
STATUTORY INSTRUMENTS

1992 No. 1906 (S.193)

COURT OF SESSION, SCOTLAND

**Act of Sederunt (Rules of the Court of Session
Amendment No.7) (Witnesses' Fees) 1992**

Made - - - - - *23rd July 1992*
Coming into force - - - - - *24th August 1992*

The Lords of Council and Session, under and by virtue of the powers conferred on them by Section 5 of the Court of Session Act 1988((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 (Rules of the Court of Session Amendment No.7) (Witnesses' Fees) 1992 and shall come into force on 24th August 1992.

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

Amendment of the Rules of the Court of Session

2.—(1) The Rules of the Court of Session((2)) shall be amended in accordance with the following sub-paragraphs.

(2) In the Table of Fees in rule 347 (taxation of accounts in judicial proceedings)((3)) for the provisions in Chapter II substitute the following provisions:—

“WITNESSES' FEES

Managers, executives and officers in HM Forces and merchant shipping

1. A person in managerial or like executive position, officer in Her Majesty's Forces or in a merchant ship who is cited to give evidence,

maximum per half day (including travelling time)£140.00

(1) 1988 c. 36.

(2) S.I.1965/321; relevant amending instruments are S.I. 1970/1746, 1972/2022, 1973/360, 1974/1686, 1978/747, and 1984/499.

(3) Chapter II of the Table of Fees in rule 347 was amended by S.I. 1973/360, 1976/2196, 1980/909, 1982/174, 1985/555, and 1990/705.

Professional persons

2. A professional person who is a witness to matters of fact—
 - (a) if cited to give evidence and in consequence—
 - (i) requires to be absent from his practice maximum per half day (including travelling time)£98.00
 - (ii) necessarily employes a locum or other substitute to act for him in his absence whom he requires to remunerate, maximum per half day£56.00
 - (iii) examines papers for the purpose of giving evidence, maximum£168.00
 - (b) if cited to give evidence but where the citation is cancelled—
 - (i) more than 48 hours but less than 7 days before the date for which he has been cited, maximum£168.00
 - (ii) less than 48 hours before that date, the sum he would have been paid under sub-paragraph 2(a) above if he had been called to give evidence.

Other persons

3. A person not included in paragraphs 1 or 2 above who is cited to give evidence and in consequence incurs loss of wages or the payment of a substitute—
 - (a) in respect of lost wages, maximum per half day£52.00
 - (b) in respect of payment of a substitute, maximum per half day£29.00
4. A person not included in paragraphs 1, 2 or 3 above who is cited to give evidence and attends at court, maximum per half day£14.00

Travelling allowance

5. A witness shall be allowed a travelling allowance being such sum as the Auditor may determine to have been necessarily incurred by the witness in travelling from and to his residence or place of business and the court.

Subsistence allowance

6. A witness shall be allowed a subsistence allowance being such a sum as the Auditor may determine to have been reasonably incurred by the witness for the extra cost of subsistence during his absence from his home or place of business for the purpose of giving evidence, as the case may be, and where the witness is necessarily detained overnight for the cost of board and lodging,
- (a) where absence is not more than 4 hours, maximum£7.00
 - (b) where absence is more than 4 hours,

maximum£14.00

(c) in addition where absence extends overnight,

maximum per night£70.00

Receipts and vouchers

7. Receipts and detailed vouchers for all payments claimed in respect of a witness shall be produced to the party found liable in expenses, prior to the taxation of the Account of Expenses, and to the Auditor if required by him.

Witness present but not called

8. Charges for the attendance of a witness present at a proof or jury trial but not called nor held as concurring with another witness who has been called may be allowed provided that the court grants a motion to this effect at the close of the proof or jury trial and the witness's name is noted in the minute of proceedings.

Investigations by and attendance of skilled witness

9. Where it is necessary to employ a skilled person to make investigations prior to a proof or jury trial in order to qualify him to give evidence, charges therefor, and for attendance at such proof or jury trial, shall be allowed in addition to the ordinary witness fees of such person at such rate which the Auditor in his discretion shall determine is fair and reasonable provided that the court grants a motion to this effect not later than the time at which it awards expenses and the witness's name is recorded in the interlocutor.

Maritime witness

10. Where a witness who is a seaman or off-shore worker is detained ashore to give evidence, provided reasonable notice of intention to detain has been given to the party found liable in expenses, charges for no longer than 28 days' detention shall be allowed.

Account of witness's fees

11. The fees charged for a witness shall be stated in the Account of Expenses in a lump sum and the details of the charges shall be entered in a separate schedule appended to the account as follows:—

Name and Designation	Where From	Days charged	Rate per Day	Travelling and Subsistence Allowance	Total	Taxed off

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Value added tax

12. Where a witness is a taxable person in terms of the Value Added Tax Act 1983⁽⁴⁾ the amount of value added tax may be added by him to his note of fee, and may be paid to him by the solicitor.”

Edinburgh
23rd July 1992

J.A.D. Hope
Lord President IPD

EXPLANATORY NOTE

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

This Act of Sederunt—

- (a) substitutes the provisions of Chapter II of the Table of Fees in rule 347 of the Rules of the Court of Session with new provisions relating to the fees of witnesses in the Court of Session; and
- (b) increases the fees of witnesses in the Court of Sesion, thereby restoring their value to that of 1974, being the last year that a comprehensive increase of such fees took place.