SCOTTISH STATUTORY INSTRUMENTS

2002 No. 270

COURT OF SESSION

The Court of Session etc. Fees Amendment Order 2002

Made - - - -	*5th June 2002*
Laid before the Scottish Parliament - - - -	*7th June 2002*
Coming into force - -	*1st July 2002*

The Scottish Ministers, in exercise of the powers conferred by section 2 of the Courts of Law Fees (Scotland) Act 1895(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Court of Session etc. Fees Amendment Order 2002 and shall come into force on 1st July 2002.

Amendment of Fees Order

2.—(1) The Court of Session etc. Fees Order 1997(**2**) shall be amended in accordance with the following paragraphs.

(2) For article 5 (exemption of certain persons from fees in simplified divorce applications) substitute–

"**Exemption of certain persons from fees**

5. A fee regulated by this Order shall not be payable by a person–

(a) who is in receipt of income support, working families' tax credit or disabled person's tax credit under Part VII of the Social Security Contributions and Benefits Act 1992(**3**);

(**1**) 1895 c. 14; section 2 was amended by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12), section 4 and by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I.1999/1820), article 2 and Schedule 2, paragraph 9. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) S.I. 1997/688 as amended by S.I. 1999/755.

(**3**) 1992 c. 4. Section 124, which provides for income support, was amended by the Jobseekers Act 1995 (c. 18), section 41 and Schedules 2 and 3 and by the Welfare Reform and Pensions Act 1999 (c. 30), section 70 and Schedule 8, Part IV, paragraph 28. Section 128, which provides for working families' tax credit, was amended by the Tax Credits Act 1999 (c. 10), section 1(2) and Schedule 1, paragraphs 1(a) and (b) and 2(g) and by the Jobseekers Act 1995, section 41(4) and Schedule 2, paragraph

(b) who is in receipt of an income-based jobseeker's allowance (payable under the Jobseekers Act 1995(**4**));

(c) who is in receipt of civil legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986(**5**) in respect of the matter in the Table of Fees in connection with which the fee is payable;

(d) where the fee is payable in connection with a simplified divorce application and the person is in receipt of advice and assistance from a solicitor under the Legal Aid (Scotland) 1986 in respect of that application; or

(e) where the person's solicitor is undertaking work in relation to the matter in the Table of Fees in connection with which the fee is payable on the basis of any regulations made under section 36 of the Legal Aid (Scotland) Act 1986 providing for legal aid in a matter of special urgency.".

(3) For the Table of Fees in Schedule 1(**6**) substitute the Table of Fees set out in the Schedule to this Order.

St Andrew's House,Edinburgh
5th June 2002

JAMES WALLACE
A member of the Scottish Executive

33. Section 129, which provides for disabled person's tax credit, was amended by the Tax Credits Act 1999, sections 1(2) and 14(1) to (5) and Schedule 1, paragraphs 1(a) and (b) and 2(h), the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 10(2) and (3) and 11(1) and Schedule 1, paragraph 32, the Welfare Reform and Pensions Act 1999, section 88 and Schedule 13, Part IV, the Jobseekers Act 1995, section 41(4) and Schedule 2, paragraph 34 and by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraph 2.

(**4**) 1995 c. 18.

(**5**) 1986 c. 47. Section 13(2) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), section 74 and Schedule 8, paragraph 36(3).

(**6**) Schedule 1 was substituted by S.I. 1999/755, article 2(4).

SCHEDULE Article 2(3)

TABLE OF FEES

Column 1 *(Matters)*	*Column 2* *(Fee payable)*	*Column 3* *(Fee formerly payable(7))*
PART I –FEES IN THE CENTRAL OFFICE OF THE COURT		
A. SIGNETING		
Signeting of any writ or summons, if attendance is necessary outwith the normal office hours	£62.00	*£57.00*
B. GENERAL DEPARTMENT		
1. Appeal, summons, or other writ or step by which any cause or proceeding, other than a family action, is originated in either the Inner or Outer House – fee (to comprehend signeting in normal office hours)	£106.00	*£97.00*
2. Defences, answers or other writ (including a joint minute) or step in process or enrolment or opposition to a motion in a pending process by which a party other than an originating party first makes an appearance in a course or proceeding other than a family action	£106.00	*£97.00*
3. Writ by which a family action is originated (other than a simplified divorce application) – inclusive fee (to comprehend signeting within normal office hours and, if applicable, issue to the pursuer of an extract in terms of item G5(a) of this Table, and to the defender, if appropriate, of a duplicate thereof)	£81.00	*£74.00*
4. Simplified divorce application (inclusive of all procedure other than that	£62.00	*£57.00*

(7) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

Column 1 (Matters)	*Column 2 (Fee payable)*	*Column 3 (Fee formerly payable(7))*
specified in item B5 of this Table)		
5. In relation to a simplified divorce application, citation of any persons under rule 16.1(1)(a)(i), (ii) or (iii), as applied by rule 49.76, of the Rules of Court, or intimation to any person or persons under rule 16.1(1)(a)(i), (ii) or (iii), as applied by rule 49.76, of those Rules, where such intimation is required.	£41.00	*£38.00*
6. Defences, answers or other writ (including a joint minute) or step in process or enrolment of or opposition to a motion in a pending process by which a party other than an originating party first makes appearance in a family action	£81.00	*£74.00*
7. Fee for initial lodging of affidavits in a family action where proof by affidavit evidence has been allowed	£35.00	*£32.00*
8. Special case–		
For each party	£53.00	*£49.00*
Maximum fee payable per case	£215.00	*£197.00*
9. Application by minute or motion for variation of an order in a family action	£19.00	*£17.00*
10. Answers or opposition to an application under item B9 of this Table	£19.00	*£17.00*
11. Letter of request to a foreign court	£27.00	*£25.00*
12. Citation of each jury, to include outlays incurred in citing and countermanding – payable on receipt of instruments for issue of precept	£149.00	*£137.00*

(7) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

Column 1 (Matters)	*Column 2 (Fee payable)*	*Column 3 (Fee formerly payable(7))*
13. Reclaiming motion – fee payable by party enrolling motion	£106.00	*£97.00*
14. Closed record – fee payable by each party on the lodging of the closed record or, where no closed record is lodged, when mode of enquiry is determined	£53.00	*£49.00*
15. Allowing proof, etc. – fee payable by each party on diet of proof, jury trial, procedure roll or summar roll hearing being allowed	£28.00	*£26.00*
16. Proof or Procedure Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£16.00	*£13.00*
17. Summar Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£33.00	*£26.00*
18. Jury Trial – fee payable by each party appearing at the trial for every 30 minutes or part thereof	£16.00	*£13.00*
19. Outer House hearing other than items B16, B18, B21 and B24 of this Table – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£16.00	*£13.00*
20. Inner House hearing other than items B17, B22 and B24 of this Table – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£33.00	*£26.00*
21. Motion Roll hearing – fee payable by each party appearing at the hearing after first 30 minutes – for every 30 minutes or part thereof	£16.00	*£13.00*

(7) Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755) before the coming into force of this Order. Where there is no entry in column 3 but an entry in column 2 in respect of any particular matter, the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.