SCOTTISH STATUTORY INSTRUMENTS

2009 No. 321

SHERIFF COURT

Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment No. 2) 2009

Made - - - -	*18th September 2009*
Laid before the Scottish Parliament	*22nd September 2009*
Coming into force - -	*2nd November 2009*

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 No. 2) 2009 and comes into force on 2nd November 2009.

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

Amendment of table of fees

2.—(1) Schedule 1 to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993(**b**) is amended in accordance with the following subparagraphs.

(2) In the heading of Part II of Chapter II of the Table of Fees, after "DEFENDED ORDINARY ACTIONS" insert "(OTHER THAN PERSONAL INJURIES ACTIONS TO WHICH PART IIA APPLIES)".

(3) After Part II of Chapter II in the Table of Fees, insert Part IIA set out in the Schedule to this Act of Sederunt.

A.C. HAMILTON
Lord President
I.P.D.

Edinburgh
18th September 2009

(**a**) 1907 c.51; section 40 was amended by Schedule 1 to the Sheriff Courts (Scotland) Act 1913 (c.28); section 1(3) of the Secretaries of State Act 1926 (c.18); the Schedule to the Administration of Justice (Scotland) Act 1933 (c.41); Schedule 1, paragraph 7 and Schedule 2 to the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c.12); and Schedule 9 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40).

(**b**) S.I. 1993/3080. The table of fees was last amended by S.S.I. 2009/81.

SCHEDULE

Paragraph 2(3)

Part IIA.—DEFENDED PERSONAL INJURIES ACTIONS PROCEEDING UNDER PART AI OF CHAPTER 36 OF THE ORDINARY CAUSE RULES[1]			
1.	**Precognitions and reports—**		£
	(a)	Taking and drawing precognitions, per sheet	66.50
	(b)	Perusal fee for consideration of reports (whether or not in the course of so doing he revises or adjusts it), one-half thereof	31.68
2.	**Pre-litigation fee—**		
	All work which the Auditor is satisfied has reasonably been undertaken in contemplation of, or preparatory to the commencement of proceedings (or such sum as in the opinion of the Auditor is justified)		403.00
3.	**Instruction—**		
	(a)	To cover all work (except as otherwise specifically provided for in this Chapter) from commencement to the lodging of defences	728.60
	(b)	Instructing re-service of sheriff officers where necessary	73.65
	(c)	Specification of documents per Form PI 2	80.00
	(d)	Fee to opponent for considering specification of documents	68.70
	(e)	Arranging commission to recover documents, citing havers, instructing commission and shorthand writer and preparation for commission	129.95
	(f)	Attendance at execution of commission, to include travelling, per quarter-hour of	35.50
	(g)	If optional procedure adopted, a fee per haver on whom Order served of	35.50

[1] Part A1 of Chapter 36 was inserted by S.S.I. 2009/285.

	(h)	Fee for perusal of documents recovered under specification of documents (or by informal means) where not otherwise provided for in the Table of Fees, per quarter-hour	35.50
	(i)	Attendance in chambers for remittance of cause to Ordinary Roll, per quarter-hour	35.50
	(j)	Where separate counter claim and answers lodged, additional fee of	242.85
4.	**Productions—**		
	(a)	For lodging productions – each inventory	79.55
	(b)	For considering opponent's productions – each inventory	39.55
5.	**Adjustment—**		
	To cover all work (except as otherwise specifically provided for in this Chapter) in connection with adjustment of the Record including making up and lodging certified copy Record:—		
	(a)	Agent for party	331.85
	(b)	If action settled before expiry of adjustment period, each original party's agent	198.90
	(c)	Additional fee to sub-paragraph (a) and (b) (to include amendment to the pursuer and existing defender, to be allowed for each pursuer, defender or third party brought in before the Record is lodged under the timetable issued under rule 36.G1(b)	79.55
	(d)	If additional pursuer, defender or third party is brought in after the Record is lodged under the timetable issued under rule 36.G1(b), an additional fee shall be allowed to the existing pursuer and existing defender or defenders, each of	106.10
6.	**Affidavits—**		
	Framing affidavits, per sheet		26.45
7.	**Valuation of claim—**		
	Fee to cover preparation of statement of valuation of claim		232.60
	(a)	Where valuation of claim prepared by counsel or solicitor advocate	116.30
	(b)	Fee to cover consideration of opponent's valuation of claim	116.30

	(c)	Inspection of documents, per quarter-hour		35.50
8.	**Incidental hearings/variation of timetable order—**			
	(a)	Fee to cover preparing for and attendance at hearing not exceeding half-hour		107.35
	(b)	Thereafter attendance fee per additional quarter-hour		35.50
	(c)	In event of separate advising/opinion and all work incidental thereto		107.35
9.	**Reports obtained under order of court excluding Auditor's Report—**			
	(a)	All work incidental thereto		146.05
	(b)	Additional fee for perusal of report, per quarter-hour or such other sum as in the opinion of the Auditor is justified		18.60
10.	**Specification of documents (if further specification deemed necessary)—**			
	(a)	Fee to cover drawing, intimating and lodging specification and relevant motion—		
		(i)	where motion unopposed	145.85
		(ii)	where motion opposed – additional fee for attendance, per quarter-hour	35.50
	(b)	Fee to opposing solicitor—		
		(i)	where motion not opposed	69.75
		(ii)	where motion opposed – additional fee for attendance, per quarter-hour	35.50
	(c)	Fee for arranging commission to recover documents, citing havers, instructing commissioner and shorthand writer and preparation for commission		145.85
	(d)	Fee for opponent		69.75
	(e)	Attendance at execution of commission, per quarter-hour		35.50
	(f)	If optional procedure adopted, fee per person upon whom Order is served		35.50
	(g)	Fee for perusal of documents recovered under a specification of documents (or by informal means) where not otherwise provided for in the Table of Fees,		

		per quarter-hour		35.50
11.	**Commissions to take evidence—**			
	(a)	On interrogatories—		
		(i)	Fee to solicitor applying for commission to include drawing, intimating and lodging interrogatories, instructing commissioner and all incidental work (except as otherwise specifically provided for in this Chapter) but excluding attendance at execution of commission	397.95
		(ii)	Fee to opposing solicitor if cross-interrogatories prepared and lodged	265.30
	(b)	Open commission—		
		(i)	Fee to solicitor applying for commission to include all work (except as otherwise specifically provided for in this Chapter) up to and lodging report of commission but excluding attendance thereat	265.35
		(ii)	Fee to opposing solicitor	132.55
		(iii)	Fee for attendance at execution of commission, per quarter-hour	39.55
		(iv)	If counsel or solicitor advocate employed, fee for attendance of solicitor, per quarter-hour	35.50
		(v)	Travelling time – per quarter-hour	35.50
12.	**Motions and minutes—**			
	(a)	Fee to cover drawing, intimating and lodging any written motion or minute, including a reponing note, and relative attendance at court (except as otherwise specifically provided for in this Chapter)—		
		(i)	Where opposed	185.95
		(ii)	Where unopposed (including for each party a joint minute other than under paragraph 24(b))	79.55
		(iii)	Attendance at continued motion (per quarter-hour)	35.50
	(b)	Fee to cover considering opponent's written motion, minute or reponing note and attendance at court—		
		(i)	Where opposed	185.95
		(ii)	Where unopposed	79.55

		(iii)	Attendance at continued motion (per quarter-hour)	35.50
13.	**Debate (other than on evidence)—**			
	(a)	Where counsel or solicitor advocate not employed—		
		(i)	To include preparation for all work incidental to any hearing or debate other than on evidence	285.45
		(ii)	Fee for conduct of hearing or debate other than on evidence, per quarter-hour	39.55
	(b)	Where counsel or solicitor advocate employed—		
		(i)	To include preparation for and all work incidental to any hearing or debate other than on evidence	132.55
		(ii)	Fee for attending hearing or debate other than on evidence, per quarter-hour	35.50
		(iii)	Waiting time – per quarter-hour	35.50
	(c)	Fee for lodging and intimating or for considering first note of arguments		66.50
	(d)	For each note lodged thereafter		66.50
14.	**Incidental procedure (not chargeable prior to allowance of proof)—**			
	To cover all work, where applicable, in connection with noting diet of proof and—			
	(a)	preparing note on line of evidence; or		232.60
	(b)	instructing counsel to prepare a note on line of evidence		172.60
15.	**Amendment of Record—**			
	(a)	(i)	Fee to cover drawing, intimating and lodging minute of amendment and relevant motion	132.55
		(ii)	Fee for any court appearance necessary, per quarter-hour	35.50
	(b)	(i)	Fee to opposing solicitor for perusal of minute of amendment	106.10
		(ii)	Fee for preparation of answers	79.55

		(iii)	Fee for any court appearance necessary, per quarter-hour	35.50
	(c)	Fee for adjustment of minute of amendment and answers, where applicable, to be allowed in addition to each party		132.55
16.	**Withdrawal of solicitors—**			
	(a)	Fee to cover all work in preparation for any diet (or any diets) fixed under rule 24.2(1) and attendance at first such diet		132.55
	(b)	Fee for attendance at each additional such diet, per quarter-hour		35.50
17.	**Attendance not otherwise provided for—**			
	(a)	Where hearing does not exceed one half-hour		79.15
	(b)	Where hearing exceeds one half-hour, for every quarter-hour in addition		35.50
18.	**Hearing limitation fee—**			
	Fee to include work (except as otherwise specifically provided for in this Chapter) undertaken with a view to limiting the scope of any hearing, and including the exchange of documents, precognitions and expert reports, agreeing any fact, statement or document not in dispute, preparing and intimating any notice to admit or notice of non-admission (and consideration thereof) and preparing and lodging any joint minute, not exceeding			274.40
19.	**Procedure preliminary to proof—**			
	(a)	Fee to cover all work preparing for proof (except as otherwise specifically provided for in this Chapter) —		
		(i)	If Action settles or abandoned not later than 14 days before proof diet	424.40
		(ii)	In any other case	796.00
		(iii)	Additional fee chargeable over and above foregoing fees upon the Auditor being satisfied as to additional work undertaken as evidenced by production of a detailed breakdown of the work undertaken	
	(b)	Fee to cover preparing for adjourned diet and all incidental work as in (a) if diet postponed for more than 6 days, each additional diet		172.55

	(c)	Fee for attendance inspecting opponent's documents, per quarter-hour		35.50
20.	**Pre-proof conference—**			
	(a)	Fee arranging pre-proof conference (each occasion)		69.75
	(b)	Fee preparing for pre-proof conference—		
		(i)	where counsel not employed	387.65
		(ii)	where counsel employed	193.85
	(c)	Fee for attending pre-proof conference per quarter-hour—		
		(i)	where counsel not employed	39.55
		(ii)	where counsel employed	35.50
NOTE:				
Where pre-proof conference takes place by way of telephone or other remote means, the foregoing charges shall apply.				
21.	**Joint minute of pre-proof conference**			68.00
22.	**Conduct of proof—**			
	(a)	Conduct of proof and debate on evidence if taken at close of proof, per quarter-hour		39.55
	(b)	If counsel or solicitor advocate employed, fee to solicitor appearing with counsel or solicitor advocate, per quarter-hour		35.50
	(c)	Waiting time, per quarter-hour		35.50
23.	**Debate on evidence—**			
	(a)	Where debate on evidence not taken at conclusion of proof, preparation therefor		132.55
	(b)	Fee for conduct of debate on evidence, per quarter-hour		39.55
	(c)	If counsel or solicitor advocate employed, fee to solicitor appearing with counsel or solicitor advocate, per quarter-hour		35.50
	(d)	Waiting time, per quarter-hour		35.50
24.	**Settlements—**			
	(a)	Settlement by judicial tender—		

		(i)	Fee for preparation and lodging or for consideration of each minute of tender	145.85
		(ii)	Additional fee on acceptance of tender, to include preparation and lodging or consideration of minute of acceptance of tender and attendance at court when decree granted in terms thereof (not to include drawing, intimating and lodging any written motion)	119.50
	(b)	Extra-judicial settlement—		
		Fee to cover negotiations resulting in settlement, framing or revising joint minute and attendance at court when authority interponed thereto (not to include drawing, intimating and lodging any written motion)		265.20
	(c)	Whether or not fees payable under (a) or (b) above, where additional work has been undertaken with a view to affecting settlement, including offering settlement, although settlement is not agreed, not exceeding		265.20
25.	**Final procedure—**			
	If case goes to proof or is settled within 14 days of the Proof—			
		(i)	Fee to cover settling with witnesses and enquiring for cause at avizandum and noting final interlocutor	198.90
		(ii)	In any other case	87.60
26.	**Copying—**			
	For the copying of papers by whatever means, if the Auditor determines (either or both) that—			
	(a)	The copying had to be done in circumstances which were in some way exceptional;		
	(b)	The papers which required to be copied were unusually numerous having regard to the nature of the case;		
		Such charge, if any, as the Auditor considers reasonable (but a charge based on the time expended by any person shall not be allowed).		
Notes:				
1.	Where a determination is required under this paragraph, the purpose of copying, the number of copies made and the charge			

	claimed shall be shown in the account.			
2.	Copying done other than in the place of business of the solicitor shall be shown as an outlay.			
27.	**Instruction of counsel or solicitor advocate—**			
	(a)	Fee for instructing counsel or solicitor advocate to revise the pleadings		79.55
	(b)	Fee for instructing counsel or solicitor advocate to attend court		172.55
	(c)	Fee for attending consultation with counsel or solicitor advocate – not exceeding 1 hour		172.55
	(d)	For each additional quarter-hour		35.50
28.	**Appeals—**			
	(a)	to Sheriff Principal—		
		(i)	Fee to cover instruction, marking of appeal or noting that appeal marked, noting diet of hearing thereof and all preparation for hearing	397.95
		(ii)	If counsel or solicitor advocate employed	225.75
		(iii)	Fee to cover conduct of hearing, per quarter-hour	39.55
		(iv)	If counsel or solicitor advocate employed, fee to solicitor appearing with counsel or solicitor advocate, per quarter-hour	35.50
		(v)	Waiting time – per quarter-hour	35.50
	(b)	To the Court of Session—		
		Fee to cover instruction, marking of appeal or noting that appeal marked		132.55
29.	**Accounts—**			
	Preparation of judicial account of expenses, to include production of vouchers and all work re adjustment of account			172.55
30.	**Ordering and procuring extract**			35.50

EXPLANATORY NOTE

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

This Act of Sederunt amends the Table of Fees in respect of work carried out by solicitors in the sheriff court. It inserts a new Part IIA to Chapter II which sets out fees for defended personal injuries actions proceeding under Part A1 of Chapter 36 of the Ordinary Cause Rules set out in Schedule 1 to the Sheriff Courts (Scotland) Act 1907 (c. 51). Part A1 was inserted by S.S.I. 2009/285. Actions raised before 2nd November 2009 are unaffected.

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£5.50

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