1953 No. 1832 (S. 123)

Act of Sederunt (Sheriff Court Witnesses' Fees) 1953

Made - - - -	11*th December*, 1953
Laid before Parliament	14*th December*, 1953
Coming into Operation	7*th January*, 1954

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(a), as amended, and by section 35 of the Administration of Justice (Scotland) Act, 1933(b) and of all other powers competent to them in that behalf do hereby enact as follows :—

1. The provisions of the Act of Sederunt of 7th May 1935 anent Fees of Solicitors and Others in the Sheriff Court(c), in so far as relating to Witnesses' Fees, shall be repealed, and in lieu thereof the provisions of the Schedule appended hereto shall apply in the Sheriff Court (other than the Small Debt Court) in Taxations under both Scale I and Scale II.

2. The Auditors' Fees prescribed by the said Act of Sederunt of 7th May, 1935 shall be increased by one hundred per cent.

3. This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Witnesses' Fees) 1953 and shall come into operation on the 7th day of January 1954.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

T. M. Cooper,
I.P.D.

Edinburgh,
11th December, 1953.

SCHEDULE

Witnesses' Fees

(*a*) Professional persons, persons in managerial or like executive positions, and officers in H.M. Services or in the Mercantile Marine, per day,

Such sum not exceeding £5 5s. as the Auditor may determine.

(*b*) Witnesses whose attendance entails loss of wages or payment of substitutes, per day,

Such sum not exceeding 15s. as the Auditor may determine plus loss of wages or cost of a substitute as vouched to the Auditor's satisfaction.

(*c*) Other witnesses, per day

Such sum, not exceeding 15s. per day as the Auditor may determine.

NOTES

1. In addition to the foregoing, Witnesses shall be allowed (*a*) a travelling allowance, being such sum as the Auditor may determine to have been necessarily incurred by the witness in travelling from and to his residence or place of business and the Court; and (*b*) a subsistence allowance, being such sum as the Auditor may determine to have been reasonably incurred by the witness for the extra cost of subsistence during his absence from his home or place of business for the purpose of giving evidence, and, where the witness is necessarily detained

(a) 7 Edw. 7. c. 51. (b) 23 & 24 Geo. 5. c. 41.
(c) S.R. & O. 1935/488; Rev. XX, p. 880; 1935, p. 1588.

overnight, for the cost of board and lodging. Provided that (i) the amount of such travelling and subsistence allowances shall be fixed on the basis of no more than reimbursing to the witness any out-of-pocket expenses necessarily incurred by him, and (ii) the subsistence allowance in respect of the period on any one day during which the witness is necessarily absent from his residence or place of business for the purpose of giving evidence shall not exceed,—

(*a*) where the said period is not more than 4 hours five shillings; and

(*b*) where the said period is more than 4 hours ten shillings;

and where the said period extends overnight an additional payment not exceeding thirty shillings per night shall be allowed.

2. Receipts and vouchers for all sums stated to have been paid to witnesses shall be produced to the opposite party and to the Auditor if required by him.

3. In the case of maritime witnesses detained ashore to give evidence, no longer than 14 days detention shall be allowed against an opposite party, and then only when notice of intention to detain has been given.

4. Charges for the attendance of witnesses present at a proof or trial but not examined nor held as concurring with another witness may be allowed provided that a motion to this effect is made at the close of the proof or trial and the Court grants the same, and the names of the witnesses are duly noted.

5. In cases where it is necessary to employ skilled persons to make investigations prior to a proof or trial in order to qualify them to give evidence thereat, charges therefor, and for their attendance at such proof or trial, shall be allowed in addition to the ordinary witness fees of such persons at such rate in the discretion of the Auditor as shall be fair and reasonable for each skilled person if the Sheriff shall, on a motion made or lodged not later than the application of the verdict in the case of a trial, or within seven days of the issue of the judgment in the case of a proof, or, if the judgment is issued in vacation, within the first seven days of the ensuing session, certify such persons for additional remuneration as skilled witnesses.

6. The fees charged for witnesses examined at a trial or proof shall be stated in the body of the account in a lump sum and the details of the charges shall be entered in a separate schedule appended to the Account as follows:—

Name and Designation	Where from	Days Charged	Rate per day	Travelling and Subsistence Allowance	Total	Taxed off

The fees for witnesses not examined shall be entered in the Schedule separately and included in the lump sum.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt, but is intended to indicate its general purport.)

This Act of Sederunt amends the rules applicable to Witnesses' Fees in the Sheriff Court and increases the Sheriff Court auditor's fees.