STATUTORY INSTRUMENTS

1985 No. 827 (S.77)

SHERIFF COURT, SCOTLAND

The Sheriff Court Fees Order 1985

Made - - - - -	*23rd May* 1985
Laid before Parliament	*31st May* 1985
Coming into Operation	*24th June* 1985

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 1985 and shall come into operation on 24th June 1985.

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 9 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, 5, 6, 16, 17, 18 and 19 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 5 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 5 and 6 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 5 and 6 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.

Exemption of Crown 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.

Exemption of certain persons from fees in simplified divorce applications

7. The fees specified in paragraphs 19 and 20 of the Table of Fees shall not be payable by a person making a simplified divorce application who is in receipt of—

(*a*) a supplementary pension or an allowance under Part I of the Supplementary Benefits Act 1976**(a)**;

(*b*) a family income supplement under section 1 of the Family Income Supplements Act 1970**(b)**; or

(*c*) advice and assistance from a solicitor under the Legal Advice and Assistance Act 1972**(c)** in respect of the simplified divorce application.

Modification of fees under this order

8. Where the estate of a deceased person is exempt from estate duty by virtue of section 71 of the Finance Act 1952**(d)** or from capital transfer tax by virtue of paragraph 1 of Schedule 7 to the Finance Act 1975**(e)** (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

9. 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**(f)**; or

(*c*) the Mental Health (Scotland) Act 1984**(g)**.

Revocation

10. The Sheriff Court Fees Order 1984**(h)** and the Sheriff Court Fees Amendment Order 1984**(i)** are hereby revoked.

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

New St Andrew's House,
Edinburgh.
23rd May 1985.

We concur,

Donald Thompson,
A. Hamilton,
Two of the Lords Commissioners of
Her Majesty's Treasury.

23rd May 1985.

(a) 1976 c. 71. **(b)** 1970 c. 55. **(c)** 1972 c. 50.
(d) 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.
(e) 1975 c. 7. **(f)** 1968 c. 49. **(g)** 1984 c. 36. **(h)** S.I. 1984/257. **(i)** S.I. 1984/466.

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—		
£3,000 £13,000 £20,000	No fee £20.00 £50.00	*Not directly comparable*
(ii) where the amount of the said estate exceeds £20,000—		
Basic fee	£50.00	*Not directly comparable*
Additional fee for each £10,000 or part thereof by which the estate exceeds £20,000	£20.00	*Not directly comparable*
(*b*) Receiving and examining additional or corrective inventory of estate—		
Basic fee	£2.00	*£1.00*
Additional fee for each £1,000 (excluding the first £1,000) or part thereof of the overall increase made by the additional or corrective inventory in the amount of the whole estate vested in or belonging to the deceased, of which confirmation has been sought or obtained, or for which resealing as aforesaid, has been sought or obtained	£2.00	*Not directly comparable*
(*c*) Receiving and examining inventory of estate *ad non executa*	£2.00	*£1.00*

(a) This column shows the fees which were payable under S.I. 1984/257 (as amended by S.I. 1984/466) before the coming into operation of this order.

(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		
Ordinary actions and various other proceedings		
5. Initial writ in any proceedings not being proceedings for which any other paragraph of this Table prescribes a fee	£20.00	*£18.00*
6. First writ, reponing note or attendance to state a defence, in proceedings to which paragraph 5 of this Table applies, each defender or compearer	£20.00	*£18.00*
Bankruptcy proceedings		
7. Petition for sequestration of estates	£20.00	*£18.00*
8. Act and warrant of trustee	£9.00	*£8.00*
9. Writing minute of meeting, per hour	£9.00	*£8.00*
10. Application (written or oral) for discharge of trustee	£9.00	*£8.00*
11. Petition for discharge of bankrupt or application for approval of composition or deed of arrangement	£9.00	*£8.00*
12. Sheriff clerk acting as commissioner	£16.00	*£15.00*
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	£29.00	*£27.00*
Inferior Courts Judgments Extension Act 1882**(a)**		
14. Any proceedings	£3.00	*£3.00*
Criminal Procedure (Scotland) Act 1975**(b)**		
15. Complaint	£7.00	*£7.00*

(a) 1882 c. 31.

(b) 1975 c. 21.

Column 1 *Item*	Column 2 *Fee payable*	Column 3 *Fee which was formerly payable*
Summary cause		
16. Summons—Summary Cause:		
1. Actions for payment of money less than £50	£5.00	*£5.00*
2. Other actions	£18.00	*£16.00*
Action of divorce (other than simplified divorce application)		
17. Initial writ in an action of divorce other than a simplified divorce application	£40.00	*£40.00*
18. First writ or attendance to state a defence, each defender or compearer in an action of divorce other than a simplified divorce application	£40.00	*£40.00*
Simplified divorce application		
19. Simplified divorce application (inclusive of all procedures other than those specified in paragraphs 20 and 21 of this Table)	£40.00	*£40.00*
20. In relation to a simplified divorce application, citation of, or intimation to, any person or persons by sheriff officer	£5.00	*£5.00*
21. Subsequent application upon change of circumstances by party to simplified divorce application	£9.00	—
Miscellaneous		
22.Note in a liquidation or judicial factory	£9.00	—
23. Caveat	£9.00	*£8.00*
24. Summary warrant for recovery of rates	£20.00	*£18.00*
25. Recording protest of a bill or promissory note NOTE: Extract to be charged as in paragraph 29 of this Table.	£3.00	*£3.00*
26. Lodging each set of plans or other Parliamentary deposit	£20.00	*£18.00*
27. Preservation of deeds, each deed NOTE: Recording and extracting to be charged under paragraph 29 of this Table.	£2.00	*£2.00*
28. 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)	£28.00	*£26.00*
(*b*) Twice weekly for twelve months (payable in advance)	£56.00	*£52.00*
(*c*) Four times weekly for twelve months (payable in advance)	£112.00	*£104.00*

Column 1 *Item*	Column 2 *Fee payable*	Column 3 *Fee which was formerly payable*
PART III COMMISSARY AND SHERIFF COURT PROCEEDINGS—MISCELLANEOUS		
29. 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—		
each of first 10 pages	£1.00	*£1.00*
each page after first 10	£0.20	*£1.00*
Subsequent copies: each page	£0.20	*£0.20*
NOTE: Recording in Sheriff Court Register of Deeds to be charged as in (*a*) or (*b*).		
30. 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	£8.00	*£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		
31. For taxing accounts 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, replacing the Sheriff Court Fees Order 1984. Many of the fees are increased.

Apart from the increase of fees, the Table of Fees in the Schedule to this order differs in substance from that in the Schedule to the 1984 Order as amended in the following respects.

The manner of calculating fees for receiving and examining inventory of a deceased person's estate (paragraph 3(*a*) of the Table of Fees) is substantially different from the same paragraph in the 1984 Table of Fees. The amount up to which estates are exempt from fees is increased from £1,000 to £3,000. The scale of fees payable for estates of various sizes has been simplified. The overall effect is that for most estates under £13,000 the fee will be less and for most estates over £13,000 it will be more. The manner of calculating fees for receiving and examining an additional or corrective inventory (paragraph 3(*b*)) is also substantially different.

A new fee is provided (paragraph 21 of the Table of Fees) for a subsequent application upon change of circumstances by a party to a simplified divorce application. A new fee is provided (paragraph 22) for lodging a Note in a liquidation or judicial factory. Paragraph 9 of the Table of Fees no longer provides a fee for writing the examination of a bankrupt.

The manner of calculating fees for electrical or mechanical copying (paragraph 29 of the Table of Fees) is changed.

There is no change of substance in the body of the order compared to the 1984 Order as amended.

SI 1985/827
ISBN 0-11-056827-3

