SCOTTISH STATUTORY INSTRUMENTS

2002 No. 567

SHERIFF COURT

Act of Sederunt (Fees of Sheriff Officers) (No. 2) 2002

Made - - - -	*20th December 2002*
Laid before the Scottish Parliament - - - -	*23rd December 2002*
Coming into force - -	*30th December 2002*

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**), section 6 of the Execution of Diligence (Scotland) Act 1926(**2**) 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 Sheriff Officers) (No. 2) 2002 and shall come into force on 30th December 2002.

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

Fees of sheriff officers

2. Schedule 1 to this Act of Sederunt shall have effect in respect of work carried out by a sheriff officer in relation to causes in, or work authorised by the sheriff court, and the fees specified are the fees payable to a sheriff officer in respect of that work.

Application, revocation and saving

3.—(1) Schedule 1 to this Act of Sederunt applies to work done on or after the date on which this Act of Sederunt comes into force.

(2) The Acts of Sederunt specified in Schedule 2 to this Act of Sederunt are hereby revoked.

(**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**) 1926 c. 16.

(3) Notwithstanding the revocation in sub-paragraph (2), the Act of Sederunt (Fees of Sheriff Officers) 1994(**3**) shall continue to have effect in respect of work done—

(a) before the date on which this Act of Sederunt comes into force; and

(b) in relation to enforcement of a debt by poinding or warrant sale insofar as such enforcement continues to be competent by virtue of section 57 of the Debt Arrangement and Attachment (Scotland) Act 2002.

Edinburgh
20th December 2002

W. Douglas Cullen
Lord President I.P.D.

(**3**) S.I. 1994/392, amended by S.I. 1994/3267, S.I. 1995/3095, S.I. 1996/2858, S.I. 1997/2824, S.I. 1998/2669, S.S.I. 1999/150, S.S.I. 2000/419, S.S.I. 2001/439 and S.S.I. 2002/515

SCHEDULE 1 Paragraph 2

GENERAL REGULATIONS

1. Subject to the following paragraphs, the fees payable to a sheriff officer in relation to an ordinary cause or a summary cause, as the case may be, shall be calculated in accordance with the Table of Fees in this Schedule and shall be payable in respect of (a) all forms of service or intimation of a document, citation of a person or execution of diligence and all other work authorised by the court and (b) recovery of rates, charges or taxes by summary warrant, any of which is executed by a sheriff officer during the normal business hours of 9.00am to 5.00pm.

2. Fees in relation to service or intimation of a document, citation of a person or diligence which, of necessity, is executed outwith normal business hours shall be surcharged by the levying of an additional fee of–

(a) 331/3 per cent of the fee specified in the Table of Fees, where it is executed on a week day between the hours of 5.00pm and 10.00pm; and

(b) 75 per cent of the fee specified in the Table of Fees, where it is executed on a week day after 10.00pm or before 9.00am or on a Saturday, Sunday or a public holiday.

3.—(1) There shall be three bands of charge in the Table of Fees in accordance with which fees shall be payable.

(2) The three band of charges shall be–

(a) Band 1 – up to 12 miles;

(a) Band 2 – over 12 miles and up to 18 miles; and

(c) Band 3 – over 18 miles

(3) A fee is payable in respect of one band of charge only for any item.

(4) Unless by special arrangement between a sheriff officer and the instructing agent, the bands of charge shall be calculated according to the distance between the court house where the warrant was granted and the place of execution or the distance from the place of business of the nearest sheriff officer within the Sheriff Court district to the place of execution, whichever is the lesser.

4. An additional fee may be negotiated between a sheriff officer and the instructing agent by prior agreement in the following circumstances–

(a) where the sheriff officer is standing by awaiting the delivery or uplifting of a document for immediate service;

(a) where the sheriff officer has to instruct an huissier or other officer of court outwith Scotland to serve a document; or

(c) where there is no prescribed fee and the importance, urgency and value of the work involved necessitates an additional fee.

5. All reasonable outlays, excluding postage, but including any recorded delivery cost exclusive of postage in respect of items 1(b) and 1(c) in the Table of Fees, necessarily incurred by a sheriff officer in carrying out lawful instructions shall be charged in addition to a fee specified in the Table of Fees in this schedule.

6. Every fee note rendered by a sheriff officer shall be so detailed that the fees charged by him may be easily checked against the Table of Fees; and any fees agreed under paragraph 4 above and any allowable outlays shall be clearly narrated as such. The fee note shall be reviewed by the sheriff officer to ensure that it is fair and reasonable in the circumstances and shall be adjusted by him if necessary.

7. Discounting of fees is permitted only between sheriff officers.

8. Any restriction or modification made by a sheriff officer of fees recoverable from a person shall be passed on to that person only.

9. Time will be charged in units of 30 minutes or part thereof; and, in respect of the following items in the Table of Fees, shall apply from the end of the first hour at the place of execution until completion: 2.5(c), 6(b)(i) and (ii), 7(b), 8(b), 9(b), 10(b) and 11(b).

10. Where a sheriff officer has to use a ferry, he and any witness shall be allowed the necessary cost of the ferry, all reasonable subsistence and the time for boarding, crossing and returning, which shall be charged on a time basis.

11. Where a sheriff officer is required to attend before a notary public, commissioner or other person or as a witness, a fee for such attendance by the sheriff officer and any other witness shall be chargeable on a time basis.

12. Where enquiries are necessary in order to execute service, intimation, citation, diligence or any other work authorised by the court, a fee for such enquiries shall be chargeable on a time basis.

13. Where personal service is to be carried out under item 1(a)(i) in the Table of Fees and more than one visit is required, each additional visit shall be charged at 50 per cent of the fee specified in that item.

14.—(1) Where, in an attachment, the appraised value of an article exceeds the sum recoverable, the fee specified in the Table of Fees in this schedule shall be calculated in accordance with the sum recoverable and not the appraised value.

(2) Where, in an attachment, a debtor or other occupier of the premises claims that goods are subject to a hire purchase agreement or are otherwise the property of someone other than the debtor, but refuses or is unable to produce evidence to that effect, the sheriff officer may attach the goods and shall add a note on the schedule of the attachment stating that the debtor has claimed that goods are subject to a hire purchase agreement or are otherwise the property of someone other than the debtor, as the case may be.

15. The fees payable to a sheriff officer in respect of recovery of rates, charges or taxes by summary warrant shall be calculated in accordance with the fees specified in the Table of Fees for ordinary causes.

16. A sheriff officer supplying services to any other person in respect of which fees are payable to him under this Schedule shall–

(a) if he is a taxable person within the meaning of the Value Added Tax Act 1983; and

(a) if the supply is a taxable supply within the meaning of that Act,

make charges to that person in addition to the charges in respect of that fee, being such additional charge as amounts to the value-added tax payable under the Act in respect of the supply of those services.

17. In this Schedule, unless the context otherwise requires–

"the Act of 1987" means the Debtors (Scotland) Act 1987 (c. 18);

"the Act of 2002" means the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17);

"apprehension" means apprehending, detaining and taking to and from court or prison;

"arranging" means accepting instructions, checking for competency, reserving time, advising instructing agent, making all necessary arrangements, intimation and service (where necessary) prior to execution;

"possession" means searching, taking possession and delivery;

"postal diligence" means service of any diligence, which may be served by post, by registered post or the first class recorded delivery service;

"postal service" means service or intimation by registered post or the first class recorded delivery service;

"service" means service or intimation of any document under a rule of court or an order of the court and includes accepting instructions, preparation, postage and service or intimation of any ancillary form or other ancillary document.

(2) TABLE OF FEES PAYABLE TO SHERIFF OFFICERS

Item	Summary Cause			Ordinary Cause		
	Band 1 £	Band 2 £	Band 3 £	Band 1 £	Band 2 £	Band 3 £
1. Service or intimation of a document						
(a) Service						
(i) each person at a different address	£23.25	£35.90	£46.50	£38.05	£55.90	£72.90
(ii) each additional person at the same address or additional copy required to be served or intimated under the Act of 1987 and the Act of 2002	£7.80	£7.80	£7.80	£12.70	£12.70	£12.70
(b) Postal service	£11.25	£11.25	£11.25	£18.80	£18.80	£18.80