STATUTORY INSTRUMENTS

1978 No. 948 (S.83)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Solicitors' Fees) 1978

Made - - - -	*5th July* 1978
Laid before Parliament	*17th July* 1978
Coming into Operation	*1st October* 1978

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**), as amended by section 39 of the Administration of Justice (Scotland) Act 1933(**b**), and of all other powers competent to them in that behalf, do hereby enact and declare:—

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Solicitors' Fees) 1978 and shall come into operation on 1st October 1978.

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

New fees and consequential amendments

2. In the Act of Sederunt (Alteration of Sheriff Court Fees) 1971(**d**), in the Table of Fees, for the tables of fees set out in Chapters I, II, III and VII, there are substituted the tables of fees set out under those Chapters in the Schedule to this Act of Sederunt; and the fees so substituted shall have effect on and after 1st October 1978 and are the fees chargeable by solicitors in respect of the matters specified in the Schedule opposite those fees, being matters relating to work done or expenses incurred on and after that date.

3. The Act of Sederunt (Solicitors' Fees) 1976(**e**), apart from the saving in sub-paragraph (b) of paragraph 2, is revoked.

G. C. Emslie
I.P.D.

Edinburgh,
5th July 1978

(a) 1907 c. 51. (b) 1933 c. 41. (c) 1889 c. 63. (d) S.I. 1971/90. (e) S.I. 1976/1119.

SCHEDULE

CHAPTER 1—UNDEFENDED ACTIONS

1. ACTIONS (other than those specified in paragraph 2 of this Chapter) IN WHICH DECREE IS GRANTED WITHOUT PROOF

Inclusive fee to cover all work from taking instructions up to and including obtaining Extract Decree 26.00

In cases where settlement is effected after service of a Writ but before the expiry of the induciae 20.00

If the Pursuer's solicitor elects to charge this inclusive fee he shall endorse a Minute to that effect on the initial writ before ordering extract of the decree. Outlays such as Court dues for deliverance and posts shall be chargeable in addition and taxation shall be unnecessary.

2. ACTIONS OF SEPARATION AND ALIMENT, ADHERENCE AND ALIMENT AND CUSTODY AND ALIMENT WHERE PROOF TAKES PLACE

Inclusive fee to cover all work from taking instructions up to and including obtaining Extract Decree 98.00

If the Pursuer's solicitor elects to charge this inclusive fee he shall endorse a Minute to that effect on the initial writ after the close of the proof and before extract of the decree is ordered and when the option is so exercised decree for expenses shall be granted against the defender for said sum together with the shorthand writer's fee actually charged in terms of the Table of Shorthand Writer's Fees in force from time to time and of other outlays up to £10 without the necessity for taxation. If outlays in excess of £10, excluding the shorthand writer's fee aforesaid are claimed, an account of such outlays shall be remitted to the Auditor of Court for taxation and the sum allowed for outlays shall be the amount of the account as taxed.

CHAPTER II—DEFENDED ACTIONS

1. INSTRUCTION FEE

To cover all work (except as hereinafter otherwise specially provided for in this Chapter) to the lodging of Defences including copyings 80.00

Where separate Statement of Facts and Counter Claim and Answers lodged, additional fee of 20.00

2. ADJUSTMENT FEE

To cover all work (except as hereinafter otherwise specially provided for in this Chapter) in connection with the adjustment of the Record including (when appropriate) closing thereof, making up and lodging Closed Record and copyings.

(*a*) Agent for any party 52.00

(*b*) If action settled before Record is closed or in Summary Causes before an Interlocutor allowing proof or debate is pronounced.

Each original party's Agent 39.00

(*c*) If additional Defender brought in before closing of Record or in Summary Causes before an Interlocutor allowing proof or debate is pronounced

Additional fee to each original party's Agent 10.00

(*d*) If additional Defender brought in after closing of Record
Additional fee to each original party's Agent 14.00

3. (*a*) DEBATE FEE

To include preparation for and conduct of any Hearing or Debate other than on evidence, enquiring for cause at avizandum and noting Interlocutor

When debate does not exceed 1 hour 26.00

For every half hour engaged after the first hour 5.00

(*b*) INTERIM INTERDICT HEARINGS

Pursuer's solicitor. The same fees as for debate fee above, but to include both the appearance at lodging of writ and the hearing at second diet.

Defender's solicitor's fee where the debate does not exceed 1 hour ... 13.50

4. APPLICATION FOR JURY TRIAL

To include application to have cause tried by Jury, including drawing, attending Court, drawing and discussing questions of fact to be submitted to Jury, and procuring Jury list 17.50

Fee to opposing Solicitor 12.00

5. PRECOGNITIONS

Taking and drawing—per sheet 8.50

Note: Where a skilled witness prepares his own precognition or report, the solicitor shall be allowed half of above drawing fee for revising and adjusting it.

6. COMMISIONS TO TAKE EVIDENCE

(*a*) On Interrogatories

Fee to Solicitor applying for Commission to include drawing, intimating and lodging Motion, drawing and lodging Interrogatories, instructing Commissioner and all incidental work (except as otherwise specially provided for in this Chapter) but excluding attendance at execution of Commission 22.00

Fee to opposing Solicitor if Cross-Interrogatories prepared and lodged 18.00

If no Cross-Interrogatories lodged 6.50

Fee for attendance at execution of Commission—per hour including travelling time 6.50

(*b*) Open Commissions

Fee to Solicitor applying for Commission to include all work (except as otherwise specially provided for in this Chapter) up to lodging Report of Commision but excluding attendance thereat 17.50

Fee to Solicitor for opposing party 9.50

Fee for attendance at execution of Commission—per hour 6.50

Travelling time—per hour 6.50

7. SPECIFICATION OF DOCUMENTS

Fee to cover drawing, intimating and lodging Specification and relative Motion and attendance at Court debating Specification 22.00

Inclusive fee to opposing Solicitor 11.00

Fee for citation of havers, preparation for and attendance before Commissioner at execution of Commission

Where attendance before Commissioner does not exceed 1 hour 15.00

For each additional half hour after the first hour 6.50

If Commission not executed—Fee for serving each party with copy of Specification to include recovering and examining documents or productions referred to therein 4.25

8. AMENDMENT OF RECORD

Fee to cover drawing, intimating and lodging Minute of Amendment and relative Motion and relative attendances at Court.

(*a*) Where Answers lodged 24.00

(*b*) Where no Answers lodged 16.00

Inclusive fee to opposing Solicitor

(*a*) Where Answers lodged 20.00

(*b*) Where no Answers lodged 13.50

9. MOTIONS AND MINUTES

Fee to cover drawing, intimating and lodging any written Motion or Minute, including a Reponing Note, and relative attendances at Court (except as otherwise provided for in this Chapter)

(*a*) Where opposed 13.50

(*b*) Where unopposed (including, for each party a Joint Minute other than under paragraph 14(*b*)) 7.50

Fee to cover considering opponent's written Motion, Minute or Reponing Note and relative attendances at Court

(*a*) Where Motion, Minute or Reponing Note opposed 11.00

(*b*) Where Motion, Minute or Reponing Note unopposed 6.50

10. PROCEDURE PRELIMINARY TO PROOF

(*a*) Fee to cover fixing Diet of Proof, citation of witnesses, and generally preparing for Trial or Proof and if necessary instructing Shorthand Writer 26.00

(*b*) Fee to cover preparing for adjourned diet and all incidental work as in (*a*) if diet postponed for more than 6 days

For each adjourned diet 11.00

(*c*) Drawing and lodging an Inventory of Productions, lodging the productions specified therein and considering opponent's productions (to be charged once only in each process) 9.00

Where only one party lodges productions, opponent's charges for considering same 4.50

11. CONDUCT OF PROOF OR TRIAL

Fee to cover conduct of Proof or Trial and Debate on Evidence if taken at close of Proof—per half hour 6.50

If Counsel Employed

Fee to Solicitor appearing with Counsel—per half hour 5.50

12. DEBATE ON EVIDENCE

Where Debate on Evidence not taken at conclusion of Proof preparing for Debate 18.00

Fee for conduct of Debate—per half hour 6.50

If Counsel employed—Fee to Solicitor appearing with Counsel—per half hour 5.50

13. APPEALS

(*a*) To Sheriff Principal

Fee to cover instructions, marking of Appeal or noting that Appeal marked, noting Diet of Hearing thereof and preparation for Hearing 33.00

Fee to cover conduct of Hearing—per half hour 6.50

If Counsel employed—Fee to Solicitor appearing with Counsel—per half hour 5.50

(*b*) To Court of Session

Fee to cover instructions, marking Appeal or noting that Appeal marked and instructing Edinburgh Correspondents 16.50

14. SETTLEMENTS

(*a*) Judicial Tender

Fee for preparation and lodging or for consideration of Minute of Tender 19.50

Fee on acceptance of Tender, to include preparation and lodging or consideration of Minute of Acceptance and attendance at Court when Decree granted in terms thereof 14.50

(*b*) Extra-Judicial Settlements

Fee to cover negotiations resulting in settlement, framing or revising Joint Minute and attendance at Court when authority interponed thereto 33.00

15. FINAL PROCEDURE

Fee to cover settling with witnesses, enquiries for cause at avizandum, noting Final Interlocutor 26.00

Fee to cover drawing Account of Expenses, arranging, intimating and attending Diet of Taxation and obtaining approval of Auditor's Report and adjusting Account with opponent where necessary, ordering, procuring and examining Extract Decree 13.50

Fee to cover considering opponent's Account of Expenses and attending Diet of Taxation or adjusting account with opponent 6.50

16. COPYING FEES

Copying all necessary papers by any means

First copy—per sheet 0.50

Additional copies—per sheet 0.20

A sheet shall be 250 words. When copied by photostatic or similar process, each page shall be charged as one sheet.

17. PROCESS FEE

Fee to cover all consultations between solicitor and client during the progress of the cause and all communications, written or verbal, passing between them.

Ten per cent. on total fees and copyings allowed on taxation.

18. FEES FOR INSTRUCTION OF COUNSEL

Fee for instructing Counsel to revise Record 11.00

Fee for instructing Counsel to conduct Debate, Proof or Trial 22.00

Fee for instructing Counsel to conduct Appeal to Sheriff Principal ... 22.00

In each case to cover all consultations, revisal of papers and all incidental work.

Fee to Counsel to be allowed as outlay.

CHAPTER III—CHARGES FOR TIME, DRAWING OF PAPERS, CORRESPONDENCE, ETC.

1.	Attendance at Court conducting trial, proof or formal debate or hearing —per half hour	6.50
2.	Time occupied in the performance of all other work including attendances with client and others and attendances at Court in all circumstances, except as otherwise specifically provided.	
	(*a*) Solicitor—per half hour	5.50
	(*b*) Unqualified Assistant—per half hour	3.00
	Note: Time necessarily occupied in travelling to such to be chargeable at these rates.	
3.	Drawing all necessary papers (the sheet throughout this Chapter to consist of 250 words or numbers)—per sheet	2.25
4.	Revising papers where revisal ordered—for each five sheets	1.00
5.	Copying all necessary papers by any means	
	First copy—per sheet	0.50
	Additional copies—per sheet	0.20
	When copied by photostatic or similar process each page shall be charged as one sheet.	
6.	Certifying or signing a document	1.00
7.	Perusing any document (other than a letter) not exceeding 2 sheets in length	2.00
	For each 2 sheets thereafter	2.00
8.	Lodging in process	
	Each necessary lodging in or uplifting from process, also for each necessary enquiry for documents due to be lodged	1.00
9.	Borrowing process	
	Each necessary borrowing of process to include return of same	1.00
10.	Extracts	
	Ordering, procuring and examining Extracts, interim or otherwise ...	4.50
11.	Correspondence, Intimations, etc.	
	(1) Formal letters and intimations	0.50
	(2) Letters other than above—per page of 125 words	1.75
	(3) Telephone calls except under (4)	1.00
	(4) Telephone calls (lengthy) to be treated as attendances or long letters.	—
12.	Citations	
	Each citation of party or witness including execution thereof	2.00
13.	Instructions to Officers	
	Instructing officer to serve, execute or intimate various kinds of writs or diligence including the examination of executions	1.00
	For each party after the first on whom service or intimation is simultaneously made	1.00
	Agency accepting service of any writ	2.00
	Reporting diligence	2.00

14. Personal diligence

(1)	Recording execution of charge	2.00
(2)	Procuring fiat	2.00
(3)	Instructing apprehension	2.00
(4)	Framing state of debt and attendance at settlement	3.00

15. Sales

(1)	Obtaining Warrant to sell	2.00
(2)	Instructing auctioneer or officer to conduct sale	2.00
(3)	Perusing report of sale	2.00
(4)	Reporting sales under poindings or sequestrations or any other judicial sales	1.50
(5)	Noting approval of roup roll	1.50
(6)	Obtaining warrant to pay	1.50

CHAPTER VII—EXECUTRY BUSINESS—INTESTATE MOVEABLE SUCCESSION

1. Taking instructions to present petition for decree-dative, drawing petition and making necessary copies, lodging and directing publication, attendance at Court, moving for decree-dative, extracting decree where necessary and all matters incidental to petition inclusive fee 15.00

2. Preliminary Investigation and Confirmation of Executors. To be charged for according to General Table of Fees for Conveyancing and General Business in Testate Succession in force from time to time

3. Bonds of Caution

Taking out Bond of Caution, getting it signed and lodged with Clerk of Court, and procuring attestation of cautioner's sufficiency	7.50
Where caution is found through the medium of a Guarantee Company for all the work in connection therewith	6.50

4. Restriction of Caution

Taking Instructions to prepare petition for restriction of caution, drawing petition and making necessary copies, lodging, instructing advertisement and all matters incidental to petition.

Inclusive fee 15.00

EXPLANATORY NOTE

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

This Act of Sederunt makes new provision for solicitors' fees in respect of certain Sheriff Court business.

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