STATUTORY INSTRUMENTS

1982 No. 652 (S.96)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Fees for Sheriff Court) 1982

Made - - - -	*5th May* 1982
Laid before Parliament	*17th May* 1982
Coming into Operation	*7th June* 1982

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**) and of all powers competent to them in that behalf, do hereby with the approval and concurrence 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 Court) 1982 and shall come into operation on 7th June 1982.

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

(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, the Commissary clerk, Edinburgh and Sheriff clerk depute;

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

"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.

(**a**) 1895 c.14.
(**b**) 1907 c.51, as amended by section 39 of the Administration of Justice (Scotland) Act 1933 (c.41).
(**c**) 1971 c.58.

(2) Prior to the 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.

Matters included in fees

3. The fees payable under paragraph 2 of this Act of Sederunt 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 Paragraph of Schedule	Column 2 Matters included	Column 3 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 7 to 11	Obtaining of extracts and abbreviates	—
paragraph 19	—	Certificate of registration under the Gaming Act 1968 (a)
Paragraph 15	Obtaining of extract conviction	—
Paragraphs 16 to 20	Obtaining of extract decree	—

Special cases in which extra fee payable

4.—(1) For the purpose 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 of sub-paragraph (1) of this paragraph, any such fees shall be reduced by the amount of any fees paid prior to such fees being so payable.

Exemptions

5.—(1) Subject to sub-paragraph (2) below, paragraph 2 of this Act of Sederunt does not apply to the Crown.

(a) 1968 c.65.

(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 of this Act of Sederunt but for sub-paragraph (1) of this paragraph shall, for the purpose of determining his expenses in those proceedings, be treated as having been paid.

6. Paragraph 2 of this Act of Sederunt 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

7. The Act of Sederunt (Fees for Sheriff Clerks) 1977 (**c**) is hereby revoked.

Emslie,
Lord President
I.P.D.

Edinburgh.
5th May 1982.

(**a**) 1968 c.49.
(**b**) 1960 c.61.
(**c**) S.I. 1977/402, amended by S.I. 1978/116, 1979/347, 1980/454, 1981/514.

SCHEDULE

TABLE OF FEES

PART I — 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 £3.00

2. Sealing up repositories or the like, per hour £4.00

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 total estate belonging beneficially to the deceased of which confirmation is required, less any fees already paid in respect of any part of that estate subject to there being a minimum fee of £1.

   (c) Inventories of estate *ad non executa* shall be charged— £1.00

   (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
Estate not exceeding £	
1000	No fee
2000	12
3000	15
4000	18
5000	21
6000	24
7000	27
8000	30
9000	33
10000	36

and for every additional £1000 or any part thereof a further and additional fee of £1.50.

4. For each certificate of confirmation the fee shall be £1.00.

PART II — SHERIFF COURT PROCEEDINGS

GENERAL

5. Preservation of deeds, each deed *NOTE:* Recording and extracting to be charged under paragraph 25 of this Schedule.	£2.00
6. Inspection by a trade protection society, licensed credit reference agency or trade publication of protests, Act Book and Court Rolls—	
(a) Weekly for twelve months (payable in advance)	£24.00
(b) Twice weekly for twelve months (payable in advance)	£48.00
(c) Four times weekly for twelve months (payable in advance)	£96.00

BANKRUPTCY PROCEEDINGS

7. Petition for sequestration of estates	£17.00
8. Act and warrant of trustee	£7.00
9. Writing examination of bankrupt or minute of meeting, per hour	£7.00
10. Application (written or oral) for discharge of trustee	£7.00
11. Petition for discharge of bankrupt or application for approval of composition or deed of arrangement	£7.00
12. Sheriff Clerk acting as Commissioner	£14.00

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	£25.00

INFERIOR COURTS JUDGMENTS EXTENSION ACT

14. Any proceedings	£3.00

CRIMINAL PROCEDURE (SCOTLAND) ACT

15. Complaint	£6.00

SUMMARY CAUSE

16. Summons — Summary Cause	
1. Actions for payment of money less than £50	£5.00
2. Other actions	£15.00
3. Appeals by stated case	£15.00

ORDINARY ACTION

17. Initial Writ	£17.00
18. First writ, reponing note, or attendance to state a defence, each defender or compearer, in an ordinary action	£17.00

MISCELLANEOUS

19. Initial writ in any proceedings other than proceedings to which other paragraphs apply	£17.00
20. First writ, or attendance to state a defence, each defender or compearer (in a cause to which paragraph 19 of this Schedule applies)	£17.00
21. Caveat. (Any such caveat shali endure for twelve months on the expiry of which period a fresh caveat may be lodged)	£7.00
22. Summary warrant for Recovery of Rates	£17.00

23. Recording protest of a bill or promissory note £3.00
NOTE: Extract to be charged as in paragraph 25 of this Schedule.

24. Lodging each set of plans or other Parliamentary deposit £17.00

PART III — COMMISSARY AND SHERIFF COURT PROCEEDINGS — MISCELLANEOUS

25. Recording, engrossing, extracting or copying all documents
(a) By manuscript or typescript per sheet £2.00
(b) By copying by electrical or mechanical means per page — First copy £1.00; Subsequent copies £0.20
(c) Recording in Sheriff Court Register of Deeds to be charged as in (a) or (b)

26. Searches—for each search of records or archives
(a) For first half-hour of time taken £3.00
(b) For more than one half-hour up to a maximum of two hours £7.00
(c) For each half-hour or part thereof in excess of two hours £2.00
(d) Plus correspondence fee where applicable £2.00

PART IV — TAXATION

27. For taxing amounts of expenses incurred in judicial proceedings remitted to the Auditor for Taxation—
(a) Under £50 £2.00
(b) For every additional £50 or part thereof £2.00
NOTE: Fee to be determined by Auditor of Court on amount of account as submitted.

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 and Auditors of Court and increases those fees.

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