EXPLANATORY NOTE

(This note is not part of the Act of Sederunt but is intended to indicate its general purport.)

This Act of Sederunt repeals the Act of Sederunt (Alteration of Sheriff Court Fees), 1957, but re-enacts its provisions subject to an increase of the optional fee.

1958 No. 1210 (S. 52)

Act of Sederunt (Sheriff Court Fees Amendment) 1958

Made - - -	*11th July*, 1958
Laid before Parliament	*30th July*, 1958
Coming into Operation	*1st August*, 1958

The Lords of Council and Session under and by virtue of the provisions of the Sheriff Courts (Scotland) Act, 1907(a), and of the Administration of Justice (Scotland) Act, 1933(b) and of the powers thereby conferred on them, and of all other powers competent to them in that behalf do hereby enact as follows:—

1. The Schedule to the Act of Sederunt anent fees of solicitors and others in the Sheriff Court dated 7th May, 1935(c) shall be amended as follows:—

(*a*) By deleting Chapter I of the Table of Fees and by substituting therefor the following:—

CHAPTER I.—GENERAL BUSINESS IN SHERIFF COURTS.

	SCALE I. £50 and under. £ s. d.	SCALE II. Above £50 £ s. d.
1. Taking Instructions to conduct case of pursuers or defenders, including obtaining deliverance, borrowing and returning initial writ or petition, certifying same, entering or inquiring for appearance, making up interlocutor sheets and inventory of process and productions lodged with initial writs or petitions, and lodging same, and attendance at tabling or enrolment of case or at first diet in case, or getting endorsement on initial writ where no appearance entered	1 5 0	2 10 0
(*a*) If pursuer outwith the jurisdiction of the Court in which the action is brought...	1 11 6	3 0 0
(*b*) In all undefended cases 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. Outlays such as Court dues for deliverance shall be chargeable in addition and taxation shall be unnecessary. The option shall be exercised by the pursuer's solicitor endorsing a Minute to the above effect on the initial writ before ordering extract of the decree. Inclusive fee	3 13 6	5 5 0

(a) 7 Edw. 7. c. 51. (b) 23 & 24 Geo. 5. c 41.
(c) S.R. & O. 1935/488 (Rev. XX, p. 880: 1935, p. 1588).

	Scale I. £50 and under. £ s. d.	Scale II. Above £50. £ s. d.
2. Drawing Papers (the sheet throughout this table to consist of 250 words or numbers)—		
(1) Petitions, initial writs, counter-claims, condescendences, defences, answers, commissions, diligences against witnesses or havers, motions, minutes, specifications of documents, reclaiming petitions and answers, interrogatories, precognitions (including precognitions of parties), affidavits, caveats, statutory notices, and generally all necessary papers, per sheet ...	0 6 0	0 8 6
(2) Figured statements, per sheet	0 8 6	0 12 0
(3) Inventories of productions not lodged with initial writ or petition, per sheet	0 2 6	0 4 0
(4) Framing (including fair copy) and lodging a caveat	0 7 6	0 12 6

(*a*) Papers shall be confined as closely as possible to statements of fact, but reference may be made where necessary to the record and to authorities cited, as well as to proofs, deeds, writings, or correspondence produced. without the same being quoted at length; and if in any paper produced in a cause quotations of any kind exceeding one page each in length shall be made, the same shall be chargeable only at the rate of copying instead of drawing fees. All documents charged for must be produced to the Auditor at the taxation of accounts of expenses.

3. Revising Papers where revisal ordered.
One-half drawing fees.

4. Copying Papers, including productions and precognitions, and copy correspondence when necessary or adjusted.

Written or typewritten copies—		
(1) In English, per sheet	0 1 3	0 2 0
(2) In any other language, per sheet	0 2 0	0 2 6
(3) Figured states and accounts, and accounts of expenses, per sheet	0 2 0	0 2 6
(4) For each additional copy thereafter up to 5 additional copies	0 0 4	0 0 6

(*a*) Copying charges shall be allowed to the solicitor as follows—viz., at full copying rate: (1) A full copy of the record and interlocutors; and (2) productions so far as necessary for the efficient conduct of the cause. At half copying rate: (3) Copy record up to the date of closing for use of Sheriff; (4) copy of every interlocutor disposing of questions of fact or law for the client; and (5) copy of productions for use of Sheriff where number is so great as to warrant this. No charge shall be allowed for copies of any documents not lodged in process. As regards copies of notes of evidence see Chapter II, Note (*a*).

(*b*) Where more than 6 copies of papers are necessary these may be reproduced by duplicating process or printed, and the appropriate charges recovered as outlay. If this is not done a charge for 6 copies only at copying rates shall be allowed.

(5) Certifying and lodging copy record for Sheriff...	0 5 0	0 6 8

	Scale I. £50 and under.			Scale II. Above £50.		
	£	s.	d.	£	s.	d.
5. Printing and Duplicating.						
(1) Instructing printer or duplicating agency ...	0	3	4	0	4	0
(2) Revising proofs—						
Printing—						
Not exceeding 5 pages	0	4	6	0	6	8
For every additional 5 pages or part thereof	0	2	6	0	3	4
Duplicating process—						
Not exceeding 8 sheets	0	4	6	0	6	8
For every additional 8 sheets or part thereof	0	2	6	0	3	4
6. Instructions to Officers.						
Instructing officer to serve, execute, or intimate the various kinds of writs or diligence, including the examination of executions.						
(1) For the first party on whom service or intimation is made	0	3	4	0	5	0
(2) For every other party	0	0	8	0	0	8
This charge to include examination of executions.						
(3) Agency accepting service of any writ	0	3	4	0	5	0
7. Citation of Parties.						
(Citation Amendment (Scotland) Act, 1882. Sections 5 and 6.)						
Citing to the Ordinary Court where only one execution necessary.						
(1) First party...	0	3	4	0	3	4
(2) For every other party (plus postage)	0	2	3	0	2	3
(*a*) If a writ is returned by the postal authorities owing to service not being effected.						
(3) Attending Court moving for warrant to re-serve	0	5	0	0	6	8
(4) Re-serving writ. Fees as above.						
If writ is served by an officer of Court no higher fees than above to be allowed unless the judge deciding the cause shall determine otherwise. (Citation Amendment Act.)						
8. Edictal Citation.						
(1) Copy writ for service on party at Extractor's office, per sheet	0	0	8	0	1	0
(2) Copy deliverance, per sheet	0	0	8	0	1	6
(3) Agency serving same (plus postage)	0	2	6	0	2	6
9. Citation of Witnesses.						
Making copy interlocutor fixing diet of proof or trial for citation of witnesses, and getting same certified by Clerk of Court	0	5	0	0	6	8
(1) For citing one witness	0	2	0	0	2	0
(2) Every witness after the first for the same diet (plus postage)	0	1	4	0	1	4
10. Productions.						
Where productions are lodged at any time other than at the tabling of a case, or at a diet of trial, or proof, lodging the same	0	2	6	0	3	4
No fee allowed for lodging productions at a trial or proof.						

	Scale I. £50 and under.	Scale II. Above £50.
11. Adjustment and Closing of Record.		
The following inclusive fees shall be allowed:—		
(1) In all defended ordinary actions in taxations as between party and party and in consistorial cases, to include borrowing and returning process after Defences lodged, writing and noting adjustments and intimating same, copy adjustments for intimation, examining productions, all communications and meetings with clients and opposite Solicitor relative to adjustment, attendances at Court on Adjustment Roll, copy interlocutors, and preparing for and attendance at closing of record and certifying and lodging same	£ s. d. 4 4 0	
(2) When an ordinary action is settled after Defences are lodged but before the record is closed to include work specified in sub-section (1) where applicable	£ s. d.	£ s. d. 3 3 0
(3) In all defended summary causes, to include work specified in sub-section (1) where applicable	3 3 0	
(4) When a summary cause is settled after Defences are lodged but before the fixing of a diet of debate or a diet of proof, to include work specified in sub-section (1) where applicable ...	2 2 0	
12. Instructions for Precognitions.		
Instructions for precognitions	1 5 0 to 1 17 6	2 2 0 to 3 0 0

(*a*) In addition reasonable travelling and personal, but not attendance, charges shall be allowed where the witnesses are outwith the jurisdiction of the Court, if the precognitions are not taken by the nearest local agent.

(*b*) Each solicitor shall be entitled to charge for a full copy for his own use of the precognitions necessarily taken.

(*c*) No charge shall be allowed in judicial accounts for precognitions or attendances of witnesses present but not examined (unless held as concurring with a witness who is examined) at a trial or proof, or at a diet where judgment is given in the absence of either party, unless a motion for such allowance be made at the time or within eight days thereafter and sanctioned by the Court, and the witnesses' names and addresses noted. No charge shall be allowed for the motion if advantage of the eight days is taken.

(*d*) Where a skilled witness prepares his own precognition or report, the solicitor shall be allowed half drawing fees for revising and adjusting it.

13. Proof		
Preparing for proof	1 17 6	3 12 6
14. Attendances at Proofs		
(1) Attendance and conducting proof before the Sheriff or a commissioner, for first hour ...	0 17 6	1 10 0
For every additional half hour	0 8 6	0 15 0
(2) Where proof adjourned for six days or more—additional preparation fee—	0 18 0	1 17 6

	Scale I. £50 and under. £ s. d.	Scale II. Above £50. £ s. d.
15. Other attendances.		
(1) Each necessary attendance, if at Court in town or place where solicitor practises, or neighbourhood, at any diet after the tabling of a cause, including the discussion of motions or specifications or at a visitation or inspection ordered by the Court; or on an accountant or other person to whom a remit has been made; or making searches of any of the public records, but excluding all attendances for adjustment or closing of record; not exceeding half an hour	0 7 6	0 10 0
Half an hour to one hour	0 10 0	0 13 4
For every half hour thereafter	0 5 0	0 6 8
(2) If at a distance therefrom but in Scotland, for the time occupied in such business and in travelling, at a rate not exceeding for a whole day	4 4 0	5 5 0
(3) If in England, Ireland or Wales, for the time occupied, including travelling, per day ...	4 14 6	5 15 6
(4) Besides reasonable travelling charges and also an allowance for maintenance, the latter at a rate not exceeding per day	1 11 6	2 2 0
(*a*) Where the business can be properly performed by a local solicitor in Scotland, the Auditor shall only 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.		
Allowance for time of Clerk necessarily occupied—		
(5) If at Court in town or place where solicitor practises, or neighbourhood, per hour ...	0 5 0	0 6 8
(6) At a distance, if in Scotland, per day	1 11 6	2 2 0
In England, Wales, or Ireland, per day ...	2 2 0	2 12 6
(7) In addition, reasonable travelling charges and personal expenses, the latter not exceeding per day	1 1 0	1 1 0

	£ s. d.
16. Jury Trials.	
(1) Drawing and intimating motion (including copy), to have cause tried by jury	0 10 0
(2) Attendance before Court discussing questions of fact to be submitted to jury, charges as in Chapter I, section 14.	
(3) Attendance on Clerk of Court procuring Jury List	0 6 8
(4) Copy of List	0 1 6
(5) Copy of list of Witnesses for Bar-officer ...	0 1 6
(6) Lodging inventory of documents	0 3 4
(*a*) No charge to be allowed for productions made in course of trial	

	Scale I. £50 and under. £ s. d.	Scale II. Above £50. £ s. d.
16. Jury Trials—*continued.*		
(7) Making copies for use of Sheriff, solicitors, and jury of questions of fact proponed	0 13 4	
(8) Attendance at and conducting trial, at rate per whole day of	7 7 0	
(9) Noting jury's replies to questions	0 5 0	
(10) Copy replies, per sheet	0 1 6	
(11) If motion for application of verdict not made at close of trial, then lodging and intimating motion to apply verdict	0 5 0	
(12) Making motion to apply verdict	0 10 0	
(13) Ordering and uplifting extract	0 10 0	

If the verdict is of less than £50, only half of the foregoing fees to be allowed as judicial expenses.

17. Debates before the Sheriff-Substitute.	£ s. d.	£ s. d.
(1) Preparing for and debating case before the Sheriff-Substitute on preliminary pleas, or on question of procedure or interim interdict when debate ordered by the Court	1 17 6 to 3 12 6	3 0 0 to 6 0 0
(*a*) If, however, the whole case is decided on the debate	2 10 0 to 4 4 0	4 4 0 to 7 7 0
(2) Debating case on merits if on same day as proof closed	1 17 6 to 3 12 6	3 0 0 to 6 0 0
(*b*) If at a subsequent diet	2 10 0 to 5 5 0	4 4 0 to 7 7 0

18. Debates before the Sheriff-Principal.		
Preparing for and debating case on appeal against the allowance or restriction of proof or any order by the Court	2 2 0 to 4 4 0	3 3 0 to 6 6 0
Debating case on the merits on appeal ...	2 10 0 to 5 5 0	4 4 0 to 7 7 0

Note:—Where all solicitors engaged in a case have to travel more than five miles to the Court of Appeal in the same county from the Court where the case was tried an additional allowance of 15*s.* while engaged in travelling, besides outlays, to be allowed to each solicitor.

19. Where Counsel employed.

(*a*) The following fees to be allowed as judicial expenses where the employment of counsel is sanctioned, but even when sanctioned to be limited to party and party expenses, no fees to be allowed to counsel till after the closing of the Record.

(*b*) Only one consultation in course of case to be included in judicial expenses; but where counsel employed both before Sheriff-Substitute and on appeal before Sheriff-Principal and there is a consultation prior to the debate on the appeal, an additional consultation fee to be allowed.

	Scale I. £50 and under. £ s. d.	Scale II. Above £50 £ s. d.
19. Where Counsel Employed—*continued.*		
Instructing Counsel—		
(1) Letter or attendance, with fee of £1 1*s.* or £2 2*s.*	0 6 8	0 10 0
(2) Exceeding £2 2*s.* and not exceeding £5 5*s.* ...	0 10 0	0 13 4
(3) Exceeding £5 5*s.*	0 13 4	0 15 0
(4) Fixing consultation with counsel	0 6 8	0 10 0
Revising papers drawn by counsel after the closing of the Record.		
(5) Not exceeding 10 sheets, each sheet	0 2 0	0 2 0
(6) Each sheet thereafter	0 1 0	0 1 0
(7) Attending diet of trial or proof or commission, and diet of debate with counsel, charges as in Section 15.		
(8) Copy record, precognitions and productions so far as necessary for counsel, per sheet ...	0 1 6	0 2 0
(9) Consultation with counsel before trial or proof, charges as in Section 15.		

	£ s. d.
20. Fees to Clerks of Counsel.	
(1) Where counsel's fee is £1 1*s.*	0 2 6
Where £2 2*s.* to £4 4*s.*	0 5 0
Where £5 5*s.* to £10 10*s.*	0 7 6
Where above £10 10*s.*, 5 per cent. on the amount.	
(2) For writing draft, per sheet	0 1 0
For writing opinion, including draft, fair copy, and booking, per sheet	0 2 0

	£ s. d.	£ s. d.
21. Process Fee.		
This fee to cover all consultations between solicitor and client during the progress of the cause, and all communications, written or verbal, passing between them	1 5 0 to 3 0 0	1 17 6 to 4 4 0
(*a*) Where defences are ordered but not lodged ...	0 18 0	1 10 0
(*b*) Where defences are lodged and decree by default after a debate ordered or proof allowed ...	1 10 0	2 2 0

(*b*) By deleting Chapter VI of the Table of Fees and by substituting therefor the following:—

"CHAPTER VI.—MERCANTILE SEQUESTRATIONS.

	£ s. d.
Taking instructions to apply for sequestration, obtaining deliverance, taking instructions to prove notor bankruptcy, drawing abbreviate of sequestration, drawing advertisement for *Gazette*, and instructing insertion.	
Inclusive Fee...	4 4 0
Charges for drawing petition and relative copyings, etc., to be allowed in addition, also charges for citation of bankrupt where petition is not at his instance.	
1. Attending meeting of creditors and of trustee and commissioners for first hour	1 7 6
2. For every hour after or part of an hour	0 10 6
3. Writing minutes of meeting where not written during meeting, per sheet	0 8 0
4. Writing minutes of meeting where written during meeting per sheet	0 2 6

	Scale I. £50 and under. £ s. d.	Scale II. Above £50.
5. Lodging process with Sheriff-Clerk and obtaining deliverance declaring election of trustee and commissioners	0 10 0	
6. Taking out bond of caution for trustee, and getting it signed ...	0 13 4	
Lodging same	0 3 4	
7. When caution found through the medium of a guarantee association, for all the work connected therewith	1 11 6	
8. Taking out act and warrant, and transmitting same to accountant in bankruptcy	0 12 6	
9. Drawing abbreviate for register of adjudications, and copying and recording same	0 12 6	
10. Engrossing proceedings in Sederunt Book, per sheet	0 2 0	
No charges shall be allowed to the solicitor for making engrossments in the Sederunt Book after the confirmation of the trustee.		
Taking instructions for examination of bankrupt	0 13 4	
Taking instructions for the examination of third parties	0 13 4	
(*a*) For each party after the first	0 10 0	
(*b*) All other charges to be at the same rates for similar or analogous work under Scale II for general business. Attendance at examination of bankrupt and other parties to be charged as in Chapter I, Section 14."		

(*c*) By deleting Chapter VII of the Table of Fees and by substituting therefor the following:—

" Chapter VII—Summary Sequestrations.

Taking instructions to apply for summary sequestration, obtaining deliverance, proving notour bankruptcy, drawing abbreviate of sequestration, drawing advertisement for Gazette and instructing insertion.		
Inclusive fee		3 0 0
All other charges to be charged under Chapter VI so far as applicable, otherwise Scale II.		

2. This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Fees Amendment) 1958, and shall come into operation on 1st August, 1958.

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

J. L. Clyde, I.P.D.

Edinburgh,
11th July, 1958.

EXPLANATORY NOTE

(*This Note is not part of the Act of Sederunt, but is intended to indicate its general purport.*)

This Act of Sederunt increases certain of the fees of solicitors and others in the Sheriff Court.