SCOTTISH STATUTORY INSTRUMENTS

# 2004 No. 152

# SHERIFF COURT

## Act of Sederunt (Fees of Solicitors and Witnesses in the Sheriff Court) (Amendment) 2004

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| *Made - - - -* | *26th March 2004* |
| *Laid before the Scottish Parliament - - - -* | *26th March 2004* |
| *Coming into force - -* | *4th May 2004* |

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(**1**) and of all other powers enabling them in that behalf, do hereby enact and declare:

### Citation and commencement

**1.**—(1) This Act of Sederunt may be cited as the Act of Sederunt (Fees of Solicitors and Witnesses in the Sheriff Court) (Amendment) 2004 and shall come into force on 4th May 2004.

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

### Amendment of Table of Fees of solicitors

**2.**—(1) The Schedule to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993(**2**) shall be amended in accordance with the following sub-paragraphs.

(2) In the Table of Fees, in the provisions mentioned in column 1 of the Schedule to this Act of Sederunt, for the amounts specified in column 2 of that Schedule, there shall be substituted the amounts specified in column 3.

(3) In Part II of Chapter II–

(a) in the heading, for "DEFENDED ORDINARY CAUSES AND FAMILY ACTIONS COMMENCED AFTER 1ST JANUARY 1994" there shall be substituted "DEFENDED ORDINARY ACTIONS, COMMERCIAL ACTIONS AND FAMILY ACTIONS COMMENCED AFTER 1ST JANUARY 1994";

(**1**) 1907 c. 51; section 40 was amended by the Sheriff Courts (Scotland) Act 1913 c. 28, Schedule 1; the Secretaries of State Act 1926 c. 18, section 1(3); the Administration of Justice (Scotland) Act 1933 c. 41, Schedule; the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 c. 12, Schedule 1, paragraph 7 and Schedule 2; and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 c. 40, Schedule 9.

(**2**) S.I. 1993/3080, amended by S.I. 1994/1142, 1995/1395, 1996/236, 1998/2675, S.S.I. 1999/149, S.S.I 2000/420, S.S.I. 2001/438, S.S.I. 2002/235, S.S.I. 2002/274, S.S.I. 2002/328 and S.S.I. 2003/162.

(b) before paragraph 1 (instruction) there shall be inserted the following:–

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| "**1B.** Work before action commences – Commercial Action – To cover all work which the Auditor is satisfied has reasonably been undertaken in contemplation of, or preparatory to, the commencement of proceedings in a commercial action or such lesser sum as in the opinion of the Auditor is justified. | £465.65"; |

(c) in paragraph 1A, for the heading "Work before action commences" there shall be substituted "Work before action commences – Ordinary Action and Family Action";

(d) in paragraph 1(b) (instruction fee where counterclaim) for "102.00" there shall be substituted "192.10".

(e) for paragraph 6 (options hearing or child welfare hearing) there shall be substituted the following:–

"**6.** Options Hearing or Child Welfare Hearing – To include preparation for and conduct of (each of) an Options Hearing or a Child Welfare Hearing and noting interlocutor–

| | | |
|---|---|---|
| (a) | where initial hearing does not exceed one half hour; | £209.80 |
| (b) | where initial hearing exceeds one half hour – for every extra quarter hour; | £ 31.30 |
| (c) | where hearing continued, for each continued hearing that does not exceed one half hour; | £105.00 |
| (d) | where continued hearing exceeds one half hour – for every extra quarter hour; | £52.60"; and |

(f) before paragraph 8 (debate other than on evidence) there shall be inserted the following:–

"**7A.** *Case Management Conference – Commercial Action–*

| | | |
|---|---|---|
| (a) | to include preparation for and all work incidental thereto prior to the first case management conference; | £167.70 |
| (b) | to include preparation and all work incidental thereto prior to each subsequent conference; | £ 83.90 |
| (c) | for every quarter hour engaged at conference; | £ 31.30 |
| (d) | waiting time – per quarter hour; | £ 28.20 |

NOTE: *Where case management conference takes place by way of telephone or other remote means the foregoing charges shall apply.*

**7B.** *Note of Arguments – Commercial Action–*

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|---|---|---|
| (a) | fee for lodging and intimating or for considering first Note of Arguments; | £147.10 |
| (b) | for each Note lodged thereafter; | £ 52.60". |

(g) after paragraph 14A (withdrawal of solicitors) there shall be inserted the following:–

"**14B.** *Attendance not otherwise provided for–*

Court attendance not otherwise provided for–

| | | |
|---|---|---|
| (a) | where hearing does not exceed one half hour; | £ 62.60 |
| (b) | where hearing exceeds one half hour – for every extra quarter hour; | £ 31.30". |

(4) In paragraph 12(a) of Chapter III for the figure "£2.00" there shall be substituted the figure "£2.70".

**Amendment of Table of Fees of witnesses**

**3.**—(1) The Table of Fees set out in the Act of Sederunt (Fees of Witnesses and Shorthand Writers in the Sheriff Court) 1992(**3**) shall be amended in accordance with the following sub-paragraph.

(2) In Schedule 1 (witness fees), at the end of paragraph 1, there shall be inserted the following:–

"provided that the court grants a motion to that effect not later than the time at which it awards expenses and the witness's name is recorded in the interlocutor".

**Saving**

**4.** Paragraphs 2 and 3 shall not affect fees chargeable for work done, or outlays incurred, before 4th May 2004.

Cullen of Whitekirk

Edinburgh
26th March 2004

Lord President, I.P.D.

(**3**) S.I. 1992/1878; last amended by S.S.I. 2002/280.

SCHEDULE

| *(1)*<br>*Provision* | *(2)*<br>*Old Fee £* | *(3)*<br>*New Fee £* |
|---|---|---|
| Chapter I, Part I: | | |
| 1. (a) | 204.30 | 209.80 |
| (b) | 163.30 | 167.70 |
| (bb) | 45.80 | 47.00 |
| 2. (a) | 713.70 | 733.00 |
| 3. (a) | 637.30 | 654.50 |
| Chapter I, Part II | | |
| TABLE A: 1. | 502.00 | 515.60 |
| 2. | 356.80 | 366.40 |
| 3. | 109.80 | 112.80 |
| 4. | 970.30 | 996.50 |
| TABLE B: 1. | 413.10 | 424.30 |
| 2. | 198.80 | 204.20 |
| 3. | 109.80 | 112.80 |
| 4. | 722.60 | 742.10 |
| TABLE C: 1. | 198.80 | 204.20 |
| 2. | 116.40 | 119.50 |
| 3. | 315.80 | 324.30 |
| Chapter II, Part II | | |
| 1A. | 310.30 | 318.70 |
| 1. (a) | 561.00 | 576.20 |
| 2. | 51.20 | 52.60 |
| 3. (a) | 61.20 | 62.90 |
| (b) | 30.50 | 31.30 |
| 4. (a) | 255.50 | 262.40 |
| (b) | 153.20 | 157.30 |
| (c) | 61.20 | 62.90 |
| (d) | 81.70 | 83.90 |
| 5. | 20.30 | 20.90 |
| 7. | 203.10 | 208.60 |
| | 30.5 | 31.30 |
| 8. (a) (i) | 163.30 | 167.70 |

| *(1)*<br>*Provision* | *(2)*<br>*Old Fee £* | *(3)*<br>*New Fee £* |
|---|---|---|
| (ii) | 30.50 | 31.30 |
| (b) | 27.50 | 28.20 |
| (c) | 27.50 | 28.20 |
| 9. (a) | 102.00 | 104.80 |
| (b) | 30.50 | 31.30 |
| (c) | 27.50 | 28.20 |
| (d) | 27.50 | 28.20 |
| 10. (a) | 112.40 | 115.40 |
| (b) | 14.30 | 14.70 |
| 11. (a) (i) | 306.40 | 314.70 |
| (ii) | 204.30 | 209.80 |
| (iii) | 61.20 | 62.90 |
| (b) (i) | 204.30 | 209.80 |
| (ii) | 102.00 | 104.80 |
| (iii) | 30.50 | 31.30 |
| (iv) | 27.50 | 28.20 |
| (v) | 27.50 | 28.20 |
| 12. (a) (i) | 112.30 | 115.30 |
| (ii) | 27.50 | 28.20 |
| (b) (i) | 61.20 | 62.90 |
| (ii) | 27.50 | 28.20 |
| (c) (i) | 112.30 | 115.30 |
| (ii) | 30.50 | 31.30 |
| (d) | 27.50 | 28.20 |
| (e) | 27.50 | 28.20 |
| 13. (a) (i) | 102.00 | 104.80 |
| (ii) | 41.00 | 42.10 |
| (iii) | 27.50 | 28.20 |
| (b) (i) | 81.70 | 83.90 |
| (ii) | 41.00 | 42.10 |
| (iii) | 27.50 | 28.20 |
| (c) | 102.00 | 104.80 |
| 14. (a) (i) | 143.20 | 147.10 |
| (ii) | 61.20 | 62.90 |