STATUTORY INSTRUMENTS

1977 No. 402 (S.41)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Fees for Sheriff Clerks) 1977

Made - - - -	3rd *March* 1977
Laid before Parliament	15th *March* 1977
Coming into Operation	5th *April* 1977

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 2 of the Courts of Law Fees (Scotland) Act 1895(**a**) and of section 40 of the Sheriff Courts (Scotland) Act 1907(**b**), as amended, and of all powers competent to them in that behalf, do hereby, with the approval of the Treasury, enact and declare:

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Fees for Sheriff Clerks) 1977 and shall come into operation on 5th April 1977.

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

(3) In this Act of Sederunt, unless the context otherwise requires —

"extract decree" includes any duly authenticated extract of an order made by the sheriff in respect of any licence, appointment, discharge or like matter;

"sheet" means one side of a page containing 250 words or less;

"sheriff clerk" includes sheriff clerk of chancery and sheriff clerk depute;

"summary cause" has the meaning assigned to it by section 35(1) of the Sheriff Courts (Scotland) Act 1971(**d**);

"writ" means any document containing written pleadings relating to proceedings in the sheriff court and includes an inventory of estate, a precept of arrestment on a liquid document of debt and a notice of appearance.

(4) In this Act of Sederunt a reference to a defender, compearer or party includes a reference to defenders, compearers or parties —

(a) having the same interest;

(b) lodging, or preparing to lodge, a writ in their joint names.

Fees payable to sheriff clerk

2.—(1) The fees specified in the table of fees set out in the Schedule to this Act of Sederunt are the fees payable to the sheriff clerk in respect of the matters so specified in relation to those fees, and are so payable from the date this Act of Sederunt comes into operation.

(2) Prior to payment of any such fee being made, the sheriff clerk is not required to do any act (including the acceptance of any writ) in connection with the matter specified in relation to that fee.

(**a**) 1895 c. 14 (**b**) 1907 c. 51 (**c**) 1889 c. 63 (**d**) 1971 c. 58

Matters included in fees

3. The fees payable under paragraph 2 in respect of the matters specified in the paragraphs of the Schedule set out in column 1 of the following table include the matters set out in column 2 and do not include the matters set out in column 3.

TABLE

Column 1	*Column 2*	*Column 3*
Paragraph of Schedule	*Matters included*	*Matters excluded*
paragraph 1	obtaining of extract decree	—
paragraph 3	correspondence and recording	petitions to which paragraph 1 of the Schedule applies and duplicates, copies and extracts.
paragraphs 8 to 12	obtaining of extracts and abbreviates	—
paragraph 19		certificate of registration under the Gaming Act 1968(**a**)
paragraph 15	obtaining of extract conviction	stated case
paragraphs 16, 17, 18 and 20	obtaining of extract decree	appeals to sheriff principal
paragraph 25	outlays incurred in citing and countermanding	

Special cases in which extra fees payable

4—(1) For the purposes of determining the fees payable under paragraph 2, the following proceedings shall be treated as being, and as having been from the date of their commencement,

(a) ordinary actions, that is to say a summary cause on being remitted to the ordinary roll;

(b) actions to which paragraphs 19 and 20 of the Schedule apply, that is to say—

(i) commissary proceedings on being opposed;

(ii) bankruptcy proceedings on being opposed;

(iii) proceedings under the provisions of the Companies Acts on being opposed;

(iv) adoption proceedings on being opposed.

(2) In any proceedings in respect of which the fees payable are the fees payable by reason only of sub-paragraph (1), any such fees shall be reduced by the amount of any fees paid prior to such fees being so payable.

Special provisions relating to fees payable in respect of jury trials

5.—(1) The fee payable in respect of citation of a civil jury under paragraph 25 of the Schedule is payable to the sheriff clerk by the party who moved for jury trial not later than 14 days prior to the date fixed for the trial.

(2) Where such fee has been paid and falls to be repaid under section 26(2) of the Juries Act 1949(**b**) application for repayment shall be made to the sheriff clerk by the party who paid it.

(**a**) 1968 c. 65
(**b**) 1949 c. 27

Exemptions

6.—(1) Subject to sub-paragraph (2), paragraph 2 does not apply to the Crown.

(2) Where in any proceedings to which any officer of the Crown is a party, another party is found liable to him in expenses, any fees that he would have paid under paragraph 2 but for sub-paragraph (1), shall, for the purpose of determining his expenses in those proceedings, be treated as having been paid.

7. Paragraph 2 does not apply to any application under the following enactments, that is to say —

(a) enactments relating to registration of births, marriages and deaths;

(b) Part III of the Social Work (Scotland) Act 1968(**a**);

(c) the Mental Health (Scotland) Act 1960(**b**).

Revocation

8. The Acts of Sederunt specified in column 1 of the following table are revoked to the extent specified in column 2.

TABLE

Column 1	*Column* 2
Act of Sederunt anent certain forms of procedure in the sheriff's ordinary and small debt courts etc(**c**)	In paragraph 5, from the words "The fee for a First Certificate" to the words "shall be 2s."
Act of Sederunt (Sheriff Court Jury Trials) 1949(**d**)	The whole Act of Sederunt
Act of Sederunt (Alteration of Sheriff Court Fees) 1963(**e**)	The whole Act of Sederunt

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

Edinburgh.

3rd March 1977.

G. C. Emslie
I.P.D.

(**a**) 1968 c. 49 (**b**) 1960 c.61 (**c**) S.R. & O. 1933/48 (Rev XX p.829: 1933 p.1784)
(**d**) S.I. 1949/1897 (1949 I, p.3966) (**e**) S.I. 1963/133 (1963 I, p.128)

SCHEDULE

TABLE OF FEES

PART 1 — COMMISSARY PROCEEDINGS

1. Petition for (a) appointment of executor, (b) restriction of caution, (c) special warrant, (d) sealing up repositories or the like, (e) appointment of Commissary factor — £1.50

2. Sealing up repositories or the like, per hour — £3.00

3. Receiving and examining inventory of estate —

   (a) When the amount of the estate vested in or belonging beneficially to the deceased, of which confirmation is required, or for which resealing under the Colonial Probates Act, 1892 is required, is as specified in column 1 of the following table, the fee specified in column 2 opposite that amount is payable.

   (b) Additional and corrective inventories and eiks shall be charged in accordance with the fees so specified on the amount of the additional estate belonging beneficially to the deceased, of which confirmation is required.

   (c) Corrective inventories which make no addition to the amount of estate disclosed in the original inventory, and also inventories of estate *ad non executa* shall be charged— £0.40

   (d) Where it is declared that confirmation is not required, fees at half the *ad valorem* rate shall be charged on receiving the inventory. If confirmation should subsequently be required, the remaining half of the fees shall then be charged.

TABLE

Column 1	Column 2	Column 1	Column 2
Estate not exceeding £	Fee £	Estate not exceeding £	Fee £
50	0.40	1,000	7.40
100	0.80	1,500	8.80
150	1.10	2,000	10.20
200	1.40	2,500	11.60
250	1.90	3,000	12.90
300	2.20	3,500	14.20
350	2.50	4,000	15.40
400	3.00	4,500	16.50
450	3.30	5,000	17.60
500	3.60	5,500	18.70
550	4.10	6,000	19.80
600	4.40	6,500	20.90
650	4.70	7,000	22.00
700	5.20	7,500	23.10
750	5.50	8,000	24.20
800	5.80	8,500	25.30
850	6.30	9,000	26.40
900	6.60	9,500	27.50
950	6.90	10,000	28.60

and for every additional £1,000 or any part thereof up to a value not exceeding £100,000 a further and additional fee of £1.10 and for every additional £10,000 or any part thereof above a value of £100,000 a further and additional fee of £8.25.

4 For each certificate of confirmation the fee shall be 50p.

PART II — SHERIFF COURT PROCEEDINGS

GENERAL

5. Preservation of deeds, each deed *NOTE:* Recording and extracting to be charged under paragraph 26 of this Schedule	£0.50
6. Inspection by a trade protection society or trade publication of protests, Act Book and Court Rolls	
Weekly for twelve months (payable in advance)	£9.00
Twice weekly for twelve months (payable in advance)	£18.00
7. Application for stated case *NOTE:* If the application is withdrawn £5.00 of this fee shall be repayable on the certificate of the Sheriff that the stated case has not been drafted.	£7.50

BANKRUPTCY PROCEEDINGS

8. Petition for sequestration of estates	£5.00
9. Act and warrant of trustee	£3.50
10. Writing examination of bankrupt or minute of meeting, per hour	£3.00
11. Application (written or oral) for discharge of trustee	£2.50
12. Petition for discharge of bankrupt or application for approval of composition or deed of arrangement	£3.50

SERVICE OF HEIRS

13. Petition for general or special service or completion of title, or note for a Crown or Princes Charter, writ or precept	£9.00

INFERIOR COURTS JUDGMENT EXTENSION ACT

14. Any proceeding	£1.00

SUMMARY JURISDICTION ACTS

15. Complaint	£2.00

SUMMARY CAUSE

16. Initial writ — Summary Cause	
1. actions for payment of money	
(a) not exceeding £20	£1.00
(b) exceeding £20 but not exceeding £50	£3.00
(c) exceeding £50 but not exceeding £250	£4.00
2. other summary applications	£5.00

ORDINARY ACTION

17. Initial writ	£6.00
18. First writ, reponing note, or attendance to state a defence, each defender or compearer, in an ordinary action	£6.00

MISCELLANEOUS

19. Initial writ in any proceedings other than proceedings to which paragraphs 16 and 17 apply.	£5.00
20. First writ, or attendance to state a defence, each defender or compearer (in a cause to which paragraph 19 of this Schedule applies)	£5.00
21. Caveat, to be in operation for 1 month	£0.50
22. Summary warrant for Recovery of Rates	£5.00
23. Recording protest of a bill or promissory note *NOTE:* Extract to be charged as in paragraph 26 of this Schedule	£1.00
24. Lodging each set of plans or other Parliamentary deposit	£5.00
25. Citation of each Civil Jury	£10.00

PART III — COMMISSARY AND SHERIFF COURT PROCEEDINGS — MISCELLANEOUS

26. Recording, extracting or copying — all documents	
(a) By manuscript or typescript per sheet	£0.75
(b) By duplicating per sheet	£0.30 First copy £0.05 Subsequent copies
(c) By photocopying per page	£0.30 First copy £0.05 Subsequent copies
(d) Recording in Sheriff Court Register of Deeds to be charged as in (a) or (c)	
27. Searches — for each search of records or archives	
(a) For first half hour of time taken	£0.75
(b) For any search involving more than one half hour of time up to a maximum of two hours	£3.00
(c) Plus correspondence Fee where applicable	£0.50

EXPLANATORY NOTE

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

This Act of Sederunt amends and consolidates the existing provisions relating to fees payable to Sheriff Clerks.

SI 1977/402
ISBN 0-11-070402-9

