STATUTORY INSTRUMENTS

1984 No. 257 (S. 29)

SHERIFF COURT, SCOTLAND

The Sheriff Court Fees Order 1984

Made - - - -	*28th February* 1984
Laid before Parliament	*9th March* 1984
Coming into Operation	*1st April* 1984

In exercise of the powers conferred on me by section 2 of the Courts of Law Fees (Scotland) Act 1895**(a)** and of all other powers enabling me in that behalf, and with the concurrence of the Treasury, I hereby make the following order:—

Citation and commencement

1. This order may be cited as the Sheriff Court Fees Order 1984 and shall come into operation on 1st April 1984.

Interpretation

2.—(1) In this order, 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;

"sheriff clerk" includes the Sheriff Clerk of Chancery, the Commissary Clerk of Edinburgh and sheriff clerk depute;

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

"Table of Fees" means the Table of Fees specified in the Schedule to this order;

"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 intention to defend.

(2) For the purpose of any reference in this order to a defender, compearer or party, any defenders, compearers or parties who have the same interest and who lodge, or are preparing to lodge, a writ in their joint names shall be treated as a single defender, compearer or party.

(a) 1895 c. 14; section 2 was substituted by section 4 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12).

(b) 1971 c. 58.

Fees payable to sheriff clerk

3. Subject to articles 4 to 8 of this order, the fees payable to the sheriff clerk in respect of the matters specified in column 1 of the Table of Fees shall be the fees specified in relation to those matters in column 2 of that Table (the fees previously payable being shown in column 3 of that Table).

Matters included in fees

4.—(1) The matters specified in paragraphs 1, 16, 17, 18, 19 and 20 of the Table of Fees include, where appropriate, issue of an extract decree.

(2) The matters specified in paragraphs 10 and 11 of the Table of Fees include, where appropriate, the issue of extracts and the matter specified in the said paragraph 11 also includes, where appropriate, the issue of an abbreviate.

(3) The matter specified in paragraph 19 of the Table of Fees does not include, in the case of an application for registration or renewal of registration of a club or miners' welfare institute under the Gaming Act 1968**(a)**, the registration or renewal of registration upon such application.

Cases in which an extra fee is payable

5.—(1) When a summary cause is remitted to the ordinary roll the fees specified in paragraphs 17 and 18 of the Table of Fees shall become payable in respect of the action by the persons who would have been required to pay them if the action had been from its commencement an ordinary action, less the amount of any fee previously paid by the person concerned in respect of the action.

(2) When any commissary proceedings or bankruptcy proceedings are opposed the fees specified in paragraphs 19 and 20 of the Table of Fees shall become payable in respect of the proceedings by the persons who would have been required to pay them if the proceedings had been from their commencement proceedings to which those paragraphs applied, less the amount of any fee previously paid by the person concerned in respect of the proceedings.

Exemptions from fees under this order

6.—(1) Subject to paragraph (2) of this article the fees regulated by this order shall not be payable by the Crown.

(2) Where in any proceedings to which the Crown is a party another party is found liable to the Crown in expenses, any fees regulated by this order shall be included in the account of expenses and, if recovered, shall be paid by the Crown.

(3) For the purposes of this article the Crown includes any officer of the Crown as such or government department.

(a) 1968 c. 65.

Modification of fees under this order

7. Where the estate of a deceased person is exempt from estate duty by virtue of section 71 of the Finance Act 1952**(a)** or from capital transfer tax by virtue of paragraph 1 of Schedule 7 to the Finance Act 1975**(b)** (death on active service etc.) the fee payable in respect of an inventory of that estate under paragraph 3(*a*), (*b*) or (*d*) of the Table of Fees shall, where that fee would amount to more than £2.00, be restricted to £2.00.

Proceedings to which fees under this order do not apply

8. The fees regulated by this order do not apply to any application under—

(*a*) any enactment relating to registration of births, deaths and marriages;

(*b*) Part III of the Social Work (Scotland) Act 1968**(c)**; or

(*c*) the Mental Health (Scotland) Act 1960**(d)**.

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House,
Edinburgh.
24th February 1984.

We concur,

T. Garel-Jones,
Alistair Goodlad,
Two of the Lords Commissioners of Her Majesty's Treasury.

28th February 1984.

(a) 1952 c. 33; section 71 was repealed (with savings) by the Finance Act 1975 (c. 7), sections 52(2) and (3), 59 and Schedule 13, Part I.
(b) 1975 c. 7.
(c) 1968 c. 49.
(d) 1960 c. 61.

SCHEDULE Article 3

TABLE OF FEES

Column 1 *Item*	Column 2 *Fee payable*	Column 3 *Fee which was formerly payable*(a)
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, or (*e*) appointment of Commissary factor	£3.00	*£3.00*
2. Sealing up repositories or the like, per hour	£4.00	*£4.00*
3. (*a*) Receiving and examining inventory of estate, except where sub-paragraph (*b*), (*c*) or (*d*) of this paragraph applies—		
(i) where 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(b) is required, does not exceed—		
£1,000	No fee	*No fee*
£2,000	£12.00	*£12.00*
£3,000	£15.00	*£15.00*
£4,000	£18.00	*£18.00*
£5,000	£21.00	*£21.00*
£6,000	£24.00	*£24.00*
£7,000	£27.00	*£27.00*
£8,000	£30.00	*£30.00*
£9,000	£33.00	*£33.00*
£10,000	£36.00	*£36.00*
(ii) where the amount of the said estate exceeds £10,000—		
Basic fee	£36.00	*£36.00*
Additional fee for each £1,000 or part thereof by which the estate exceeds £10,000	£1.50	*£1.50*
(*b*) Receiving and examining additional or corrective inventory of estate:		
The fees payable shall be those specified in sub-paragraph (*a*) of this paragraph, calculated in respect of the amount of the additional estate vested in or belonging beneficially to the deceased in respect of which confirmation is required: Provided that where the said estate does not exceed £1,000 there shall be payable a fee of	£1.00	*£1.00*
(*c*) Receiving and examining inventory of estate *ad non executa*	£1.00	*£1.00*

(a) This column shows the fees which were formerly payable under the Act of Sederunt (Fees for Sheriff Court) 1982 (S.I. 1982/652).

(b) 1892 c. 6.

Column 1 *Item*	Column 2 *Fee payable*	Column 3 *Fee which was formerly payable*
(*d*) Receiving and examining inventory of estate where it is declared that confirmation is not required: The fees payable shall be half those specified in sub-paragraph (*a*) of this paragraph. If confirmation is subsequently required, the remaining half of the fees specified in sub-paragraph (*a*) shall be payable		
4. Issuing each certificate of confirmation	£1.00	*£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	*£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)	£26.00	*£24.00*
(*b*) Twice weekly for twelve months (payable in advance)	£52.00	*£48.00*
(*c*) Four times weekly for twelve months (payable in advance)	£104.00	*£96.00*
Bankruptcy proceedings		
7. Petition for sequestration of estates	£18.00	*£17.00*
8. Act and warrant of trustee	£8.00	*£7.00*
9. Writing examination of bankrupt or minute of meeting, per hour	£8.00	*£7.00*
10. Application (written or oral) for discharge of trustee	£.800	*£7.00*
11. Petition for discharge of bankrupt or application for approval of composition or deed of arrangement	£8.00	*£7.00*
12. Sheriff clerk acting as commissioner	£15.00	*£14.00*
Service of heirs		
13. Petition for general or special service or completion of title, or note for a Crown or Prince's charter, writ or precept	£27.00	*£25.00*

Column 1 *Item*	Column 2 *Fee payable*	Column 3 *Fee which was formerly payable*
Inferior Courts Judgments Extension Act 1882(a)		
14. Any proceedings	£3.00	*£3.00*
Criminal Procedure (Scotland) Act 1975(b)		
15. Complaint	£7.00	*£6.00*
Summary cause		
16. Summons—Summary Cause		
1. Actions for payment of money less than £50	£5.00	£5.00
2. Other actions	£16.00	*£15.00*
3. Appeals by stated case	£16.00	*£15.00*
Ordinary action		
17. Initial writ in an ordinary action	£18.00	*£17.00*
18. First writ, reponing note, or attendance to state a defence, each defender or compearer in an ordinary action	£18.00	*£17.00*
Miscellaneous		
19. Initial writ in any proceedings, not being proceedings to which other paragraphs of this Schedule apply	£18.00	*£17.00*
20. First writ, or attendance to state a defence, each defender or compearer (in proceedings to which paragraph 19 of this Schedule applies)	£18.00	*£17.00*
21. Caveat	£8.00	*£7.00*
22. Summary warrant for recovery of rates	£18.00	*£17.00*
23. Recording protest of a bill or promissory note NOTE: Extract to be charged as in paragraph 25 of this Schedule	£3.00	*£3.00*
24. Lodging each set of plans or other Parliamentary deposit	£18.00	*£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 of 250 words	£2.00	*£2.00*
(*b*) By copying by electrical or mechanical means per page:		
First copy	£1.00	*£1.00*
Subsequent copies	£0.20	*£0.20*
NOTE: Recording in Sheriff Court Register of Deeds to be charged as in (*a*) or (*b*)		

(a) 1882 c. 31.

(b) 1975 c. 21.

Column 1 *Item*	Column 2 *Fee payable*	Column 3 *Fee which was formerly payable*
26. Searches: for each search of records or archives—		
(*a*) For first half hour of time taken	£3.00	*£3.00*
(*b*) For more than one half hour up to a maximum of two hours	£7.00	*£7.00*
(*c*) For each half hour or part thereof in excess of two hours	£2.00	*£2.00*
(*d*) Plus correspondence fee where applicable	£2.00	*£2.00*
PART IV—TAXATION		
27. For taxing amounts of expenses incurred in judicial proceedings remitted to the auditor of court for taxation.		
(*a*) Under £50	£2.00	*£2.00*
(*b*) For every additional £50 or part thereof	£2.00	*£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 Order.*)

This Order regulates the fees payable to sheriff clerks in relation to proceedings in the sheriff court.

The power to regulate these fees was previously vested in the Court of Session and was transferred to the Secretary of State by section 4 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983. The fees were formerly regulated by the Act of Sederunt (Fees for Sheriff Court) 1982.

The fees payable are in most cases increased. Article 7 of the Order provides a new power to restrict the fee for receiving and examining the inventory of a deceased person's estate where the person's death was connected with active military service.

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