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STATUTORY INSTRUMENTS

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**1988 No. 684 (S.77)**

**COURT OF SESSION, SCOTLAND**

**Act of Sederunt (Rules of the Court of Session  
Amendment No.2) (Solicitors' Fees) 1988**

*Made*        -   -   -   -                      *7th April 1988*  
*Coming into force*        -   -                      *16th May 1988*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 16 of the Administration of Justice (Scotland) Act 1933<sup>(1)</sup> 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.2) (Solicitors' Fees) 1988 and shall come into force on 16th May 1988.

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

**Solicitors' fees**

**2.** In rule 347 of the Rules of the Court of Session<sup>(2)</sup> (fees of solicitors) in Chapters I and III, there is substituted the table of fees set out under those Chapters in the Schedule to this Act of Sederunt, and the fees so substituted shall apply to work, in respect of which those fees are chargeable, done on or after the date on which this Act of Sederunt comes into force.

Edinburgh  
7th April 1988

*Emslie*  
Lord President, IPD

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(1) [1933 c. 41](#); section 16 was amended by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act [1983 \(c. 12\)](#), Schedule 1, paragraph 8.  
(2) [S.I. 1965/321](#); relevant amending instrument is [S.I. 1987/871](#)

**Status:** This is the original version (as it was originally made).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

## SCHEDULE

### CHAPTER I

#### TABLE OF DETAILED CHARGES

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1.	(a)	(a)	Framing	£5.00
			precognitions and other papers (but not including affidavits), not drawn by counsel — per sheet	
	(b)	(b)	Framing	£2.00
			formal documents such as inventories, title pages and Accounts of Expenses etc.— per sheet	
	(c)	(c)	Framing	£7.00
			affidavits— per sheet	

#### *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.

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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 or parties, or lodged and proved at the trial or proof.

2.	Copying papers by any means (including facsimile transmission)— 1st copy—per sheet  Additional copies—per sheet  When copied by photostatic or similar process each page shall be charged as one sheet.	£1.00   £0.30
3.	Revising papers drawn by counsel, Open and Closed Records, etc.—for each five sheets or part thereof	£2.00
4.	Citation of parties, witnesses, havers, instructions to Messengers-at-Arms— Each party  Each witness or haver  Instructing Messenger-at-Arms including examining execution and settling fee	£5.00  £5.00  £5.00

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5. Time charges— £8.50
- (a) Attendances at meetings, preparation for proof, trial, debate and, at court, consultation with counsel, etc.—  
Per quarter hour  
or such other sum as  
in the opinion of the  
Auditor is justified.
- (b) (b) Perusal of £8.50  
documents—  
Per quarter  
hour  
or such other  
sum as in the  
opinion of  
the Auditor is  
justified.
- (c) (c) Allowance for  
time of clerk—one  
half of above.
- (d) (d) Attendance £2.00  
at court offices  
for performance of  
formal work
- with the exception of lodging £5.00  
all first steps of process, when  
the fees shall be
- Plus for making up and £5.00  
lodging process

#### 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— £5.00

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Letters including  
instructions to counsel  
(whether sent by hand,  
post, telex or facsimile  
transmission)—each  
page of 125 words

Formal letters £1.00

Telephone calls (except  
those under next item) £2.00

Telephone calls  
(lengthy), to be charged  
at attendance rate.

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## CHAPTER III

### PART I—UNDEFENDED ACTIONS

(other than consistorial actions)

In all 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.

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Fee to pursuer's solicitor for all work up to and obtaining extract decree	£80.00
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Outlays to an amount not  
exceeding £100 shall also be  
allowed.

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### PART II—UNDEFENDED CONSISTORIAL ACTIONS

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- |    |  |         |
|----|--|---------|
| 1. | Fee for all work (other than<br>precognitions) up to and<br>including the calling of<br>summons in court | £115.00 |
|----|--|---------|

*Note:*

Precognitions to be charged as  
in Part IV paragraph 5.

- |    |  |        |
|----|--|--------|
| 2. | Incidental Procedure—<br>Fixing diet, enrolling<br>action, preparing for<br>proof, citing witnesses,<br>etc. | £65.00 |
|----|--|--------|

- |    |            |        |
|----|------------|--------|
| 3. | Amendment— | £17.00 |
|----|------------|--------|

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- (a) where summons amended, where re-service is not ordered, and motion is not starred
  - (b) (b) where £25.00  
summons amended, where re-service is not ordered and motion is starred
  - (c) (c) where £30.00  
summons amended and re-service is ordered
- 4. Commissions to take evidence £30.00  
on interrogatories—
  - (a) Basic fee to cover all work up to and including lodging completed interrogatories, but excluding attendance at execution of Commission
  - (b) (b) Attendance £8.50  
at execution of Commission (if required)—per quarter hour
  - (c) (c) In addition £5.00  
to above, a fee per sheet for completed interrogatories, including all copies, of
- 5. Commissions to take evidence £28.00  
on Open Commission—
  - (a) Basic fee to solicitor applying for Commission but excluding attendance at execution thereof
  - (b) (b) Attendance £8.50  
at execution of Commission—per quarter hour
- 6. Where applicable, charges under Part IV paragraphs 6, 7, 10, 14, 16 and 21.
- 7. Proof and completion fee £85.00  
—excluding Accounts of Expenses but including

	instructing counsel for proof, attendance at proof, settling with witnesses, borrowing and returning productions, procuring interlocutor, and obtaining Extract Decree of Divorce	
8.	Accounts— Framing and lodging account and attending taxation	£27.50

## PART IIA—UNDEFENDED CONSISTORIAL ACTIONS: AFFIDAVIT PROCEDURE

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

- (a) the facts set out in section 1(2)(a) (adultery) or 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976 (“the 1976 Act”) are relied upon; and
- (b) there are no conclusions 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, in a case where he is an Edinburgh solicitor acting alone, the inclusive fee specified in respect of that work in column 2 of that Table, and in any other case, the inclusive fee specified in respect of that work in column 3 of that Table.

**TABLE A**

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee Edinburgh solicitors only</i>	Column 3 <i>Inclusive fee Edinburgh solicitors and solicitors outside Edinburgh</i>
1. All work to and including calling of the summons	£170.00	£195.00
2. All work from calling to and including swearing affidavits	£120.00	£145.00
3. All work from swearing affidavits to and including sending extract decree	£35.00	£55.00
4. All work to and including sending extract decree	£325.00	£295.00
Add session fee	of 7½%	of 10%

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

- (a) the facts set out in section 1(2)(c) (desertion) or 1(2)(d) (2 years non-cohabitation and consent) and 1(2)(e) (5 years non-cohabitation) of the 1976 Act are relied upon; and
- (b) there are no conclusions relating to any ancillary matters; and
- (c) the pursuer seeks to prove those facts by means of affidavits,

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the pursuer's solicitor may in respect of the work specified in column 1 of Table B charge, in a case where he is an Edinburgh solicitor acting alone, the inclusive fee specified in respect of that work in column 2 of that Table, and in any other case, the inclusive fee specified in respect of that work in column 3 of that Table.

**TABLE B**

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee Edinburgh solicitors only</i>	Column 3 <i>Inclusive fee Edinburgh solicitors and solicitors outside Edinburgh</i>
1. All work to and including calling of the summons	£140.00	£165.00
2. All work from calling to and including swearing affidavits	£65.00	£85.00
3. All work from swearing affidavits to and including sending extract decree	£35.00	£55.00
4. All work to and including sending extract decree	£240.00	£305.00
Add session fee	of 7½%	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 conclusion 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, being the same additional inclusive fee whether he is an Edinburgh solicitor acting alone or on the instructions of a solicitor outside Edinburgh.

**TABLE C**

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i>
1. All work to and including calling of the summons	£35.00
2. All work from calling to and including swearing affidavits	£40.00
3. All work under items 1 and 2	£75.00

Add session fee of 7½% if Edinburgh solicitor only.

Add session fee of 10 % if Edinburgh solicitor and solicitor outside Edinburgh.

**4.** The Lord Ordinary shall, on pronouncing an interlocutor granting decree of divorce or separation in any action to which paragraph 1 or 2 apply, include in that interlocutor, where appropriate, a finding in respect of expenses.



5. On pronouncing an interlocutor under paragraph 4 making a finding in respect of expenses, the Lord Ordinary shall pronounce a further interlocutor decerning for payment of those expenses as taxed by the person found liable to pay them.

### PART III—OUTER HOUSE PETITIONS

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<i>Unopposed Petitions</i>		
1.	Fee for all work, including precognitions and all copying, up to and obtaining Extract Decree— Edinburgh solicitors only  Edinburgh solicitors and solicitors outside Edinburgh  Outlays including duplicating charges to be allowed in addition.	£175.00   £240.00
<i>Opposed Petitions</i>		
2.	Fee for all work (other than precognitions) up to and including lodging Petition, obtaining and executing warrant for service  Outlays including Duplicating Charges to be allowed in addition.	£120.00
3.	Where applicable, charges under Part IV paragraphs 2, 3 and 5 to 21 of this Table.	
4.	Reports in opposed petitions— (a) for each report by Accountant of Court  (b) (b) for any other report as under Part IV section 6.	£20.00
5.	Obtaining Bond of Caution	£20.00

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### PART IV—DEFENDED ACTIONS

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1.	Instruction Fee— (a) To cover all work (apart from precognitions) until lodgement of Open Record	£165.00
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- (b) (b) Instructing £17.50  
re-service where  
necessary
  - (c) (c) If Counter- £35.00  
Claim lodged,  
additional fee for  
each party
- 2. Record Fee— £175.00
  - (a) To cover all work  
in connection with  
adjustment and closing  
of Record including  
subsequent work in  
connection with By  
Order Adjustment Roll
  - (b) (b) To cover £110.00  
all work as above,  
so far as applicable,  
where action settled  
or disposed of before  
Record closed
  - (c) (c) If consultation £17.50  
held before Record  
closed, additional  
fees may be allowed  
as follows:—
    - (i) arranging  
consultation
    - (ii) attendance at £8.50  
consultation—per quarter  
hour
  - (d) (d) Additional £50.00  
fee to (a) and (b)  
(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, each of
  - (e) (e) If an £75.00  
additional pursuer,  
defender or third  
party is brought in  
after Record closed,  
an additional fee shall  
be allowed to the

- existing pursuer and  
the existing defender  
or defenders, each of
3. Procedure Roll or Debate £35.00  
Roll—
- (a) Preparing for discussion  
and all work incidental  
thereto including  
instruction of counsel
- (b) (b) Attendance £8.50  
at court—per quarter  
hour
- (c) (c) Fee for £26.00  
advising and work  
incidental thereto
4. Adjustment of issues and £32.00  
Counter-Issues—
- (a) Fee to pursuer to include  
all work in connection  
with and incidental to the  
lodging of an Issue, and  
adjustment and approval  
thereof
- (b) (b) If one £10.00  
Counter-Issue,  
additional fee to  
pursuer of
- (c) (c) Where more £5.00  
than one Counter-  
Issue, an additional  
fee to pursuer  
for each additional  
Counter-Issue
- (d) (d) Fee to £32.50  
defender or third  
party for all work  
in connection with  
lodging of Counter-  
Issue and adjustment  
and approval thereof
- (e) (e) Fee to £10.00  
defender or third  
party for considering  
Issue where no  
Counter-Issue lodged
- (f) (f) Fee to defender £5.00  
or third party  
for considering each

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- additional Counter-Issue
5. Precognitions— £17  
Taking and drawing  
precognitions—per sheet
- Notes*
1. In addition each solicitor shall be entitled to charge for copies of the precognition 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, for revising and adjusting it, half of the taking and drawing fee per sheet.
6. Reports obtained under order £35.00  
of court excluding auditor's  
report—  
(a) Fee for all work  
incidental thereto  
(b) (b) Additional fee £5.00  
per sheet of report  
to include all copies  
required (maximum  
£25
7. Specification of Documents— £35.00  
(a) Basic fee to cover  
instructing counsel,  
revising and lodging and  
all incidental procedure  
to obtain a diligence  
up to and including  
obtaining interlocutor  
(b) (b) Fee to £17.00  
opponent's solicitor

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- (c) (c) Fee £8.50  
for attendance at  
execution of  
commission, per  
quarter-hour of
- (d) (d) If alternative £13.50  
procedure adopted, a  
fee per person upon  
whom order served,  
of
8. Commission to take £70.00  
evidence—

ON INTERROGATORIES

- (a) 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
- (b) (b) Basic £55.00  
fee to opposing  
solicitor if cross-  
interrogatories  
lodged
- (c) (c) Fee to £20.00  
opposing solicitor  
if no cross-  
interrogatories  
lodged
- (d) (d) In addition £5.00  
to above, fee per  
sheet to each  
party for completed  
interrogatories or  
cross-interrogatories,  
including all copies,  
of
9. Commission to take £75.00  
evidence—

OPEN COMMISSION

- (a) Basic fee to solicitor  
applying for commission  
up to and including  
lodging report of

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- commission, but  
excluding (c)
- (b) (b) Basic fee to £35.00  
opposing solicitor
- (c) (c) Fee £8.50  
for attendance at  
execution of  
commission at the  
rate per quarter-hour  
of
10. Miscellaneous motions where £10.00  
not otherwise covered by this  
table—
- (a) Where attendance of  
counsel and/or solicitor  
not required
- (b) (b) Where £25.00  
attendance of counsel  
and/or solicitor  
required, inclusive of  
instruction of counsel  
—not exceeding half-  
hour
- (c) (c) Thereafter £8.50  
attendance fee per  
additional quarter-  
hour
- (d) (d) Basic fee £25.00  
to solicitor for  
instructing counsel  
for a Minute (other  
than a Minute ordered  
by the court), revising  
and lodging as a  
separate step in  
process including any  
necessary action
11. Incidental procedure (not £100.00  
chargeable prior to approval of  
Issue or allowance of proof)—  
Fixing diet, obtaining  
Note on the Line of  
Evidence, etc., borrowing  
and returning process,  
lodging productions,  
considering opponent's  
productions, and all  
other work prior to the

- consultation on the  
sufficiency of evidence
12. Amendment of Record— £25.00
- (a) Amendment of  
conclusions only—fee to  
proposer
- (b) (b) Amendment £10.00  
of conclusions only  
—fee to opponent
- (c) (c) Amendment £37.50  
of pleadings after  
Record closed, where  
no answers to  
the amendment  
are lodged—fee to  
proposer
- (d) (d) In £17.50  
same circumstancesw  
—fee to opponent
- (e) (e) Amendment £90.00  
of pleadings after  
Record closed where  
answers are lodged—  
fee for proposer and  
each party lodging  
answers
- (f) (f) Fee for £45.00  
adjustment of Minute  
and Answers, where  
applicable to be  
allowed in addition to  
each party of
13. Preparation for trial or proof to £235.00  
include fixing consultation on  
the sufficiency of evidence and  
attendance thereat, fee-funding  
precept, citing witnesses, all  
work checking and writing up  
process, and preparing for trial  
or proof—
- (a) If action settled before  
trial or proof, or the  
same lasts only one  
day, to include, where  
applicable, instruction of  
counsel
- (b) (b) For each day £20.00  
or part of a day after

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- the first, including  
instruction of counsel
- (c) (c) To £42.50  
cover preparing for  
adjourned diets and  
all work incidental  
as in (a), if diet  
postponed more than  
5 days
14. Copyings—  
Productions, Reports of  
Commissions, Duplicate  
Inventory, Jury list,  
List of Witnesses, Lord  
Ordinary’s Opinion,  
etc.—as per Chapter I  
paragraph 2.  
When copied by  
photostatic or similar  
process each page to be  
charged as one sheet.
15. Settlement by Tender—Fees £50.00  
for either party—  
(a) Basic fee for lodging,  
or for considering, first  
Tender  
(b) (b) Fee for £35.00  
lodging, or for  
considering, each  
further Tender  
(c) (c) If Tender £35.00  
accepted, an  
additional fee to each  
party
16. Extrajudicial settlement— £85.00  
Fee inclusive of Joint  
Minute (not based on a  
Judicial Tender)
17. Proof or trial— £8.50  
Attendance fee—per  
quarter-hour
18. Accounts—to include framing £62.50  
and lodging account, and  
attending taxation, uplifting  
account and noting taxations
19. Ordering and obtaining extract £15.00
20. Final procedure— £70.00



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- (a) 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 settling with witnesses and procuring and booking verdict, or attendance at judgment
- (b) (b) If case £20.00 disposed of before trial or proof
21. Session fee—to cover communications with client and counsel—
- (a) Where no correspondent—7½% of total fees and copying allowed on taxation
- (b) Where correspondent involved—10% of total fees and copying allowed on taxation
- Note*
- To be charged only on that part of the account charged under Chapter III.

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## PART V—INNER HOUSE BUSINESS

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1. Reclaiming Motions— £50.00
- (a) Fee for appellant for all work up to interlocutor sending case to Roll
- (b) (b) Fee for £25.00 respondent
- (c) (c) Additional fee £20.00 for each party for every 50 pages of Appendix
2. Appeals from inferior courts— £62.50
- (a) Fees for appellant
- (b) (b) Fee for £30.00 respondent
- (c) (c) Additional fee £20.00 for each party for

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	every 50 pages of Appendix	
3.	Summar or Short Roll—	£50.00
	(a) Preparing for discussion, instructing counsel, and preparing Appendix	
	(b) (b) Attendance fee	£8.50
	—per quarter-hour	
4.	Where applicable, charges under Part IV of this Chapter	
5.	Special Cases and Inner House petitions, according to circumstances of the case.	
6.	Obtaining Bond of Caution	£20.00

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### EXPLANATORY NOTE

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

This Act of Sederunt substitutes new Chapters I and III of the Table in rule 347 of the Rules of the Court of Succession (fees of solicitors) with minor amendments and increases the fees in these chapters by 8 per cent overall.