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 STATUTORY INSTRUMENTS
 

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1976 No. 1061 (S. 89)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 8)  
(Solicitors' Fees) 1976

Made - - - -

2nd July 1976

Coming into Operation

15th September 1976

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(a), and of all other powers competent to them in that behalf, do hereby enact and declare:

*Citation, commencement and interpretation*

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 8) (Solicitors' Fees) 1976 and shall come into operation on 15th September 1976.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of this Act of Sederunt as it applies to the interpretation of an Act of Parliament.

*New Fees*

2. In Rule 347 of the Rules of Court(c), for the tables of fees set out in Chapters I, III and VI, there are substituted the tables of fees set out under these Chapters in the Schedule to this Act of Sederunt, and the fees so substituted shall have effect on and after 15th September 1976 and are the fees chargeable by solicitors in respect of the matters specified in the Schedule opposite these fees, being matters relating to work done or expenses incurred on and after that date.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

2nd July 1976.  
Edinburgh.

G. C. Emslie,  
I.P.D.

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(a) 1933 c. 41.

(b) 1889 c. 63.

(c) S.I. 1965/321 (1965 I, p. 803).

## SCHEDULE

## CHAPTER I

## TABLE OF DETAILED CHARGE

1. (a) Framing precognitions and other papers, not drawn by Counsel— per sheet .. .. .	1.70
(b) Framing formal documents such as Inventories, Title pages and Accounts of Expenses, etc.—per sheet .. .. .	0.85

## NOTES

1. The sheet throughout this Table shall consist of 250 words or numbers.
2. Each solicitor shall be entitled to charge for copies of the precognitions for the use of Counsel and himself.
3. As between party and party charges for the precognitions and attendances of witnesses present at a Proof or Trial but not examined nor held as concurring with a witness who has been examined may be allowed, provided a motion to this effect is made at the close of the Proof or Trial and the Court grants the same and the witnesses' names are noted.
4. Where a skilled witness prepares his own precognition or report the solicitor shall be allowed half drawing fees for revising and adjusting it.
5. Where the business can properly be performed by a local solicitor the Auditor in taxing an account shall allow such expenses as would have been incurred if it had been done by the nearest local solicitor, including reasonable fees for instructing and corresponding with him, unless the Auditor is satisfied that it was in the interests of the client that the solicitor in charge of the case should attend personally.
6. As between party and party, no allowance shall be made for plans or photographs lodged in process or prepared for use of counsel except such as are either ordered or subsequently sanctioned by the Court prepared by mutual arrangement of parties, or lodged and proved at the trial or proof.

2. Copying papers by any means	
1st copy—per sheet .. .. .	0.50
Additional copies—each per sheet .. .. .	0.15
When copied by photostatic or similar process each page shall be charged as one sheet	
3. Revising papers drawn by Counsel, Open and Closed Records etc.— for each five sheets or part thereof .. .. .	0.85
4. Citation of Parties, witnesses, havers, instructions to Messengers-at- Arms	
Each Party .. .. .	1.70
Each witness or haver .. .. .	1.35
Instructing Messenger-at-Arms including examining execution and settling fee .. .. .	1.35
5. Time Charges	
(a) Attendances at meetings preparation for proof, trial, debate and at Court, Consultation with Counsel, etc.	
Per half hour .. .. .	4.25
or such other sum as in the opinion of the Auditor is justified	
(b) Perusal of documents	
Per half hour .. .. .	2.55
or such other sum as in the opinion of the Auditor is justified	
(c) Allowance for time of Clerk—one half of above	
(d) Attendance at Court Offices for performance of formal work ..	0.85
with the exception of lodging all first steps of process, when the fee shall be .. .. .	1.10
Plus for making up and lodging process .. .. .	0.85

SCHEDULE—*continued*

## NOTES

1. Time necessarily occupied in travelling to be regarded as if occupied on business. Reasonable travelling and maintenance expenses to be allowed in addition.

2. In the event of a party in a trial or proof being represented by one Counsel only allowance may be made to the solicitor should the case warrant it for the attendance of a clerk at one-half the rate chargeable for the solicitor's attendance.

6. Correspondence	
Letters including instructions to Counsel—each page of 125 words . .	1.35
Formal letters . . . . .	0.35
Telegrams or telephone calls, including letters confirming . . . . .	0.85

## CHAPTER III

## TABLE OF ALTERNATIVE FEES

PART I. UNDEFENDED ACTIONS  
(other than consistorial actions)

In undefended cases where no proof is led the pursuer's solicitor may in his option elect to charge an inclusive fee to cover all work from taking instructions up to and including obtaining extract decree. The option shall be exercised by pursuer's solicitor endorsing a Minute to the above effect on the Principal Summons or Petition before decree is taken.

Fee to pursuer's solicitor for all work up to and obtaining Extract Decree . . . . .	34.00
Outlays to an amount not exceeding £19 shall also be allowed	

## PART II. UNDEFENDED CONSISTORIAL ACTIONS

1. Fee for all work (other than precognitions up to and including the calling of the Summons in Court . . . . .)	26.50
2. Incidental procedure— Fixing Diet, enrolling motion, preparing for Proof, citing witnesses, etc. . . . .	17.00
3. Amendment— Where Summons amended and re-service not ordered . . . . .	2.55
Where re-service ordered . . . . .	5.00
4. Commissions to take evidence	
(i) On Interrogatories	
Basic fee to cover all work up to and including lodging completed Interrogatories but excluding attendance at execution of Commission . . . . .	7.70
If Solicitor attends execution of Commission an additional fee at rate per hour of . . . . .	5.00
In addition to above a fee per sheet for completed Interrogatories including all copies of . . . . .	2.55
(ii) Open Commissions	
Basic fee to Solicitor applying for Commission up to and including Report of Commission but excluding attendance at execution thereof . . . . .	14.50
For attendance at execution of Commission a fee at the rate per hour of . . . . .	5.00

SCHEDULE—*continued*

5. Where applicable charges under Part IV Sections 5, 6, 7, 9, 13, 14(b), 17, 18 and 19	
6. Proof fee— For every hour or part thereof (to include instruction of Counsel)..	6.00
7. Accounts— Framing and lodging Account and attending taxation .. ..	7.00

PART III. OUTER HOUSE PETITIONS  
(opposed or unopposed)

1. Fee for all work (other than precognitions) up to and including lodging Petition, obtaining Warrant of Service and executing Warrant.. ..	32.50
and in addition charges for copying or duplicating Petition	
2. Where applicable charges under Part II and Part IV of this Table	
3. Reports— (a) for each Report by Accountant of Court .. .. .	6.00
(b) for any other Report as under IV 6	
4. Obtaining Bond of Caution.. .. .	6.00

## PART IV. DEFENDED ACTIONS

1. Fee on Instructions— (a) To cover all work apart from Precognitions until lodgment of Open Record .. .. .	32.50
(b) Fee for instructing re-service when same is necessary .. ..	4.25
(c) If Counter-Claim is lodged, additional fee of.. .. .	9.50
2. Record fee— To cover all work in connection with adjustment and closing of Record including subsequent work in connection with “By Order Adjustment Roll” .. .. .	35.50
or	
Where action is settled or disposed of before Record closed.. ..	27.00
(i) An additional fee (to include necessary amendments) to the pursuer and existing defender to be allowed for each pursuer, defender or third party brought in prior to the Record being closed, of .. .. .	12.00
(ii) If an additional defender or third party is brought in after the Record is closed, an additional fee (to include necessary amendments) to pursuer and existing defender or defenders, of ..	18.00
3. Summar Roll, Short Roll and Procedure Roll Fee preparing for discussion and all work incidental thereto including instruction of Counsel .. .. .	11.00
Attendance fee for every hour or part thereof .. .. .	5.00
4. Adjustment of Issues and Counter Issues	
(i) Fee to pursuer to include all work in connection with and incidental to the lodging of an Issue and adjustment and approval thereof .. .. .	9.50
(ii) If one Counter Issue, an additional fee to pursuer of .. ..	3.50
(iii) Where more than one Counter Issue, an additional fee to pursuer for each additional Counter Issue .. .. .	1.70

SCHEDULE—*continued*

(iv) Fee to defender or third party to include all work in connection with lodging of Counter Issue and adjustment and approval thereof	9.50
(v) Fee to defender or third party for considering Issue where no Counter Issue lodged .. .. .	3.50
(vi) Fee to defender or third party for considering each additional Counter Issue .. .. .	1.70
5. Precognitions	
Taking and drawing precognitions	
(i) Where no Proof or Trial allowed—per sheet .. .. .	3.50
(ii) Where Proof or Trial allowed—per sheet .. .. .	4.25
NOTES	
1. In addition each solicitor shall be entitled to charge for copies of the precognitions for the use of Counsel and himself.	
2. Charges for the precognitions and attendances of witnesses present at a Proof or Trial but not examined nor held as concurring with a witness who has been examined may be allowed, provided a motion to this effect is made at the close of the Proof or Trial and the Court grants the same and the witnesses' names are noted.	
3. Where a skilled witness prepares his own precognition or report the solicitor shall be allowed half drawing fees for revising and adjusting it.	
6. Reports obtained under Order of Court excluding Auditor's Report	
Fee for all work incidental thereto .. .. .	14.50
Additional fee per sheet of Report to include all copies required ..	2.55
(with maximum)	43.00
7. Specification of Documents—	
Basic fee to cover drawing, revising and lodging and all incidental procedure to obtain a diligence up to and including obtaining Interlocutor .. .. .	11.00
(a) Fee to opponent's Solicitor .. .. .	6.00
(b) If Commission executed an additional fee per hour engaged of ..	5.00
(c) If alternative procedure adopted a fee per person upon whom Order served, of .. .. .	3.50
8. Commissions to take evidence—	
(i) On Interrogatories—	
Basic fee to solicitor applying for Commission to cover all work up to and including lodging Report of Commission with completed Interrogatories and Cross-Interrogatories but excluding attendance at execution of Commission .. .. .	9.50
Basic fee to opposing Solicitor if Cross-Interrogatories are lodged ..	7.70
If no Cross-Interrogatories lodged .. .. .	3.00
If Solicitor attends execution of Commission an additional fee at the rate per hour of .. .. .	5.00
In addition to above a fee per sheet for completed Interrogatories including all copies, of .. .. .	2.55
(ii) Open Commissions—	
Basic fee to Solicitor applying for Commission up to and including lodging Report of Commission but excluding attendance at execution thereof .. .. .	14.50
Basic fee to opposing Solicitor .. .. .	7.70
For attendance at execution of Commission a fee at the rate per hour of .. .. .	5.00

SCHEDULE—*continued*

9. Miscellaneous Motions where not otherwise covered by this Table—	
1. Where attendance of Counsel and/or Solicitor not required ..	2.55
2. Where attendance of Counsel and/or Solicitor required including instructing Counsel	
(a) Not exceeding half an hour .. .. .	6.00
(b) Thereafter per half hour .. .. .	4.25
10. Incidental Procedure—	
Fixing Diet, obtaining Note on Line of Evidence, etc. not chargeable prior to pronouncing of an Interlocutor approving of Issues or allowing a Proof .. .. .	22.00
11. Amendment of Record—	
(a) Amendment of Conclusions only—Proposer .. .. .	5.00
—Opponent .. .. .	2.55
(b) Amendment of Pleadings after Record closed	
(i) Where no Answers lodged—Proposer .. .. .	7.70
—Opponent .. .. .	4.25
(ii) Where Answers lodged—each party lodging Answers .. ..	18.50
(iii) Where parties ordered to adjust Minute and Answers, an additional fee to each party of .. .. .	13.50
12. Preparation for Trial or Proof—	
Fee where action settled before the Proof or Trial (provided Proof or Trial allowed) or proof or Trial lasts only one day .. ..	21.00
Fee for each day or part of a day after the first day .. .. .	8.50
(To cover fee funding precept, lodging and borrowing process and productions adjusting Joint Minute of Admissions, considering productions lodged by opponents, and recovered under diligence, arranging and attending consultations, preparing for Trial or Proof)	
13. Copying papers by any means	
Productions, Reports of Commissions, duplicate Inventory, Jury List, List of Witnesses, Lord Ordinary's opinion .. .. .	
1st copy per sheet .. .. .	0.50
Additional copies—each per sheet .. .. .	0.15
When copied by photostatic or similar process each page to be charged as one sheet	
14. Settlements—	
(a) Tender	
(i) Basic fee for lodging or considering first Tender as the case may be .. .. .	12.80
(ii) Fee for lodging or considering each further Tender, as the case may be .. .. .	8.50
(iii) If Tender accepted an additional fee of .. .. .	6.00
(b) Extrajudicial Settlement, including Joint Minute (not based on a judicial Tender) .. .. .	18.00
15. Proof or Trial (to including instruction of Counsel)	
Attendance fee	
Each hour or part thereof .. .. .	8.50
16. Accounts	
Framing and lodging account and attending taxation .. ..	14.50
17. Extracts	
Ordering and obtaining Extract .. .. .	5.00

SCHEDULE—*continued*

18. Final Procedure	
(i) If case goes to Trial or Proof to include all work to close of litigation so far as not otherwise provided for, including in particular settlement of witnesses' fees and procuring and booking verdict .. .. .	17.70
(ii) If case disposed of before Trial or Proof .. .. .	3.50
19. Session fee—to cover communication with client and Counsel	
(a) Where no correspondent—7½% of total fees and copyings allowed on taxation	
(b) Where correspondent involved—10% of total fees and copyings allowed on taxation	

## NOTE

To be charged only where whole account is charged under Chapter III.

PART V. INNER HOUSE BUSINESS  
(opposed or unopposed proceedings)

1. Reclaiming Motions from Outer House and Appeals from Interior Courts	
Fee to Reclaimer or Appellant	
(a) for all work up to and including Interlocutor sending case to the Roll .. .. .	14.50
(b) Additional fee for every 50 pages of Appendix of documents lodged .. .. .	8.50
Fee to Respondent—one half of above	
2. Where applicable further charges under Part IV of this Table	
3. Special Cases and all Inner House Petitions According to the circumstances of the case	
4. Obtaining Bond of Caution .. .. .	6.00

CHAPTER VI  
UNDEFENDED CONSISTORIAL ACTIONS  
under Legal Aid (Scotland) Act, 1949

In undefended consistorial actions in which the pursuer, having a finding for expenses, has been throughout the whole of the proceedings an Assisted Person under the Legal Aid (Scotland) Act 1949, the pursuer's solicitor may in his option either:—

elect to charge an inclusive charge to cover all work from taking instructions up to and including obtaining extract decree with in addition a charge for outlays as hereinafter provided. Provided that such inclusive charge shall be:—	
(i) where only an Edinburgh solicitor is engaged in the case .. .. .	85.00
or (ii) where the Legal Aid Certificate shows that both an Edinburgh solicitor and a solicitor outside Edinburgh are engaged in the case or where an official on behalf of the Legal Aid Supreme Court Committee of the Law Society so certifies .. .. .	110.00

In addition to the said inclusive charge a sum of up to £26 shall be allowed as outlays where a Certificate by the Auditor of Court is lodged certifying the outlays which have been incurred, and the Court shall grant decree accordingly, and if outlays in excess of £26 are claimed an account for the said outlays shall be remitted to the Auditor for taxation.

## EXPLANATORY NOTE

*(This Note is not part of the Act of Sederunt.)*

This Act of Sederunt amends the Rules of Court to make new provision in respect of solicitors' fees.

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