

**2002 No. 235**

**SHERIFF COURT**

**Act of Sederunt (Fees of Solicitors in the Sheriff Court)  
(Amendment) 2002**

*Made* 16th May 2002

*Laid before the Scottish Parliament* 17th May 2002

*Coming into force* 10th June 2002

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(a) 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) 2002 and shall come into force on 10th June 2002.

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

**Amendment of Schedule**

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

(2) In the General Regulations, in the table in paragraph 14(f)–

- (a) in item 1, in the left hand column, for “£50 to £250” there is substituted “£1,000 to £2,500”;
- (b) in item 2, in the left hand column, for “£50” there is substituted “£1,000”; and
- (c) item 3 is omitted.

(3) In the Table of Fees, for Chapter IV, Part II (summary causes: defended actions) there is substituted the Tables of Fees in the Schedule to this Act of Sederunt.

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(a) 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.

(b) 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.

**Saving**

3. Paragraph 2 does not affect such fees as are chargeable for work done, or outlays incurred, before 10th June 2002.

Edinburgh  
16th May 2002

*W DOUGLAS CULLEN*  
Lord President  
I.P.D.

## SCHEDULE

### Chapter IV - Summary Cause

#### Part II - Defended Actions

1.	Work before action commences – to cover all work of a pre-litigation basis, to include discussions/correspondence with opposing party, exchange of documentation, etc (not exceeding 1 hour)	100.00
2.	(a) Instruction fee to include taking instructions, framing summons and statement of claim, statement of valuation, obtaining warrant for service, enquiring for and consideration of Response Form (1½ hours)	150.00
	(b) Where counter claim and answers lodged, additional fee of (1½ hours)	150.00
	(c) If additional defender/third party brought in, additional fee to each original party's agent (1 hour)	100.00
3.	Service–	
	(a) Citation by post within the United Kingdom, Isle of Man, Channel Islands, or the Republic of Ireland – for each party	10.30
	Citation by post elsewhere – for each party	22.75
	(b) Instructing service or reservice by sheriff officer including perusing execution of citation and settling sheriff officer's fee – for each party	10.30
	(c) Framing and instructing service by advertisement – for each party	32.90
4.	Attendance at first calling–	
	(a) To include necessary preparation for and conduct of (each of) such hearings and noting interlocutor (1½ hours)	150.00
	(b) Where waiting/hearing exceeds one half hour – for every extra quarter hour	25.00
5.	Attendance at Court–	
	Attendance at any diet except as otherwise specially provided – per half hour	25.00
6.	Precognitions– taking and drawing – per sheet	36.40
	Note: Where a skilled witness prepares his own precognition or report, the solicitor shall be allowed half of above drawing fee for perusing it (whether or not in the course of doing so he revises or adjusts it).	
7.	Reports obtained under Order of Court–	
	(a) All work incidental to it	80.00

(b)	Additional fee for perusal of report, per quarter hour	19.55
8.	Productions–	
(a)	For lodging productions – each inventory	43.60
(b)	For considering opponent’s productions – each inventory	21.70
9.	Affidavits– to framing affidavits (where ordered) per sheet	14.50
10.	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)	Where opposed	101.85
(b)	Where unopposed – including for each party a joint minute or joint motion (other than under paragraph 14(b))	43.60
(c)	Where motion exceeds half hour, additional fee per quarter hour	19.55
11.	Fee to cover considering opponent’s written motion or minute excluding minute or motion to recall decree and relative attendance at court–	
(a)	Where motion or minute opposed	101.85
(b)	Where motion or minute unopposed	43.60
(c)	Where motion exceeds half hour, additional fee per quarter hour	19.55
12.	Hearing Limitation–	
	Fee to include work done (except as otherwise specially provided for in this Chapter) undertaken with a view to limiting the scope of any hearing, and including the agreement of evidence generally including the exchange of documents, precognitions and expert reports, agreeing any fact, statement or document not in dispute, preparation and lodging of witness list, preparing Schedule of Damages and preparing and lodging joint minute (not exceeding 1 hour)	100.00
13.	Procedure preliminary to proof–	
(a)	Fee to cover all work preparing proof (except as otherwise specially provided for in this chapter)	
(i)	If action settled or abandoned not later than 7 days before the diet of proof	250.00
(ii)	In any other case	300.00
(b)	Fee to cover preparing for adjourned diet and all incidental work as in (a) if diet postponed for more than 6 days, for each additional diet	94.60

(c)	Fee for attendance inspecting opponent's documents – per quarter hour	21.70
14.	Conduct of proof–	
(a)	Fee to cover conduct of proof or trial and debate on evidence taken at close of proof – per quarter hour	21.75
(b)	Waiting time – per half hour	19.55
15.	Debate on Evidence–	
(a)	Where debate on evidence not taken at conclusion of proof, preparing for debate	72.70
(b)	Fee for conduct of debate – per quarter hour	21.75
16.	Settlements–	
(a)	Judicial tender–	
(i)	Fee for preparation and lodging or for consideration of each minute of tender	79.90
(ii)	Fee on acceptance of tender, to include preparation and lodging or consideration of minute of acceptance and attendance at court when decree granted in terms thereof	65.50
(b)	Extra judicial settlement–	
	Fee to cover negotiations resulting in settlement, framing or revising joint minute and attendance at court when authority interponed thereto	145.30
(c)	Whether or not fees are payable under (a) or (b) above where additional work has been undertaken with a view to effecting settlement, including offering settlement, although settlement is not agreed – not exceeding	145.30
17.	Specification of documents–	
(a)	Fee to cover drawing, intimating and lodging specification and relative motion	
(i)	Where motion unopposed	79.90
(ii)	Where motion opposed – additional fee per quarter hour	19.55
(b)	Fee to opposing solicitor	
(i)	Where motion unopposed	43.60
(ii)	Where motion opposed – additional fee per quarter hour	19.55
(c)	Fee for citation of havers, preparation for and attendance before commissioner at execution of commission–	

(i) Where attendance before commissioner does not exceed one hour	79.90
(ii) For each additional quarter hour after the first hour	21.70
(d) If optional procedure adopted – fee per person upon whom order is served	19.55
(e) Fee for perusal of documents recovered – per quarter hour	19.55
18. Commissions to take evidence–	
Open Commissions–	
(a) Fee to solicitor applying for commission to include all work (except as otherwise specially provided for in this chapter) up to lodging report of commission but excluding attendance thereat	145.40
(b) Fee to opposing solicitor	72.70
(c) Fee for attendance at execution of commission – per quarter hour	21.70
19. Appeals–	
(a) Fee to cover instructions, marking of appeal or noting that appeal marked, noting of diet of hearing thereof, perusing Stated Case, framing Questions in Law and Adjustment thereof, preparation for hearing	218.10
(b) Fee to cover conduct of hearing on Adjustments – per quarter hour	21.70
(c) Conduct of Appeal – per quarter hour	21.70
20. Final Procedure–	
(a) Fee to cover settling with witnesses and noting final interlocutor	109.10
(b) Fee to cover drawing of expenses, arranging, intimating and attending diet of taxation and obtaining approval of auditor's report and where necessary, ordering, procuring and examining extract decree or adjusting account with opponent	94.60
(c) Fee to cover considering opponent's account of expenses, objections and attendance at hearing on expenses – per quarter hour	19.55

## Chapter IV - Summary Cause

### Part II - Defended Actions

#### Personal Injury Claims Only

1. Work before action commences – to cover all work of a pre-litigation basis, to include discussions/correspondence with opposing party, exchange of documentation, etc (not exceeding 3 hours)	284.60
2. (a) Instruction fee to include taking instructions, framing summons and statement of claim, statement of valuation, obtaining warrant for service, enquiring for and consideration of Response Form (not exceeding 2½ hours)	300.00
(b) Where counter claim and answers lodged, additional fee of (not exceeding 1½ hours)	150.00
(c) If additional defender/third party brought in, additional fee to each original party's agent (not exceeding 1½ hours)	150.00
3. Service–	
(a) Citation by post within the United Kingdom, Isle of Man, Channel Islands, or the Republic of Ireland – for each party	12.35
Citation by post elsewhere – for each party	27.25
(b) Instructing service or reservice by sheriff officer including perusing execution of citation and settling sheriff officer's fee – for each party	12.35
(c) Framing and instructing service by advertisement – for each party	32.85
4. Attendance at first calling–	
(a) To include necessary preparation for and conduct of (each of) such hearings and noting interlocutor (2 hours)	195.60
(b) Where waiting/hearing exceeds one half hour – for every extra quarter hour	27.15
5. Attendance at Court–	
Attendance at any diet except as otherwise specially provided - per half hour	54.50
6. Precognitions– taking and drawing – per sheet	45.50

Note: Where a skilled witness prepares his own precognition or report, the solicitor shall be allowed half of above drawing fee for perusing it (whether or not in the course of doing so he revises or adjusts it).

7. Reports obtained under Order of Court–	
(a) All work incidental to it	100.00
(b) Additional fee for perusal of report, per quarter hour	12.65
8. Productions–	
(a) For lodging productions – each inventory	54.50
(b) For considering opponent’s productions – each inventory	27.15
9. Affidavits– to framing affidavits (where ordered) per sheet	18.15
10. 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) Where opposed	127.35
(b) Where unopposed – including for each party a joint minute or joint motion (other than under paragraph 14(b))	54.50
(c) Where motion exceeds half hour, additional fee per quarter hour	27.15
11. Fee to cover considering opponent’s written motion or minute excluding minute or motion to recall decree and relative attendance at court–	
(a) Where motion or minute opposed	127.35
(b) Where motion or minute unopposed	54.50
(c) Where motion exceeds half hour, additional fee per quarter hour	27.15
12. Procedure preliminary to proof–	
(a) Fee to cover all work preparing proof - as follows – exchanging of witness list, documents list, skilled witnesses, reports, consideration of defender’s schedule of damages, citation of witnesses, general preparation for Proof (except as otherwise specially provided for in this chapter) (not exceeding 3 hours)	
(i) If action settled or abandoned not later than 7 days before the diet of proof	400.00
(ii) In any other case	526.95
(b) Fee to cover preparing for adjourned diet and all incidental work as in (a) if diet postponed for more than 6 days, for each additional diet	118.25



13. Hearing Limitation–	
Fee to include work done (except as otherwise specially provided for in this Chapter) undertaken with a view to limiting the scope of any hearing and including the agreement of evidence generally, including the agreement of photographs, sketch plans, documents, precognitions and expert reports, agreeing any fact, statement or documents, agreeing Schedule of Damages and preparing and lodging joint minute of admissions (not exceeding 3 hours)	400.00
14. Conduct of proof–	
(a) Fee to cover conduct of proof or trial and debate on evidence taken at close of proof – per quarter hour	27.15
(b) Waiting Time – per half hour	24.45
15. Debate on Evidence–	
(a) Where debate on evidence not taken at conclusion of proof, preparing for debate	90.85
(b) Fee for conduct of debate – per quarter hour	27.15
16. Settlements–	
(a) Judicial tender–	
(i) Fee for preparation and lodging or for consideration of each minute of tender	99.90
(ii) Fee on acceptance of tender, to include preparation and lodging or consideration of minute of acceptance and attendance at court when decree granted in terms thereof	81.85
(b) Extra judicial settlement–	
Fee to cover negotiations resulting in settlement, framing or revising joint minute and attendance at court when authority interponed thereto	181.65
(c) Whether or not fees are payable under (a) or (b) above where additional work has been undertaken with a view to effecting settlement, including offering settlement, although settlement is not agreed – not exceeding	136.40
17. Specification of documents–	
(a) Fee to cover drawing, intimating and lodging specification and relative motion	
(i) Where motion unopposed	99.90
(ii) Where motion opposed – additional fee per quarter hour	24.45
(b) Fee to opposing solicitor	
(i) Where motion unopposed	99.90

(ii)	Where motion opposed – additional fee per quarter hour	24.45
(c)	Fee for citation of havers, preparation for and attendance before commissioner at execution of commission–	
(i)	Where attendance before commissioner does not exceed one hour	99.90
(ii)	For each additional quarter hour after the first hour	27.15
(d)	If optional procedure adopted – fee per person upon whom order is served	24.45
(e)	Fee for perusal of documents recovered – per quarter hour	24.45
18.	Commissions to take evidence–	
	Open Commissions–	
(a)	Fee to solicitor applying for commission to include all work (except as otherwise specially provided for in this chapter) up to lodging report of commission but excluding attendance thereat	181.75
(b)	Fee to opposing solicitor	90.85
(c)	Fee for attendance at execution of commission – per quarter hour	27.15
19.	Appeals–	
(a)	Fee to cover instructions, marking of appeal or noting that appeal marked, noting of diet of hearing thereof, perusing Stated Case, framing Questions in Law and Adjustment thereof, preparation for hearing	272.65
(b)	If Counsel employed	154.60
(c)	Fee to cover conduct of hearing on Adjustments – per quarter hour	27.15
(d)	Conduct of Appeal – per quarter hour	27.15
20.	Final Procedure–	
(a)	Fee to cover settling with witnesses and noting final interlocutor	136.40
(b)	Fee to cover drawing of expenses, arranging, intimating and attending diet of taxation and obtaining approval of auditor’s report and where necessary, ordering, procuring and examining extract decree or adjusting account with opponent	118.25
(c)	Fee to cover considering opponent’s account of expenses and attendance at hearing on expenses	24.45

21. Instruction of Counsel–	
(a) Fee for instructing counsel to attend court	118.25
(b) Fee for attending consultation with counsel–	
(i) Where total time engaged does not exceed one hour	118.25
(ii) For each additional quarter hour	24.45

Note: Excludes Adjustment, Debate, Amendment, Interrogatories, Process Fee.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Act of Sederunt amends Chapter IV Part II of the Table of Fees (defended summary causes) in the Schedule to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993 by substituting two new tables. The new tables regulate fees under the procedure for non personal injury summary causes and personal injury summary causes introduced by new summary cause rules.

It also increases the values of actions to which reduced fees apply and removes undefended actions for recovery of possession of heritable property from the list of actions to which reduced fees apply.

The Act of Sederunt does not apply as respects fees chargeable for work done before it comes into force.

£2.50

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under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland  
250 06/02 19593

