SCOTTISH STATUTORY INSTRUMENTS

2002 No. 269

SHERIFF COURT

The Sheriff Court 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 Sheriff Court Fees Amendment Order 2002 and shall come into force on 1st July 2002.

Amendment of Fees Order

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

(2) For article 7 (exemption of certain persons from fees in simplified divorce applications) substitute–

"**Exemption of certain persons from fees**

7.—(1) A fee to which this article applies 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. 1997/687 as amended by S.I. 1999/754.

(**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) Act 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.

(2) This article applies to all fees regulated by this Order except–

(a) the fees specified in Part I (Commissary proceedings) of the Table of Fees; and

(b) in Part II (sheriff court proceedings) of the Table of Fees, the fee specified in paragraph 19 (petition for removal of disqualification).".

(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) and (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. 1999/754, article 2(3).

SCHEDULE Article 2(3)

TABLE OF FEES

Column 1 *(Matters)*	*Column 2* *(Fee Payable)*	*Column 3* *(Fee Formerly Payable)(7)*
PART I –COMMISSARY PROCEEDINGS		
1. Petition for (a) appointment of executor, (b) restriction of caution, (c) special warrant, (d) sealing up of repositories or the like, or (e) appointment of Commissary factor	£11.00	*£10.00*
2. Sealing up repositories or the like, per hour	£16.00	*£15.00*
(a) (a) Receiving and examining inventory of estate, except where sub-paragraph (b) or (c) 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(**8**) is required does not exceed–		
£5,000	No fee	*No fee*
£50,000	£81.00	*£74.00*
(ii) where the amount of the said estate exceeds £50,000	£114.00	*£105.00*

(**7**) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754) 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.

(**8**) 1892 c. 6.

Column 1 *(Matters)*	*Column 2* *(Fee Payable)*	*Column 3* *(Fee Formerly Payable)(7)*
(b) (b) Receiving and examining additional or corrective inventory of estate or inventory of estate *ad non executa*	£81.00	*£74.00*
(c) (c) Receiving and examining inventory of estate where it is declared that confirmation is not required:		
NOTE: The fees payable shall be half those specified in sub-paragraph (a) or (b) of this paragraph. If confirmation is subsequently required the remaining half of the fees specified in sub-paragraph (a) or (b) shall be payable		
4. Commissary copying and extracting		
(1) Issuing certificate of confirmation		
(a) (a) if ordered when lodging inventory – each certificate	£3.00	*£3.00*
(b) (b) if ordered subsequent to lodging inventory–		
(i) first certificate – including search fee	£10.00	*£9.00*
(ii) each subsequent certificate	£3.00	*£3.00*
(2) Copy or duplicate confirmation–		
(a) (a) if ordered when lodging inventory	£5.00	*£5.00*
(b) (b) if ordered subsequent to lodging inventory–		

(7) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754) 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)*
(i) first duplicate – including search fee	£12.00	*£11.00*
(ii) each subsequent duplicate if ordered at the same time as the first duplicate	£5.00	*£5.00*
(3) Certified extract confirmation and will (if any)–		
(a) (a) if ordered when lodging inventory	£12.00	*£11.00*
(b) (b) if ordered subsequent to lodging inventory–		
(i) first certified extract – including search fee	£19.00	*£17.00*
(ii) each subsequent certified extract if ordered at the time of the first certified extract	£12.00	*£11.00*
(4) Copy will–		
(a) (a) if ordered when lodging inventory	£3.50	*£3.50*
(b) (b) if ordered subsequent to lodging inventory–		
(i) first copy – including search fee	£10.00	*£9.50*
(ii) each subsequent copy, if ordered at the same time as the first copy	£3.50	*£3.50*
5. Application under section 4 of the Requirements of Writing (Scotland) Act 1995(**9**)	£11.00	*£10.00*
PART II –SHERIFF COURT PROCEEDINGS		
6. Initial writ in any proceedings not being proceedings for which any	£50.00	*£46.00*

(**7**) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754) 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.

(**9**) 1995 c. 7.