i>7th June 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th June 2007</i>
<i>Coming into force</i>	- -	<i>16th July 2007</i>

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. This Order may be cited as the Court of Session etc. Fees Amendment Order 2007 and shall come into force on 16th July 2007.

Amendment of Fees Order

2.—(1) The Court of Session etc. Fees Order 1997(2) shall be amended in accordance with the following paragraphs.

(2) In article 2(1) after the definition of “Rules of Court”, insert—

““partner” means a person to whom a person is married, or with whom the person is registered as a civil partner in terms of sections 1(1), 85(1) or 137(1) of the Civil Partnership Act 2004(3).”.

(3) For article 5 (exemption of certain persons from fees), substitute—

“Exemption of certain persons from fees

5. A fee regulated by this Order shall not be payable by a person if—

(1) 1895 c. 14; section 2 was amended 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), article 2 and Schedule 2, paragraph 9. 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. 1997/688 as amended by S.I. 1999/755 and S.S.I. 2002/270.

(3) 2004 c. 33.

- (a) the person or his or her partner is in receipt of income support under the Social Security Contributions and Benefits Act 1992(4);
- (b) the person is in receipt of an income-based jobseeker's allowance (payable under the Jobseekers Act 1995(5));
- (c) the person is in receipt of civil legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986(6) in respect of the matter in the Table of Fees in connection with which the fee is payable;
- (d) the fee is payable in connection with a simplified divorce or dissolution of a civil partnership application and the person is in receipt of advice and assistance from a solicitor under the Legal Aid (Scotland) 1986 in respect of that application;
- (e) the person's solicitor is undertaking work in relation to the matter in the Table of Fees in connection with which the fee is payable on the basis of any regulations made under section 36 of the Legal Aid (Scotland) Act 1986 providing for legal aid in a matter of special urgency;
- (f) the person or his or her partner is in receipt of guarantee credit under the State Pension Credit Act 2002(7); or
- (g) the person or his or her partner is in receipt of working tax credit, provided that—
 - (i) child tax credit is being paid to the party, or otherwise following a claim for child tax credit made jointly by the members of a couple (as defined in section 3(5A) of the Tax Credits Act 2002)(8) which includes the party; or
 - (ii) there is a disability element or severe disability element (or both) to the tax credit received by the party;

and that the gross annual income taken into account for the calculation of the working tax credit is £16,017 or less.”

(4) For the Table of Fees in Schedule 1(9) substitute the Table of Fees set out in the Schedule to this Order.

St Andrew's House,
Edinburgh
7th June 2007

FERGUS EWING
Authorised to sign on behalf of the Scottish
Ministers

(4) 1992 c. 4. Section 124, which provides for income support, was amended by the Jobseekers Act 1995 (c. 18), section 41 and Schedules 2 and 3 and by the Welfare Reform and Pensions Act 1999 (c. 30), section 70 and Schedule 8, Part IV, paragraph 28.

(5) 1995 c. 18.

(6) 1986 c. 47. Section 13(2) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), section 74 and Schedule 8, paragraph 36(3).

(7) 2002 c. 16.

(8) 2002 c. 21; section 3(5A) substituted for sections 3(5) to (6) by the Civil Partnership Act 2004 (c. 33), Schedule 24, paragraph 144(3).

(9) Schedule 1 was substituted by S.S.I. 2002/270, article 2(3).

SCHEDULE

Article 2(4)

TABLE OF FEES

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable(10))</i>
PART I –		
FEES IN THE CENTRAL OFFICE OF THE COURT		
A. SIGNETING		
Signeting of any writ or summons, if attendance is necessary outwith the normal office hours	£70	£62
B. GENERAL DEPARTMENT		
1. Appeal, summons, or other writ or step by which any cause or proceeding, other than a family action, is originated in either the Inner or Outer House – fee (to comprehend signeting in normal office hours)	£120	£106
2. Defences, answers or other writ (including a joint minute) or step in process or enrolment or opposition to a motion in a pending process by which a party other than an originating party first makes an appearance in a course or proceeding other than a family action	£120	£106
3. Writ by which a family action is originated (other than a simplified divorce or dissolution of a civil partnership application) – inclusive fee (to comprehend signeting within normal office hours and, if applicable, issue to the pursuer of an extract in terms of item G5(a) of this Table, and to the	£92	£81

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable(10))</i>
defender, if appropriate, of a duplicate thereof)		
4. Simplified divorce or dissolution of a civil partnership application (inclusive of all procedure other than that specified in item B5 of this Table)	£70	£62
5. In relation to a simplified divorce or dissolution of a civil partnership application, citation of any persons under rule 16.1(1)(a)(i), (ii) or (iii), as applied by rule 49.76, of the Rules of Court, or intimation to any person or persons under rule 16.1(1)(a)(i), (ii) or (iii), as applied by rule 49.76, of those Rules, where such intimation is required.	Charge of the sheriff officer to serve document plus £10	£41
6. Defences, answers or other writ (including a joint minute) or step in process or enrolment of or opposition to a motion in a pending process by which a party other than an originating party first makes appearance in a family action	£92	£81
7. Fee for initial lodging of affidavits in a family action where proof by affidavit evidence has been allowed	£40	£35
8. Special case—		
For each party	£60	£53
Maximum fee payable per case	£243	£215
9. Application by minute or motion for variation of an order in a family action	£21	£19
10. Answers or opposition to an application under item B9 of this Table	£21	£19

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable(10))</i>
11. Letter of request to a foreign court	£31	£27
12. Citation of each jury to include outlays incurred in citing and countermanding – payable on receipt of instruments for issue of precept	£168	£149
13. Reclaiming motion – fee payable by party enrolling motion	£120	£106
14. Closed record – fee payable by each party on the lodging of the closed record or, where no closed record is lodged, when mode of enquiry is determined	£60	£53
15. Allowing proof, etc. – fee payable by each party on diet of proof, jury trial, procedure roll or summar roll hearing being allowed	£32	£28
16. Proof or Procedure Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£18	£16
17. Summar Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£37	£33
18. Jury Trial – fee payable by each party appearing at the trial for every 30 minutes or part thereof	£18	£16
19. Outer House hearing other than items B16, B18, B21 and B24 of this Table – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£18	£16
20. Inner House hearing other than items B17, B22 and B24 of this Table – fee payable by each party appearing at the	£37	£33

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable(10))</i>
hearing for every 30 minutes or part thereof		
21. Motion Roll hearing – fee payable by each party appearing at the hearing <i>after first 30 minutes</i> – for every 30 minutes or part thereof	£18	£16
22. Single Bills hearing – fee payable by each party appearing at the hearing <i>after first 30 minutes</i> – for every 30 minutes or part thereof	£37	£33
23. Fee payable by any party enrolling a motion or making a motion orally at the bar and any party opposing any such motion	£31	£27
24. Hearing out of hours – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£37	£33
C. PETITION DEPARTMENT		
1. Petition of whatever nature presented to Inner or Outer House other than a petition under item C3 or C4 of this Table, whether in respect of the first or any subsequent step of process, and any application for registration or recognition of a judgment under the Civil Jurisdiction and Judgments Act 1982(11)	£120	£106
2. Additional fee payable when a petition in terms of item C1 of this Table is presented outwith normal office hours	£70	£62
3. Petition to be admitted as a notary public:		
For each applicant	£90	£80

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

(11) 1982 c. 27.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable(10))</i>
4. Petition to be admitted as a solicitor:		
For each applicant	£90	£80
5. Answers, objection or other writ (including a joint minute) or step in process or enrolment or opposition to a motion in a pending process by which a party other than an originating party first makes appearance in a proceeding to which item C1 of this Table applies	£120	£106
6. Caveat	£31	£27
7. Fiat	£31	£27
8. Registering official copies of orders of courts in England and Wales or Northern Ireland	£11	£10
9. Issue of an abbreviate in sequestration	£11	£10
10. Reclaiming motion – fee payable by party enrolling motion	£120	£106
11. Closed record – fee payable by each party on the lodging of the closed record or, when no closed record is lodged, when mode of enquiry is determined	£60	£53
12. Allowing proof, etc. – fee payable by each party on diet of proof, procedure roll, summar roll or judicial review hearing being allowed	£32	£28
13. Registering orders for enforcement under section 426 of the Insolvency Act 1986(12)	£11	£10
14. Proof or Procedure Roll – fee payable by each party	£18	£16

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

(12) 1986 c. 45.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable(10))</i>
appearing at the hearing for every 30 minutes or part thereof		
15. Summar Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£37	£33
16. Outer House hearing other than items C14, C18 and C21 of this Table – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£18	£16
17. Inner House hearing other than items C15, C19 and C21 of this Table – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£37	£33
18. Motion Roll Hearing – fee payable by each party appearing at the hearing <i>after first 30 minutes</i> – for every 30 minutes or part thereof	£18	£16
19. Single Bills hearing – fee payable by each party appearing at the hearing <i>after first 30 minutes</i> – for every 30 minutes or part thereof	£37	£33
20. Fee payable by any party enrolling a motion or making a motion orally at the bar; and any party opposing any such motion	£31	£27
21. Hearing out of hours – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£37	£33
22. Lodging of notice of appointment or intention to appoint an administrator out of court under the Insolvency Act 1986	£120	

D. COURT FOR HEARING APPEALS RELATING TO

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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THE REGISTRATION OF ELECTORS		
Appeal – inclusive fee	£120	£106
E. ELECTION COURT		
1 Parliamentary election petition	£120	£106
2. Statement of matters	£11	£10
3. Any other petition, application, answers or objections submitted to the court	£31	£27
4. Certificate of judgement	£31	£27
F. LANDS VALUATION APPEAL COURT		
1. Appeal – inclusive fee	£120	£106
2. Answers – inclusive fee	£120	£106
G. EXTRACTS DEPARTMENT		
1. Extract decree following upon a summons, petition or appeal, or after protestation of a note, and whether in absence or otherwise	£33	£29
2. Extract of admission as a solicitor	£29	£26
3. Extract of protestation	£29	£26
4. Certificate under the Civil Jurisdiction and Judgments Act 1982	£29	£26
5. Documentation evidencing divorce, nullity or dissolution of marriage or civil partnership:		
(a) (a) Extract from Consistorial Register of Decrees of decree pronounced on or after 23rd September 1975 if not issued in	£17	£15

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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terms of item B3 or B4 of this Table		
(b) (b) Certificate of divorce in decree pronounced prior to 23rd September 1975	£17	£15
(c) (c) Certified copy interlocutor in decree pronounced prior to 23rd September 1975	£17	£15
6. Extract from the Register of Acts and Decrees – per sheet or part thereof	£17	£15
7. Sealing and certifying any document for exhibition in a foreign jurisdiction or otherwise	£17	£15
8. Acknowledgement of receipt of a notice under section 19(6) or 21(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970(13)	£29	£26
9. Acknowledgement of receipt of an offer under section 9 of the Conveyancing Amendment (Scotland) Act 1938(14)	£29	£26
PART II –		
FEES IN THE OFFICE OF THE ACCOUNTANT OF COURT		
H. OFFICE OF THE ACCOUNTANT OF COURT		
<i>I. In Factories</i>		
1. For registering case and receiving and delivering up bond of caution–		

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

(13) 1970 c. 35.

(14) 1938 c. 24; section 9 was amended by the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35), section 46, and by the Land Tenure Reform (Scotland) Act 1974 (c. 38), section 13.

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in Court of Session appointments	£29	£26
in Sheriff Court appointments	£19	£17
2. For examining factor's inventory – 0.333% of the value of the estate as disclosed		
minimum fee payable	£21	£19
maximum fee payable	£530	£469
3. For auditing each account–		
basic fee	£11	£10
additional percentage fee on the factor's commission as fixed (or what would have been the factor's full commission if chargeable or fully allowed)	17.5%	17.5%
4. For reporting <i>re</i> discharge, special powers or on other special matters	£95	£32 to £144
5. For report on scheme of division	£95	Range of fees based on value of division
6. For certificate under seal	£21	£19
<i>II. In Consignations</i>		
7. For lodging consignment	£16	£14
8. For producing or delivering up–		
basic fee	£16	£14
additional fee for every £100 or part thereof uplifted	£1	£1
maximum fee payable	£55	£49
<i>III. Liquidations</i>		
9. For uplifting bond of caution	£5	£4
PART III –		

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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FEES IN THE OFFICE OF THE AUDITOR OF THE COURT OF SESSION		
I. OFFICE OF THE AUDITOR OF THE COURT OF SESSION		
1. Taxing accounts of expenses incurred in judicial proceedings (including proceedings in the High Court of Justiciary) remitted to the Auditor of the Court of Session for taxation:		
(a) (a) Auditor's fee on lodging account for taxation	£34	£30
(b) (b) Auditor's fee for taxing accounts for expenses etc.		
(i) up to £400	£18	£16
(ii) for every additional £100 or part thereof	£5	£4
<i>Note:</i> fee to be determined by the Auditor of the Court of Session on amount of account as submitted		
2. Fee for assessing account remitted to the Auditor to determine whether an additional fee should be paid	£226	£200
3. Fee for cancellation of diet of taxation—		
(a) (a) where written notice of cancellation received by receiving party after 4.00 pm on the fourth working day prior to the diet of taxation	half of fee that would have been payable under item I1(b) of this Table	
(b) (b) where written notice of cancellation received by receiving	Three-quarters of fee that would have been payable under item I1(b) of this Table	

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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party after 4.00 pm on the working day before or the day of the diet of taxation		
PART IV –		
FEES COMMON TO ALL OFFICES		
J. MISCELLANEOUS		
1. Certified copy of £120 proceedings for appeal to the House of Lords		£106
2. Certifying of any other £11 document (plus copying charges if necessary)		£10
3. Recording, engrossing, extracting or copying– all documents:		
(a) (a) By manuscript or typescript (exclusive of search fee)–		
for each page or part thereof £8		£7
(b) (b) By photocopying (exclusive of search fee)–		
for each page £0.20		£0.30
(c) (c) For copy of £3.00 a document on a computer disc or in electronic form		
4. Searches – for any search of records or archives:		
(a) (a) For first half £11 hour of time taken		£10
(b) (b) For more than £29 one half hour up to a maximum of two hours		£26

(10) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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(c) (c) For each half hour or part thereof in excess of two hours	£8	£7
(d) (d) Correspondence fee where applicable	£8	£7
5. Captions:		
(a) (a) Marking caption when ordered	£6	£5
(b) (b) Warrant for caption when issued	£6	£5

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Court of Session etc. Fees Order 1997 (“the 1997 Order”).

The Order amends article 5 of the 1997 Order (exemption of certain persons from fees) so as to update the position on exemptions.

The Order also specifies for fees payable to the Principal Clerk of Session, to the Accountant of Court and to the Auditor of Court of Session or to any officer acting for any of them respectively in relation to proceedings in the Court of Session, new fee levels in substitution for those applicable since the 1997 Order was last amended in July 2002. The increases represent an average of 15% which is approximately the cumulative inflation over that period.

Finally, the Order simplifies the fees payable in relation to copying documents and makes new provision for fees for lodging of notice of appointment or intention to appoint an administrator out of court under the Insolvency Act 1986.

⁽¹⁰⁾ Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755 and S.S.I. 2002/270) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.