STATUTORY INSTRUMENTS

# 1969 No. 1203 (S. 98)

# SHERIFF COURT, SCOTLAND

## Act of Sederunt (Alteration of Sheriff Court Fees) 1969

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| *Made - - -* | *20th August* 1969 |
| *Laid before Parliament* | *29th August* 1969 |
| *Coming into Operation* | *2nd October* 1969 |

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 by section 39 of the Administration of Justice (Scotland) Act 1933(b), and of all other powers competent to them in that behalf, do hereby enact and declare as follows:—

**1.** The following amendments are hereby made to the Act of Sederunt (Alteration of Sheriff Court Fees) 1967(c)—

(i) In the General Regulations contained in the Schedule thereto, Regulation 4 is deleted and a new Regulation 4 is substituted as follows:—

"4. In the Small Debt Court expenses as between party and party shall be regulated in accordance with the scale set forth in Chapter IV of this Table. As between solicitor and client, a solicitor shall have the option of charging either under Chapter IV, or under Chapter III less twenty per cent."

(ii) In the Table of Fees contained in the Schedule thereto, the heading Item 2 of Chapter I is deleted and a new heading is substituted as follows:—

"2. Actions of separation and aliment, adherence and aliment, and custody and aliment".

(iii) In the Table of Fees contained in the Schedule thereto, the second paragraph of Item 2 of Chapter I is deleted and a new paragraph is substituted as follows:—

"If the Pursuer's solicitor elects to charge this inclusive fee he shall endorse a Minute to that effect on the initial writ after the close of the proof and before extract of the decree is ordered and when the option is so exercised decree for expenses shall be granted against the defender for said sum together with the shorthand writer's fee actually charged in terms of the Table of Shorthand Writers' Fees in force from time to time and of other outlays up to £3 15s. without the necessity for taxation. If outlays in excess of £3 15s., excluding the shorthand writer's fee aforesaid, are claimed an account of such outlays shall be remitted to the Auditor of Court for taxation and the sum allowed for outlays shall be the amount of the account as taxed."

(iv) Chapter IV of the Table of Fees contained in the Schedule thereto is deleted and a new Chapter is substituted as follows:—

"CHAPTER IV—SMALL DEBT CASES

1. Fee for either party to cover all work from taking instructions up to and including attendance at first diet when necessary.

(a) 1907 c. 51. (b) 1933 c. 41. (c) S.I. 1967/1294 (1967 II, p. 3744).

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|---|---|---|---|---|
| (*a*) where sum sued for is under £20 ... ... ... | £1 | 0 | 0 |
| (*b*) where sum sued for is £20 or over or the proceedings are taken under Section 3 of the Sheriff Court (Civil Jurisdiction and Procedure) (Scotland) Act 1963(a) ... ... ... ... | 4 | 4 | 0 |
| 2. Attendance at Court on each occasion subsequent to the first diet. For each hour or part thereof ... ... | 1 | 0 | 0 |
| 3. Preparing for proof when proof allowed ... ... | 3 | 0 | 0 |

4. Where a case is remitted under Section 48 of the Sheriff Courts (Scotland) Act 1907(b) to the Ordinary Court Roll, the fees to the date of the remit shall be chargeable under this Chapter and thereafter under Chapters II or III.

5. Where a case is remitted under Rule 61 of the Sheriff Courts (Scotland) Act 1907(b) to be dealt with under the provisions of the Small Debts Acts, the fees to the date of the remit shall be chargeable under Chapters II or III and thereafter under Sections 2 and 3 of this Chapter.

6. Necessary outlays, including fees for witnesses calculated in accordance with the provisions of the Act of Sederunt (Sheriff Court Witnesses Fees) 1953(c) as amended or of any enactment which shall supersede that Act of Sederunt, shall be allowed in addition to the foregoing fees.

7. Fees for diligence in terms of Sections 13, 14 and 15 of Chapter III so far as applicable to diligence."

**2.** This Act of Sederunt may be cited as the Act of Sederunt (Alteration of Sheriff Court Fees) 1969 and shall come into operation on 2nd October 1969.

**3.** The amendments effected by this Act of Sederunt shall apply in relation to, and only in relation to, those actions and other litigations in which the first deliverance on the Initial Writ is dated on or after 2nd October 1969. In the case of each and every other action and litigation the General Regulations and Tables of Fees at present applicable thereto shall continue to apply as if this Act of Sederunt had not been made.

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

Edinburgh.
20th August 1969.

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

## EXPLANATORY NOTE

*(This Note is not part of the Act of Sederunt.)*

This Act of Sederunt amends the General Regulations for taxation of accounts and the Table of Fees in the Sheriff Court, by re-enacting with certain alterations the provisions relating to inclusive fees in certain undefended actions and the provisions relating to Small Debt Cases. It applies only to actions and other litigations in which the first deliverance on the Initial Writ is dated on or after 2nd October 1969.

(a) 1963 c. 22. (b) 1907 c. 51. (c) S.I. 1953/1832 (1953 II, p. 1935).