
 STATUTORY INSTRUMENTS

1984 No. 471 (S. 51)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Solicitors' Fees) 1984

<i>Made - - - -</i>	<i>29th March 1984</i>
<i>Laid before Parliament</i>	<i>10th April 1984</i>
<i>Coming into Operation</i>	<i>1st May 1984</i>

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 competent to 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 (Solicitors' Fees) 1984 and shall come into operation on 1st May 1984.

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

Fees

2.—(1) The Act of Sederunt (Alteration of Sheriff Court Fees) 1971 (b) shall be amended as follows.

(2) After paragraph 2, insert the following paragraph—

“2A. This Act of Sederunt shall not apply to fees for work done, expenses or outlays incurred or to the taxation of accounts for which the Secretary of State may make regulations under and by virtue of section 14A of the Legal Aid (Scotland) Act 1967 (c).”

(3) In the Table of Fees in Schedule 2—

(a) for the heading of Chapter I, substitute the following heading—

“CHAPTER I

PART I. UNDEFENDED ACTIONS

(other than actions of divorce or of separation and aliment (affidavit procedure));

(b) in paragraph 2 of Chapter I, after the word “proof” in the heading, insert the words “(other than by way of affidavit evidence)”;

(c) after Part I of Chapter I, insert the following part—

(a) 1907 c.51, as amended by the Secretaries of State Act 1926 (c.18) and the Administration of Justice (Scotland) Act 1933 (c.41).

(b) S.I. 1971/90, as amended by S.I. 1983/970.

(c) 1967 c.43, as amended by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c.12).

“PART II. UNDEFENDED ACTIONS OF DIVORCE AND OF SEPARATION AND ALIMENT (affidavit procedure)

1. In any undefended action of divorce or of separation and aliment where—

- (a) the facts set out in section 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976 (“the 1976 Act”) are relied upon;
- (b) there is no crave relating to any ancillary matters; and
- (c) 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, charge the inclusive fee specified in respect of that work in column 2 of that Table.

TABLE A

Column 1 Work done	Column 2 Inclusive Fee £
1. All work to and including the period of notice	140
2. All work from the period of notice to and including swearing affidavits	100
3. All work from swearing affidavits to and including sending extract decree	30
4. All work to and including sending extract decree Add process fee to item 4	270 of 10%

2. In any undefended action of divorce or separation and aliment where—

- (a) the facts set out in sections 1(2)(a) (adultery), 1(2)(c) (desertion), 1(2)(d) (two years non-cohabitation and consent) and 1(2)(e) (five years non-cohabitation) of the 1976 Act are relied on;
- (b) there is no crave relating to any ancillary matters; and
- (c) the pursuer seeks to prove those facts by means of affidavits,

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

TABLE B

Column 1 Work done	Column 2 Inclusive Fee £
1. All work to and including the period of notice	115
2. All work from the period of notice to and including swearing affidavits	55
3. All work from swearing affidavits to and including sending extract decree	30
4. All work to and including sending extract decree Add process fee to item 4	200 of 10%

3. If—

- (a) the pursuer's solicitor charges an inclusive fee under either paragraph 1 or paragraph 2 of this Part; and
- (b) the action to which the charge 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, the inclusive fee specified in respect of that work in column 2 of that Table.

TABLE C

Column 1 Work done	Column 2 Inclusive Fee £.p
1. All work to and including the period of notice	54.50
2. All work from the period of notice to and including swearing affidavits	32
3. All work under items 1 and 2	86.50

(d) in Chapter II (Defended actions), after paragraph 2, insert the following paragraph—

“2A. Affidavit fee—To framing affidavits, per sheet ... 5.50”;

(e) in Chapter III (Charges for time, etc.)—

(i) in paragraph 3, after the word “papers”, insert the words “(other than affidavits)”; and

(ii) after paragraph 3, insert the following paragraph—

“3A. Framing Affidavits—per sheet 5.50”.

Emslie,
Lord President,
I.P.D.

Edinburgh
29th March 1984.

EXPLANATORY NOTE

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

This Act of Sederunt—

- (a) provides for inclusive fees for solicitors in undefended actions of divorce and of separation and aliment where proof is by way of affidavit evidence in the sheriff court in Chapter I of Schedule 2 to the Act of Sederunt (Alteration of Sheriff Court Fees) 1971;
- (b) provides for fees for solicitors for framing affidavits in defended actions in Chapter II, or where charges are made for time, drawing of papers, etc., in Chapter III, of Schedule 2 to the Act of Sederunt of 1971; and
- (c) provides that the Act of Sederunt of 1971 does not apply to fees for work done, outlays and expenses incurred, or to the taxation of accounts for which the Secretary of State may make regulations under and by virtue of section 14A of the Legal Aid (Scotland) Act 1967 (as amended by section 3 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983), the power of the Court of Session to regulate fees where legal aid has been granted having been disapplied by section 6(1) of, and paragraph 7 of Schedule 1 to, the Act of 1983.

SI 1984/471
ISBN 0-11-046471-0

