

2003 No. 194

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session Amendment)
(Fees of Solicitors) 2003**

Made

14th March 2003

Coming into force

1st April 2003

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 5 of the Court of Session Act 1988(a) and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment) (Fees of Solicitors) 2003 and shall come into force on 1st April 2003.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Increase in fees of solicitors and shorthand writers

2.—(1) The Table of Fees in rule 42.16 of the Rules of the Court of Session(b) shall be amended in accordance with the following sub-paragraphs.

(2) In the provisions mentioned in column 1 of Schedule 1 to this Act of Sederunt, for the amounts specified in column 2 of that Schedule, there shall be substituted the amounts specified in column 3.

(3) In Chapter III—

(a) in Part III, in Tables A and B the words “Add session fee” in column 1, “of 7½ %” in column 2, and “of 10½ %” in column 3 shall be omitted;

(b) in Part IV, paragraph 2(c) shall be omitted;

(c) in Part V, paragraph 21 shall be omitted; and

(d) after Part V, there shall be inserted Part VA (defended personal injuries actions commenced on or after 1st April 2003) set out in Schedule 2 to this Act of Sederunt.

Saving

3 Paragraph 2 shall not affect fees chargeable for work done, or outlays incurred before 1st April 2003.

W Douglas Cullen
Lord President, I.P.D.

Edinburgh
14th March 2003

(a) 1988 c.36. Section 5 was amended by section 2(3) of the Civil Evidence (Scotland) Act 1988 (c.32) and by paragraph 45 of Schedule 4 to the Children (Scotland) Act 1995 (c.36).

(b) S.I. 1994/1443, last amended by S.S.I. 2002/301.

SCHEDULE 1

<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
Chapter I:		
1(a)	12.30	13.80
(b)	5.10	5.70
(c)	18.10	20.30
3	5.10	5.70
4(a)	12.30	13.80
(b)	12.30	13.80
(c)	12.30	13.80
5(a)	24.50	27.50
(b)	24.50	27.50
(c)	24.50	27.50
(e)(i)	12.30	13.80
(ii)	12.30	13.80
(iii)	5.10	5.70
6(a)	12.30	13.80
(b)	2.50	2.80
(c)	5.10	5.70
Chapter III Part I:		
1(a)	220.40	247.40
Chapter III Part II:		
1	309.50	347.40
2	177.00	198.70
3(a)	45.40	51.00
(b)	65.60	73.60
(c)	81.50	91.50
4(a)	79.60	89.40
(b)	24.50	27.50
(c)	13.60	15.30
5(a)	73.60	82.60
(b)	24.50	27.50
7	220.40	247.40
8	67.90	76.20
Chapter III Part III:		
Table A:		
1 (column 2)	447.20	545.90
(column 3)	510.70	623.40
2 (column 2)	317.90	388.10
(column 3)	386.00	471.20
3 (column 2)	97.60	119.10
(column 3)	143.30	174.90
4 (column 2)	862.70	1053.10
(column 3)	1,039.90	1269.40
Table B:		
1 (column 2)	367.90	449.10
(column 3)	431.40	526.60
2 (column 2)	177.00	216.10
(column 3)	224.80	274.40
3 (column 2)	97.60	119.10
(column 3)	143.30	174.90
4 (column 2)	642.40	784.20
(column 3)	799.30	975.70
Table C:		
1	90.80	101.90
2	101.90	114.40
3	192.60	216.20
Chapter III Part IV:		
1(a)	458.70	514.90
(b)	635.50	713.30
2(a)	310.90	379.50

<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
3(a)	55.60	62.40
4	52.50	58.90
Chapter III Part V:		
1(a)	431.40	526.60
(b)	46.50	56.80
(c)	90.80	110.80
1A	276.40	337.40
2(a)	458.70	559.90
(b)	283.70	346.30
(c)(i)	46.50	56.80
(ii)	24.50	29.90
(d)	136.10	166.10
(e)	202.00	246.60
3(a)	90.80	110.80
(b)	24.50	29.90
(c)	67.90	82.90
4(a)	86.30	105.30
(b)	24.50	29.90
(c)	12.30	15.00
(d)	86.30	105.30
(e)	24.50	29.90
(f)	12.30	15.00
5	45.60	55.70
6(a)	97.70	119.30
(b)	13.60	16.60
7(a)	90.80	110.80
(b)	44.10	53.80
(ba)	82.10	104.60
(c)	24.50	29.90
(d)	136.30	44.30
(e)	23.50	29.90
8(a)	83.90	102.40
(b)	147.60	180.20
(c)	54.50	66.50
(d)	13.60	16.60
9(a)	202.00	246.60
(b)	90.80	110.80
(c)	24.50	29.90
10(a)	24.50	29.90
(b)	67.90	82.90
(c)	24.50	29.90
(d)	67.90	82.90
(e)	24.50	29.90
11	256.70	313.30
12(a)	67.90	82.90
(b)	24.50	29.90
(c)	99.80	121.80
(d)	45.90	56.00
(e)	232.40	283.70
(f)	129.30	157.80
13(a)	624.20	761.90
(b)	55.60	67.90
(c)	113.70	138.80
(d)	24.50	29.90
15(a)(i)	136.10	166.10
(ii)	90.80	110.80
(iii)	90.80	110.80
(b)	227.00	277.10
(c)	385.90	471.10
(d)	23.50	29.90
16	482.50	589.00

<i>(1)</i> <i>(provision)</i>	<i>(2)</i> <i>(old fee) £</i>	<i>(3)</i> <i>(new fee) £</i>
17	24.50	29.90
18	164.50	200.80
19	36.30	44.30
20(a)	183.90	224.50
(b)	55.60	67.90
Chapter III Part VI:		
1(a)	136.10	166.10
(b)	67.90	82.90
(c)	56.90	69.50
2(a)	164.50	200.80
(b)	81.50	99.50
(c)	55.60	67.90
3(a)	136.10	166.10
(b)	24.50	29.90
6	55.60	67.90

SCHEDULE 2

PART VA - DEFENDED PERSONAL INJURIES ACTIONS COMMENCED ON OR AFTER 1 APRIL 2003

	<i>Fee</i>
	<i>£</i>
1. Precognitions / Expert Reports / Factual Reports	
(a) Taking and drawing precognitions, per sheet	55.60
(b) Perusal fee for consideration of Reports (whether or not in the course of doing so he revises or adjusts it), half thereof, per sheet	27.80
2. Pre-Litigation Fee	
All work which the Auditor is satisfied has reasonably been undertaken in contemplation of, or preparatory to the commencement of proceedings particularly to include communications between parties in relation to areas of medical/quantum/discussion re settlement or such other sum as in the opinion of the Auditor is justified	336.70
3. Instruction	
(a) To cover all work (except as otherwise specially provided for in this Chapter) from commencement to the lodging of Defences	525.50
(b) Specification of Documents per Form 43.2-B	73.80
(c) In the event of the Summons being drafted without the assistance of Counsel or a Solicitor-Advocate such further fee will be allowed as the Auditor considers appropriate	179.10
(d) Instructing re-service where necessary	56.70
(e) If counterclaim lodged, additional fee for each party to include Answers	179.10
(f) Arranging commission to recover documents, citing havers, instructing Commission and shorthand writer and preparation for commission	100.00
(g) Attendance at execution of commission, to include travelling, per quarter hour of	29.90
(g) If alternative procedure adopted, a fee per person on whom order served of	44.20
(h) Fee for perusal of documents recovered under a specification of Documents (or by informal means) where not otherwise provided for in the Table of Fees, per quarter hour	29.90
4. Record	
(a) All work in connection with adjustment and closing of record	558.70
(b) All work as above, so far as applicable, where cause settled or disposed of before record closed	345.60
(c) If consultation held before record closed, additional fees may be allowed as follows–	
(i) arranging consultation	56.70
(ii) attendance at consultation, to include travelling, per quarter hour	29.90
(d) Additional fee to sub-paragraph (a) or (b), (to include necessary Amendments) to the pursuer and existing defender, to be allowed for each pursuer, defender or third party brought in before the record is closed, each of	165.80
(e) If an additional pursuer, defender or third party is brought in after the record is closed, an additional fee shall be allowed to the existing pursuer and the existing defender or defenders, each of	246.10

	<i>Fee</i>
	<i>£</i>
5. Valuation of claim	
(a) Fee to cover Note on Quantum/Valuation of Claim	358.20
(b) Opponent's fee for inspection of Valuation of Claim	179.10
(c) Inspection of documents, per quarter hour	29.90
6. Adjustment of issues and counter-issues	
(a) All work in connection with and incidental to the lodging of an issue, and adjustment and approval of it	105.10
(b) If one counter-issue, additional fee to pursuer of	29.90
7. By Order Roll/Variation of timetable order/Adjustment on Final Decree/Interim Payment of Damages	
(a) Fee to cover preparing and instruction of Counsel, to include attendance not exceeding half an hour	82.70
(b) Thereafter attendance fee, per additional quarter hour	29.90
(c) In the event of a separate Advising/Opinion and all work incidental thereto	82.70
8. Reports obtained under order of court excluding Auditor's Report	
(a) All work incidental to it	119.00
(b) Additional fee for perusal of report, per quarter hour or such other sum as in the opinion of the Auditor is justified	16.60
9. Incidental Procedure	
(not chargeable prior to approval of issue or allowance of proof) Noting diet, obtaining note on the line of evidence, etc, borrowing and returning process, consultation on the sufficiency of evidence	312.70
10. Specification of documents (if further Specification considered necessary)	
(a) Instructing counsel, revising and lodging and all incidental procedure to obtain a diligence up to and including obtaining interlocutor	110.60
(b) Fee to opponent	53.70
(c) Arranging commission to recover documents, citing havers, instructing commissioner and shorthand writer and preparation for commission	100.00
(d) Attendance at execution of commission, per quarter hour, of	29.90
(e) If alternative procedure adopted, a fee per person on whom order served, of	44.20
(f) Fee for perusal of documents recovered under a specification of documents (or by informal means) where not otherwise provided for in the Table of Fees, per quarter hour	29.90
11. Commission to take evidence on interrogatories	
(a) Applying for commission to cover all work up to and including lodging report of commission with completed interrogatories and cross-interrogatories	224.00
(b) Fee to opponent if cross-interrogatories lodged	179.80
(c) Fee to opponent if no cross-interrogatories lodged	67.00
(d) In addition to above, fee per sheet to each party for completed interrogatories or cross-interrogatories, including all copies, of	16.60

12. Commission to take evidence on open commission

(a) Applying for commission up to and including lodging report of commission, but excluding sub-paragraph (c)	246.10
(b) Fee to opponent	110.60
(c) Fee for attendance at execution of commission, to include travelling, per quarter hour, of	29.90

13. Miscellaneous motions and minutes where not otherwise covered by this Part

(a) Where attendance of counsel and/or solicitor not required	29.90
(b) Where attendance of counsel and/or solicitor required inclusive of instruction of counsel, not exceeding half hour	85.20
(c) Thereafter attendance fee, per quarter hour	29.90
(d) Instructing counsel for a minute/note on further procedure (if applicable), revising and lodging as a separate step in process including any necessary action	82.70
(e) Perusing a minute of admission or abandonment/note ordered by Court/notice of grounds	29.90

14. Amendment of record

(a) Amendment of conclusions only, fee to proposer	82.70
(b) Amendment of conclusions only, fee to opponent	29.90
(c) Amendment of pleadings after record closed, where no answers to the amendment are lodged, fee to proposer	121.60
(d) In same circumstances, fee to opponent	55.90
(e) Amendment of pleadings after record closed, where answers are lodged, fee for proposer and each party lodging answers	283.10
(f) Fee for adjustment of minute and answers, where applicable, to be allowed in addition to each party, of	157.50

15. Copying

For the copying of papers by whatever means—

- (a) where a copy is required to be lodged, or sent, in pursuance of any Rules 4.7, 22.1 and 22.3, such charge as the Auditor may from time to time determine (and he may make different provision for different classes of case); and
- (b) in any other case, if the Auditor determines (either or both) that—
 - (i) the copying had to be done in circumstances which were in some way exceptional;
 - (ii) the papers which required to be copied were unusually numerous having regard to the nature of the cause, such charge, if any, as the Auditor considers reasonable (but a charge based on time expended by any person in copying shall not be allowed).

Notes:

1. Where a determination is required under sub-paragraph (b), the purpose of copying, the number of copies made and the charge claimed shall be shown in the account.
2. Copying done other than in the place of business of the solicitor shall be shown as an outlay.

	<i>Fee</i>
	<i>£</i>
16. Preparation for proof or jury trial	
(to include fixing consultation on the sufficiency of evidence, fee-funding precept, citing witnesses, all work checking and writing up process and preparing for proof or jury trial)	
(a) If action settled before proof or jury trial, or lasts only one day, to include where applicable, instruction of counsel	760.30
(b) For each day or part of day after the first, including instruction of counsel	67.70
(c) Preparing for adjourned diets and all work incidental to it as in subparagraph (a), if adjourned for more than five days	138.50
(d) If consultation held before proof or jury trial, attendance at it, per quarter hour	29.90
17. Pre-trial meeting	
(a) Fee arranging pre-trial meeting (each occasion)	56.70
(b) Fee preparing for pre-trial meeting	298.50
(c) Fee attending pre-trial meeting, per quarter hour	29.90
(d) Joint Minute of pre-trial meeting–	
(i) in respect of Section 1 only	92.20
(ii) in respect of Sections 1 and 2 only	184.30
(iii) in respect of Sections 1 and 3 only	214.20
(iv) in respect of Sections 1, 2 and 3 only	276.50
18. Hearing limitation fee	
For any work undertaken to limit matters in dispute not otherwise provided for – subject to details being provided	238.80
19. Settlement	
(a) Settlement by tender	
(i) Lodging or considering first tender	165.80
(ii) Lodging or considering each further tender	110.60
(iii) If tender accepted, an additional fee to each accepting party	110.60
(b) Extrajudicial settlement – advising on, negotiating and agreeing extrajudicial settlement (not based on judicial tender or joint minute) to include preparation and lodging of joint minute	276.50
(c) The Auditor may allow a fee in respect of work undertaken with a view to settlement (whether or not settlement is in fact agreed), including offering settlement, of	470.00
(d) If consultation held to consider tender, extrajudicial settlement (not based on judicial tender) or with a view to settlement (whether or not settlement is in fact agreed), attendance at it, per quarter hour	29.90
20. Proof or jury trial	
Attendance fee, per quarter hour	29.90
21. Accounts	
(a) Preparation of judicial account, to include production of vouchers and adjustment of expenses	238.80
(b) Perusal of points of objections, per quarter hour	19.90
(c) Attendance at taxation, per quarter hour	19.90
22. Ordering and obtaining extract	44.20

Fee
£

23. Final procedure

- | | |
|--|--------|
| (a) If case goes to proof or jury trial, or is settled within 14 days before the diet of proof or jury trial, to include all work to close of cause so far as not otherwise provided for | 224.00 |
| (b) In any other case | 67.50 |

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt increases certain fees payable to solicitors in the Court of Session under Chapters I and III of the Table of Fees by 12.245%. The following fees in Chapter III are increased by an additional 8.75%: block fees in undefended consistorial actions in Part III, fees for work up to and included in lodging an opposed Outer House petition under Part IV, fees in defended actions under Part V and certain fees for Inner House business under Part VI. The Act also inserts a new Part VA into Chapter III of the Table of Fees which sets out fees for defended personal injury actions commenced on or after 1st April 2003.

Paragraph 2 of the Act does not apply to work done before it comes into force.

Paragraph 3 of the Act amends certain fees in Part V of Chapter III as from 1st July 2002.

The last increase in fees was made by Act of Sederunt (Rules of the Court of Session Amendment)(Fees of Solicitors, Shorthand Writers and Witnesses) 2002 (S.S.I. 2002/301).

2003 No. 194

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Act of Sederunt (Rules of the Court of Session Amendment)
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£2.50

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