STATUTORY INSTRUMENTS

1978 No. 1167 (S. 102)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Solicitors' Fees No. 2) 1978

Made - - - -	3*rd August* 1978
Laid before Parliament	14*th August* 1978
Coming into Operation	1*st 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 No. 2) 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.

Summary Cause fees

2. In the Act of Sederunt (Alteration of Sheriff Court Fees) 1971(**d**):—

(*a*) In the Table of Fees, the fees set out under Chapter IV in the Schedule to this Act of Sederunt shall continue to have effect on and after 1st October 1978 in respect of the matters specified in the Schedule opposite those fees.

(*b*) In Schedule 2 (General Regulations), for regulations 18 and 19 there is substituted the following regulation—

"18. In the Table of Fees, in Chapter IV,—

(*a*) necessary outlays, including

(i) a charge in respect of post and sundries of 12% of the fees allowed;

(ii) fees for witnesses calculated in accordance with the provisions of the Court Tables;

are allowed in addition to the fees allowed under this Chapter;

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

(*b*) in Parts I and II, in respect of item 2 (service), Sheriff Officers' fees and the costs of advertising are allowable as outlays;

(*c*) in Part II, in respect of item 3 (attendance at Court), no fee is allowable for attendance at a continuation of the first calling, unless specially authorised by the Court;

(*d*) in Part II, in respect of item 7 (precognitions), in a case where a skilled witness prepares his own precognition or report, half of the drawing fee is allowable to the solicitor for revising and adjusting it;

(*e*) In Part II, in respect of item 15, no fees shall be allowed in respect of accounts of expenses when the hearing on the claim for expenses takes place immediately on the sheriff or sheriff principal announcing his decision;

(*f*) all fees chargeable under this Chapter in respect of the actions mentioned in the left-hand column of the following table shall be reduced by the amount of the percentage specified opposite those actions in the right-hand column of the table: —

TABLE

	Actions	*Percentage reduction*
1.	of a value from £50 to £250	25%
2.	of a value of less than £50	50%
3.	for recovery of possession of heritable property	50%
4.	under the following enactments:	50%
	(i) Tenancy of Shops (Scotland) Act 1949	
	(ii) Housing (Repairs and Rents) (Scotland) Act 1954	
	(iii) Section 3 of the Sheriff Court (Civil Jurisdiction and Procedure) (Scotland) Act 1963	

G. L. Emslie,
I.P.D.

Edinburgh.
3rd August 1978.

SCHEDULE

CHAPTER IV—NEW SUMMARY CAUSE—PART I—UNDEFENDED ACTIONS

1. To include—taking instructions, framing Summons and statement of claim, obtaining warrant for service, attendance endorsing minute for and obtaining decree in absence	13.50
2. Service	
(*a*) Citation by post within the United Kingdom, Isle of Man, Channel Islands, or the Republic of Ireland—for each party ...	1.70
Citation by post elsewhere—for each party	3.40
(*b*) Instructing service or reservice by Sheriff Officer including perusing execution of citation and settling Sheriff Officers' fee—for each party	1.70
(*c*) Framing and instructing service by advertisement—for each party	3.40

PART II—DEFENDED ACTIONS

1. Instruction fee, to include taking instructions, framing Summons and statement of claim; obtaining warrant for service, enquiring for notice of intention to defend, attendance at first calling, noting defence	18.50
2. Service	
(*a*) Citation by post within the United Kingdom, Isle of Man, Channel Islands, or the Republic of Ireland—for each party ...	1.70
Citation by post elsewhere—for each party	3.40
(*b*) Instructing service or reservice by Sheriff Officer including perusing execution of citation and settling Sheriff Officers' fee—for each party	1.70
(*c*) Framing and instructing service by advertisement—for each party	3.40
3. Attendance at Court	
Attendance at any diet except as otherwise specifically provided	5.00
4. Preparing for proof, to include all work in connection with proof not otherwise provided for	17.00
5. Fee to cover preparing for adjourned diet and all incidental work if diet postponed for more than six days. For each adjourned diet ...	8.50
6. Drawing and lodging inventory of productions, lodging the productions specified therein and considering opponents' productions (to be charged only one in each process)	7.00
Where only one party lodges productions, opponents' charges for considering same	3.40
7. Precognitions	
Drawing precognitions, including instructions, attendances with witnesses and all relative meetings and correspondence, per witness	7.00
Where precognitions exceed 2 sheets—for each additional sheet ...	3.40

8. Incidental applications

Fee to cover drawing, intimating and lodging of any incidental application, excluding an application to recall decree, and relative attendance at Court (except as otherwise provided in this Chapter)

(*a*) Where opposed 10.00

(*b*) Where unopposed (including for each party a joint application) 6.00

9. Fee to cover considering opponents' incidental application excluding an application to recall decree and relative attendance at Court

(*a*) Where opposed 8.50

(*b*) Where unopposed 5.00

10. Conduct of Proof

Fee to cover conduct of proof or trial and debate on evidence taken at close of proof—per half hour 5.00

11. Settlements

(*a*) Judicial Tender, fee for consideration of, preparing and lodging Minute of Tender 10.00

Fee on acceptance of Tender—to include preparing and lodging, or consideration of Minute of Acceptance and attendance at Court when decree granted in terms thereof 7.00

(*b*) Extra judicial settlement—fee to cover negotiations resulting in settlement, framing or revising Joint Minute and attendance at Court when authority interponed thereto 17.00

12. Specification of Documents

(*a*) Fee to cover drawing, intimating and lodging specification of documents and relative motion and attendance at Court ... 8.50

(*b*) Inclusive fee to opposing solicitor 7.50

(*c*) Fee for citation of havers, preparation for and attendance before Commissioner

To each party—for each half hour 5.00

(*d*) If alternative procedure adopted, a fee per person upon whom order served, of 3.40

13. Commissions to take evidence

(*a*) Fee to cover drawing, lodging and intimating motion and attendance at Court,

(i) Where opposed 10.00

(ii) Where unopposed 6.00

(*b*) Fee to cover considering such motion and attendance at Court,

(i) Where opposed 8.50

(ii) Where unopposed 5.00

(*c*) Fee to cover instructing Commissioner and citing witness ... 5.00

(*d*) Fee to cover drawing and lodging interrogatories and cross-interrogatories—per sheet	3.40
(*e*) Attendance before Commissioner (including travelling time) per hour	5.00

14. Appeals

Fee to cover instructions, marking of appeal or noting that appeal marked, noting of diet of hearing thereof and preparations for hearing	42.00
Fee to cover conduct of hearing, per half hour	5.00

15. Final Procedure

Fee to cover settling with witnesses, enquiries at avizandum noting final interlocutor	5.00
Fee to cover drawing Account of Expenses, arranging intimating and attending hearing on expenses, and obtaining approval of Sheriff Clerk's report	10.00
Fee to cover considering opponents' Account of Expenses and attendance at hearing on expenses	5.00

EXPLANATORY NOTE

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

This Act of Sederunt re-enacts with minor amendments the provisions in respect of solicitors' fees in Summary Causes in the Sheriff Court, as enacted in the Act of Sederunt (Solicitors' Fees) 1976 (S.I. 1976/1119), but makes no alteration in the amount of those fees.

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