1963 No. 133 (S. 5)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Alteration of Sheriff Court Fees) 1963

Made - - - -	*22nd January* 1963
Laid before Parliament	*30th January* 1963
Coming into Operation	*1st April* 1963

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 2 of the Courts of Law Fees (Scotland) Act 1895(a), and by section 40 of the Sheriff Courts (Scotland) Act 1907(b), as amended, and of all other powers competent to them in that behalf, and with the approval and concurrence of the Treasury, do hereby enact as follows :—

1. *Interpretation*—In this Act of Sederunt—

"Defender", "compearer" and "party" shall, respectively, include a set of defenders, compearers and parties, with the same interest, for whom one first paper has been lodged.

"Writ" and "paper" shall include inventory of personal estate, summons, petition, application, appeal bringing an action into the Sheriff Court, precept of arrestment on a liquid document of debt, note of objections, notice of appearance, answers, defences, statement in writing, or other written pleading, in a cause or proceeding.

"Decree" in section 20 of A, Part II, shall include licence, appointment, discharge, certificate of registration of a club, or other written statement of the Sheriff's decision in any proceeding under sections 16 or 26 of A, Part II.

"Appeal" shall include the transfer of an action to the Court of Session at the instance of a party.

"Sheet" shall mean 250 words or part thereof.

"Sheriff" shall include Sheriff-substitute.

"Sheriff Clerk" shall include Commissary Clerk of Edinburgh, Sheriff Clerk of Chancery, and Sheriff Clerk Depute.

2. The fees payable to Sheriff Clerks shall be those specified in the table annexed hereto, and no other or higher fees shall be charged by them, nor shall any addition be made thereto in respect of postage or otherwise.

3. Sheriff Clerks shall be responsible for the collection of all fees specified in the table, and it shall be their duty to refuse to receive any paper chargeable with a fee, or to transmit any service or petition for completion of title for extract, or to allow any marking of an appeal, or other marking, to be made in respect of which a fee is payable, unless the appropriate fee has been paid ; and it shall further be their duty, when a fee is declared payable prior to any particular step being taken in a process, and such fee has not been paid by either party, to call the attention of the Sheriff to the matter ; and the Sheriff, unless the fee is thereupon paid, shall proceed

(a) 58 & 59 Vict. c. 14. (b) 7 Edw. 7. c. 51.

with the case as if the party by whom the unpaid fee is payable were absent or in default; save that in Workmen's Compensation cases no paper shall be refused or proceedings delayed in respect of the non-payment of a fee. In Workmen's Compensation cases, the Sheriff shall, on the application of the Sheriff Clerk, give decree, in the latter's favour, for the amount of any such unpaid fee, against the party in default, such decree to be operated as if it were given under the Small Debt Acts.

4. The fee in section 1 of A, Part I, shall cover extract. The *ad valorem* fees in section 3 of A, Part I, shall cover all proceedings, including correspondence, but not including petitions for appointment of executor, for restriction of caution, or for special warrants. The fee in section 6 of A, Part II, shall cover all proceedings, including extract, but not including appeal. The fees in sections 7 to 14 inclusive, and 21 to 25 inclusive, of A, Part II, shall cover all proceedings, including, in bankruptcy cases, the necessary extracts and abbreviates for the Accountant of Court and other Government departments. The fee in section 15 of A, Part II, shall cover all proceedings, including extract, but not including stated case. In criminal cases at the instance of a private prosecutor, when more persons than one are proceeded against in one complaint, the fee shall cover one extract conviction or order in respect of each person. The fees in sections 16 to 20 inclusive of A, Part II, shall cover all proceedings (except appeal or stated case) in any action or proceeding for which special fees are not provided elsewhere.

Any subsequent extracts or copies required shall be charged under section 4 of A, Part I, or section 1 of A, Part II. The extracting or copying fees, sections 4 (*b*) of A, Part I, and 1 (*c*) of A, Part II, shall be alternative fees to those in sub-section (*a*) of each of the said sections, in the option of the applicant. In litigated commissary, service of heirs, and bankruptcy cases, the same fees shall be charged as for similar business in the ordinary Sheriff Court.

When a small debt case is remitted to the ordinary roll, the parties shall pay fees as for an ordinary section, under deduction of any fees already paid.

5. No fees shall be payable in the first instance by any officer of the Crown in proceedings (other than small debt summonses and prosecutions for excise penalties under the Vehicles (Excise) Act 1962(a)) the expenses of which are payable by the Crown. When, however, such officer is found entitled to expenses, the Court fees shall be included and decerned for.

6. In Workmen's Compensation cases no fees shall be payable other than those prescribed in sections 27 to 33, both inclusive, of A, Part II; and no Court fee shall be payable by a workman. The party lodging a paper, or making any application, shall state in writing to the Sheriff Clerk whether he is, or represents, the employer or the workman.

7. No fees shall be payable on applications under the Acts for Registration of Births, Deaths, and Marriages.

8. All documents lodged shall be marked with the date of lodgment by the parties who lodge them.

9. The Books of Account to be kept by the Sheriff Clerks shall be in the form of the schedules hereto annexed.

10. The Act of Sederunt of 16th July 1929(b) is hereby repealed.

(a) 10 & 11 Eliz. 2. c. 13. (b) S.R. & O. 1929/585 (Rev. XX, p. 873: 1929, p. 1308).

11. This Act of Sederunt may be cited as the Act of Sederunt (Alteration of Sheriff Court Fees) 1963, and shall come into operation on 1st April 1963.

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

J. L. Clyde,
I.P.D.

Edinburgh,
22nd January 1963.

TABLE OF FEES FOR THE SHERIFF CLERKS OF SCOTLAND

A.—Fees to be Collected by Sheriff Clerks and Accounted for to the Queen's and Lord Treasurer's Remembrancer

Part I.—Commissary Proceedings

	£	s.	d.
1. Petition for appointment of executor	1	0	0
2. Petition for restriction of caution or for special warrant ...	1	0	0
3. Receiving and examining inventory of personal estate—			
(*a*) When the amount of the estate belonging beneficially to the deceased of which confirmation is required:			
(1) Does not exceed £1000			
For each £50 or part thereof	0	8	0
(2) Exceeds £1000 but does not exceed £5000—			
For the first £1000	8	0	0
and for each £500 or part of £500 thereafter ...	1	10	0
(3) Exceeds £5000 but does not exceed £10,000—			
For the first £5000	20	0	0
and for each £500 or part of £500 thereafter ...	1	0	0
(4) Exceeds £10,000—			
For the first £10,000	30	0	0
and for each £500 or part of £500 thereafter (with a maximum fee of £200)	0	10	0
(*b*) Additional and corrective inventories and eiks shall be charged at the above rates on the additional estate belonging beneficially to the deceased, of which confirmation is required.			
(*c*) Corrective inventories which make no addition to the total amount of moveable estate disclosed in the original inventory, and also inventories of estate *ad non executa* shall be charged only	0	8	0
(*d*) Where it is declared that confirmation is not required, fees at half the *ad valorem* rate shall be charged on receiving the inventory. If confirmation should subsequently be required, the remaining half of the fees shall then be charged.			
4. (*a*) Extracting or copying, per sheet	0	4	0
(*b*) Extracting or copying when three or more printed copies are supplied by the applicant—For each print	0	10	0
5. Inspection of one inventory or probate and relative will, where available (to include search of Calendar of Confirmations and current index or office books or papers showing the total amount of each inventory or probate recorded)	0	2	0

	£	s.	d.
6. Certifying English, Irish or Colonial probates or letters of administration—			
Gross estate sworn not to exceed £500	0	4	0
Gross estate sworn not to exceed £3000	1	0	0
Gross estate exceeding £3000	2	0	0

PART II.—SHERIFF COURT PROCEEDINGS

General (applicable to all business under Part II)

1. (*a*) Recording, extracting, or copying, per sheet	0	3	0
(*b*) Preservation of deeds, each	0	3	0
(*c*) Extracting or copying when three or more printed copies are supplied by the applicant—For each print	0	7	6
2. Single search, to include inspection, per hour	0	1	6
3. Inspection by a trade protection society or trade publication of protests, Act Books and Court Rolls—			
Weekly for three months (payable in advance)	0	15	0
Twice weekly for three months (payable in advance) ...	1	10	0
4. Appeal to Sheriff, Court of Session, or Court of Justiciary ...	0	15	0
5. Application for stated case	2	5	0

(NOTE:—*If the application is withdrawn, £1 10s. of this fee shall be repayable on the certificate of the Sheriff that the stated case has not been drafted.*)

Small Debt, and Summary Removings under Section 38 of the Sheriff Courts (Scotland) Act 1907, and proceedings under the Tenancy of Shops (Scotland) Act 1949, and the Housing (Repairs and Rents) (Scotland) Act 1954.

6. Summons, petition or sist for rehearing	0	6	0

Bankruptcy Proceedings

7. Petition for sequestration of estates	1	10	0
8. Act and warrant of trustee	1	2	6
9. Writing examination of bankrupt or minute of meeting, per sheet	0	3	0
10. Application (written or oral) for discharge of trustee	0	15	0
11. Petition for discharge of bankrupt or application for approval of composition or deed of arrangement	1	2	6
12. Request to act in aid of English Court of Bankruptcy	0	7	6

Service of Heirs

13. Petition for general or special service or completion of title, or note for a Crown or Prince's charter, writ or precept ...	3	0	0

Inferior Courts Judgment Extension Act

14. Any proceeding	0	7	6

Summary Jurisdiction Acts

15. Complaint	0	15	0

Ordinary and Miscellaneous

16. Initial writ in any proceeding for which no special fee is provided elsewhere	0	15	0
17. First paper, reponing, or attendance to state a defence, each defender or compearer	0	15	0
18. Closing of the record, each party	0	15	0
19. Proof, each party, for each day or part of a day	0	7	6
20. Extract of Decree	0	7	6

	£	s.	d.
21. Caveat, to be in operation for one month	0	3	0
22. Sealing up repositories, or the like, per hour	0	7	6
23. Summary warrant for recovery of rates	1	10	0
24. Recording protest of a bill or promissory note	0	7	6
25. Lodging each set of plans or other Parliamentary deposit ...	1	10	0
26. Application for registration of a club	1	10	0

Proceedings under the Workmen's Compensation Acts

27. Examining memorandum of agreement (to include recording thereof) 0 15 0

This fee shall be payable by the employer. If the memorandum is presented by him or on his behalf, the fee shall be payable on presentation. If the memorandum is presented by a workman, the fee shall be payable within seven days of the despatch of the notice to the employer, unless he disputes the genuineness of the agreement or objects to its being recorded, in which cases the fee shall not be payable until the Sheriff directs the memorandum to be recorded, or the employer consents in writing to its being recorded.

No fee shall be chargeable for a memorandum of agreement to end compensation (by lump sum payment or otherwise) that was fixed by a recorded memorandum of agreement, the date of which is specified in the later memorandum.

28. On lodging or making of the following applications, or for appearance to oppose, or object to, any of them, whether these applications or appearances are in writing or otherwise, namely 0 7 6

(1) For award, or fixing, of compensation.

(2) For review of, or to end, compensation.

(3) For special warrant to record memorandum of agreement.

(4) For reference, or appeal, to a medical referee.

29. Proof by sworn evidence in any application under the Acts, each day 0 7 6

30. Appeal from the Sheriff Clerk to the Sheriff 0 7 6

31. Application for stated case 2 5 0

(NOTE:—*If the application is withdrawn, £1 10s. of this fee shall be repayable on the certificate of the Sheriff that the stated case has not been drafted.*)

32. On payment into Court of lump sum compensation, including children's allowance, if any (payable by the party making the payment into Court).

First £20, no fee.

For each £20, or part thereof, after the first £20 ... ... 0 15 0

Maximum fee £3.

33. Copies and extracts, per sheet 0 3 0

B.—CHANCERY EXTRACTS

Sheriff Clerks, other than the Sheriff Clerk of Chancery, shall collect and account to the Keeper of the Registers of Scotland for the fees of extracts coming from his department.

SCHEDULE A.—COMMISSARY FEES

Sheriff Clerk's Office .....

Date	Description	Name of Deceased	Agent	Fees	Daily Totals
				£ s. d.	£ s. d.

SCHEDULE B.—SHERIFF COURT FEES

Sheriff Clerk's Office .....

Date	Agent	Paper, etc.	Name of Case	Register and Number	Fees for Cases in "A" Register	Fees for other Business	Small Debt Fees	Audit Fees	Daily Totals	Remarks
					£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	

EXPLANATORY NOTE

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

This Act of Sederunt repeals the Act of Sederunt of 16th July 1929, which prescribed the fees chargeable by Sheriff Clerks for Commissary and Sheriff Court proceedings and certain other matters, and prescribes a new scale of fees for all such proceedings other than jury trials.