
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 318

SHERIFF COURT

The Sheriff Court Fees Amendment Order 2007

<i>Made</i>	- - - -	<i>7th June 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th June 2007</i>
<i>Coming into force</i>	- -	<i>16th July 2007</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2 of the Courts of Law Fees (Scotland) Act 1895(1) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Sheriff Court Fees Amendment Order 2007 and shall come into force on 16th July 2007.

Amendment of Fees Order

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

(2) In article 2(1), at the appropriate place, insert—

““partner” means a person to whom a person is married, or with whom the person is registered as a civil partner in terms of sections 1(1), 85(1) or 137(1) of the Civil Partnership Act 2004(3).”.

(3) For article 7 (exemption of certain persons from fees), substitute—

“Exemption of certain persons from fees

7. A fee regulated by this Order shall not be payable by a person if—

(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 and S.S.I. 2002/269.

(3) 2004 c. 33.

- (a) the person or his or her partner is in receipt of income support under the Social Security Contributions and Benefits Act 1992(4);
- (b) the person is in receipt of an income based jobseeker's allowance (payable under the Jobseekers Act 1995(5));
- (c) the person is in receipt of civil legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986(6) in respect of the matter in the Table of Fees in connection with which the fee is payable;
- (d) the fee is payable in connection with a simplified divorce or dissolution of a civil partnership 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;
- (e) 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;
- (f) the person or his or her partner is in receipt of guarantee credit under the State Pension Credit Act 2002(7); or
- (g) the person or his or her partner is in receipt of working tax credit, provided that—
 - (i) child tax is being paid to the party, or otherwise following a claim for child tax credit made jointly by the members of a couple (as defined in section 3(5A) of the Tax Credits Act 2002)(8) which includes the party; or
 - (ii) there is a disability element or severe disability element (or both) to the tax credit received by the party;

and that the gross annual income taken into account for the calculation of the working tax credit is £16,017 or less.”

(4) For the Table of Fees in Schedule 1(9) substitute the Table of Fees set out in the Schedule to this Order.

St Andrew's House,
Edinburgh
7th June 2007

FERGUS EWING
Authorised to sign on behalf of the Scottish
Ministers

(4) 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.

(5) 1995 c. 18.

(6) 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).

(7) 2002 c. 16.

(8) 2002 c. 21; section 3(5A) substituted for sections 3(5) to (6) by the Civil Partnership Act 2004 (c. 33), Schedule 24, paragraph 144(3).

(9) Schedule 1 was substituted by S.I. 1999/754, article 2(3) and S.S.I. 2002/269, article 2(3).

SCHEDULE

Article 2(4)

TABLE OF FEES

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable)</i>	<i>Column 3 (Fee Formerly Payable)(10)</i>
PART I		
COMMISSARY PROCEEDINGS		
1. Petition for appointment of executor, restriction of caution, special warrant, (d) sealing up of repositories or the like, or (e) appointment of Commissary factor	(a) £12.00	£11.00
2. Sealing up repositories or the like, per hour	£18.00	£16.00
3		
(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(11) is required does not exceed–		
£5,000	No fee	No fee
£50,000	£92.00	£81.00
(ii) where the amount of the said estate exceeds £50,000	£129.00	£114.00
(b) (b) Receiving and examining additional	£92.00	£81.00

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

(11) 1892 c. 6.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable)</i>	<i>Column 3 (Fee Formerly Payable)(10)</i>
<p>or corrective inventory of estate or inventory of estate <i>ad non executata</i></p> <p>(c) (c) Receiving and examining inventory of estate where it is declared that confirmation is not required:</p>		
<p>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</p>		
<p>4. Commissary copying and extracting</p>		
<p>(1) Issuing certificate of confirmation</p>		
(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	£11.00	£10.00
(ii) each subsequent certificate	£3.00	£3.00
<p>(2) Copy or duplicate confirmation–</p>		
(a) (a) if ordered when lodging inventory	£6.00	£5.00
(b) (b) if ordered subsequent to lodging inventory–		

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable)</i>	<i>Column 3 (Fee Formerly Payable)(10)</i>
(i) first duplicate including search fee	£14.00	£12.00
(ii) each subsequent duplicate if ordered at the same time as the first duplicate	£6.00	£5.00
(3) Certified extract confirmation and will (if any)–		
(a) (a) if ordered when lodging inventory	£14.00	£12.00
(b) (b) if ordered subsequent to lodging inventory–		
(i) first certified extract including search fee	£21.00	£19.00
(ii) each subsequent certified extract if ordered at the time of the first certified extract	£14.00	£12.00
(4) Copy will–		
(a) (a) if ordered when lodging inventory	£4.00	£3.50
(b) (b) if ordered subsequent to lodging inventory–		
(i) first copy including search fee	£11.00	£10.00
(ii) each subsequent copy, if ordered at the same time as the first copy	£4.00	£3.50
5. Application under section 4 of the Requirements of Writing (Scotland) Act 1995(12)	£12.00	£11.00

PART II

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

(12) 1995 c. 7.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable)</i>	<i>Column 3 (Fee Formerly Payable)(10)</i>
SHERIFF COURT PROCEEDINGS		
6. Initial writ in any proceedings not being proceedings for which any other paragraph of this Table prescribes a fee	£57.00	£50.00
<i>Actions of divorce or dissolution of a civil partnership (other than simplified divorce or dissolution of a civil partnership application)</i>		
7. Initial writ in an action of divorce or dissolution of a civil partnership (other than a simplified divorce or dissolution of a civil partnership application)	£92.00	£81.00
<i>Simplified divorce application</i>		
8. Simplified divorce or dissolution of a civil partnership application (inclusive of all procedures other than those specified at paragraphs 32 and 33 of this Table)	£70.00	£62.00
<i>Summary warrants</i>		
9. Application for summary warrant	£44.00	£39.00
<i>Bankruptcy proceedings</i>		
10. Petition for sequestration of estates	£71.00	£63.00
11. Petition for discharge of a bankrupt or application for approval of composition or deed of arrangement	£21.00	£19.00
12. Miscellaneous applications including appeals under the Bankruptcy (Scotland) Act 1985(13)	£36.00	£32.00

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

(13) 1985 c. 66.

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable)</i>	<i>Column 3 (Fee Formerly Payable)(10)</i>
<i>Declarator and Petitions for completion of title for the Sheriff of Chancery</i>		
13. Applications for Declarator and Petitions for completion of title to the Sheriff of Chancery	£142.00	£126.00
14. Issue of chancery extract	£68.00	not applicable
<i>Summary cause</i>		
15. Summons summary cause (including small claim)–		
(a) (a) actions for payment of money less than £50	£8.00	£7.00
(b) (b) other actions	£44.00	£39.00
(c) (c) in relation to a small claim summons, citation of, or intimation to, any party by sheriff officer	£29.00	£26.00
(d) (d) on the marking of an appeal	£36.00	£32.00
<i>Miscellaneous</i>		
16. Application under section 4 of the Requirements of Writing (Scotland) Act 1995	£12.00	£11.00
17. Caveat	£21.00	£19.00
<i>Enforcement of UK judgments</i>		
18. Any proceedings under section 12 or 18 of the Civil Jurisdiction and Judgments Act 1982(14)	£15.00	£13.00
<i>Criminal procedure</i>		

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

(14) 1982 c. 27; section 12 was amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12), Schedule 2, paragraph 7 and section 18 was amended by the Insolvency Act 1985 (c. 65), Schedule 8, paragraph 36, the Insolvency Act 1986 (c. 45), Schedule 14, the Courts and Legal Services Act 1990 (c. 41), Schedule 16, paragraph 41, the Criminal Justice Act 1993 (c. 36), section 24, the Drug Trafficking Act 1994 (c. 37), Schedule 1, paragraph 6, the Criminal Justice (Scotland) Act 1995 (c. 20), Schedule 6, paragraph 183 and the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), Schedule 4, paragraph 42.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable)</i>	<i>Column 3 (Fee Formerly Payable)(10)</i>
19. Complaint	£21.00	£19.00
<i>Road Traffic Offenders Act 1988(15)</i>		
20. Petition for removal of disqualification	£57.00	£50.00
<i>Defender's responses – non divorce or dissolution of civil partnerships</i>		
21. First writ, reponing note or attendance to state a defence, or oppose an interim order in proceedings to which paragraph 6 of this Table applies, each defender or compeerer	£57.00	£50.00
<i>Defender's responses – divorces or dissolution of civil partnerships</i>		
22. First writ or attendance to state a defence or oppose an interim order, each defender or compeerer in an action of divorce or dissolution of a civil partnership (other than a simplified divorce or dissolution of a civil partnership application)	£92.00	£81.00
<i>Civil court procedure</i>		
23. Fee to be paid by the pursuer on the lodging of a certified copy record under the standard procedure of the Ordinary Cause Rules 1993(16)	£71.00	£63.00
24. Fee to be paid by the pursuer on the lodging of a certified closed record under the additional procedure of the said Rules	£71.00	£63.00
25. Fee to be paid by the pursuer on the fixing of a proof, a debate or a hearing	£32.00	£28.00

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

(15) 1988 c. 53.

(16) See Schedule 1 to the Sheriff Courts (Scotland) Act 1907 (c. 51).

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable)</i>	<i>Column 3 (Fee Formerly Payable)(10)</i>
in a summary or miscellaneous application on the merits of the cause		
26. Fee to be paid by the pursuer for each day or part thereof of proof, debate or hearing in a summary or miscellaneous application on the merits of the cause	£71.00	£63.00
NOTE: The above fee does not apply if the proof, debate or hearing does not proceed on that day.		
27. Fee to be paid by any party lodging a written motion or minute; and any party lodging written opposition to any such motion or minute	£29.00	£26.00
28. Fee to be paid on marking an appeal to the Sheriff Principal in any proceedings (other than as provided for in paragraph 15(d) of this Table)	£71.00	£63.00
29. Fee to be paid by the pursuer on the endorsing of a minute in Form F27 in terms of rule 33.29(1)(b) of the Ordinary Cause Rules 1993	£42.00	£37.00
<i>Bankruptcy (Scotland) Act 1985</i>		
30. Act and warrant of trustee	£29.00	£26.00
31. Application (written or oral) for discharge of trustee	£21.00	£19.00
<i>Simplified divorce and simplified dissolution of civil partnership</i>		
32. In relation to a simplified divorce or dissolution of a civil partnership application, citation of, or	£10.00 plus sheriff officer's fee	£35.00

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable)</i>	<i>Column 3 (Fee Formerly Payable)(10)</i>
intimation to, any person or persons by sheriff officer		
33. Subsequent application upon change of circumstances by party to a simplified divorce or dissolution of a civil partnership application	£19.00	£17.00
<i>Miscellaneous</i>		
34. Note in a liquidation or judicial factory	£21.00	£19.00
<i>Sheriff court books</i>		
35. Recording protest of a bill or promissory note	£15.00	£13.00
NOTE: Extract to be charged as in paragraph 39 of this Table.		
36. Preservation of deeds, each deed	£6.00	£5.00
NOTE: Recording and extracting to be charged as in paragraph 40 of this Table.		
<i>Miscellaneous office procedures</i>		
37. Lodging each set of plans or other Parliamentary deposit	£44.00	£39.00
38. Inspection of report of sale and the auditor of court's report	£10.00	£9.00
39. Search and report service as instructed by a trade protection society, licensed credit reference agency or trade publication of protests, of relevant court records as allowed by appropriate Sheriff Court Rules 1993, as amended—		
(a) (a) weekly for twelve months (payable in advance)	£215.00	£190.00

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

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(b) (b) twice weekly for twelve months (payable in advance)	£427.00	£378.00
(c) (c) four times weekly for twelve months (payable in advance)	£858.00	£759.00
40. Recording, engrossing, extracting or copying all documents except as provided for at paragraph 4 of this Table—		
(a) (a) by manuscript or typescript (exclusive of search fee): for each page or part thereof	£8.00	£7.00
(b) (b) by photocopying (exclusive of search fee): for each page or part thereof	£0.20	£0.30
(c) (c) for a copy of a document on a computer disc or in other electronic form	£3.00	n/a

NOTE: Recording in Sheriff Court Register of Deeds to be charged as in (a) or (b).

41. Searches: for each search of records or archives, except as provided for at paragraph 4 of this Table—

(a) (a) for first half hour of time taken	£8.00	£7.00
(b) (b) for more than one half hour up to a maximum of two hours	£15.00	£13.00

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

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(c) (c) for each half hour or part thereof in excess of two hours	£8.00	£7.00
(d) (d) plus correspondence fee where applicable	£8.00	£7.00

PART III

AUDITOR OF COURT

42. For taxing accounts of expenses incurred in judicial proceedings remitted to the auditor of court for taxation—

(1) auditor's fee on lodging account for taxation	£34.00	£30.00
(2) auditor's fee for taxing accounts of expenses etc.—		
(a) (a) up to £400	£18.00	£16.00
(b) (b) for every additional £100 or part thereof	£5.00	£4.00

NOTE: Fee to be determined by auditor of court on amount of account as submitted.

(3) fee for cancellation of diet of taxation—

- | | |
|---|--|
| (a) (a) where written notice of cancellation received by receiving party within three working days of diet | half of fee that would have been payable under sub-paragraph (2) of this paragraph |
| (b) (b) where written notice of cancellation received by receiving party on the working day before or the day of the diet | three quarters of fee that would have been payable under sub-paragraph (2) of this paragraph |

(10) Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754 and S.S.I. 2002/269) 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.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Sheriff Court Fees Order 1997 (“the 1997 Order”).

The Order amends article 7 of the 1997 Order (exemption of certain persons from fees) so as to update, for changes in the exemptions that are available.

The Order also specifies for proceedings in the sheriff court new fee levels in substitution for those applicable since the 1997 Order was last amended on 1st July 2002. The increases are on average approximately 15% which is approximately the cumulative rate in inflation over that period.