

2015 No. 379

SHERIFF APPEAL COURT

The Sheriff Appeal Court Fees Order 2015

Made - - - - *4th November 2015*

Laid before the Scottish Parliament *6th November 2015*

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by section 107(1) and (2) of the Courts Reform (Scotland) Act 2014(a) and all other powers enabling them to do so.

Citation, commencement and effect

1.—(1) This Order may be cited as the Sheriff Appeal Court Fees Order 2015 and, subject to paragraphs (2) and (3), comes into force on 1st January 2016.

(2) Article 2(1)(b) and Schedule 2 come into force, and article 2(1)(a) and Schedule 1 cease to have effect, on 1st April 2016.

(3) Article 2(1)(c) and Schedule 3 come into force, and article 2(1)(b) and Schedule 2 cease to have effect, on 1st April 2017.

Fees payable in the Sheriff Appeal Court

2.—(1) Subject to paragraph (3) and article 3—

(a) the fees payable in the Sheriff Appeal Court in respect of the matters specified in column 1 of the Table of Fees in Schedule 1 (table of fees payable from 1st January 2016) are the fees specified in relation to those matters in column 2 of that Table;

(b) the fees payable in the Sheriff Appeal Court in respect of the matters specified in column 1 of the Table of Fees in Schedule 2 (table of fees payable from 1st April 2016) are the fees specified in relation to those matters in column 2 of that Table; and

(c) the fees payable in the Sheriff Appeal Court in respect of the matters specified in column 1 of the Table of Fees in Schedule 3 (table of fees payable from 1st April 2017) are the fees specified in relation to those matters in column 2 of that Table.

(2) The fees payable under this Order are to be paid to the Clerk of the Sheriff Appeal Court or any officer acting for the Clerk.

(3) The fees provided for by this Order are not payable by the Crown in the enforcement of the criminal law or in the exercise of powers or the performance of duties arising out of or relating to that enforcement.

(4) No act is required of the Clerk of the Sheriff Appeal Court or officer acting for the Clerk in connection with a matter specified in relation to any fee prior to—

- (a) the payment of that fee; or
- (b) an arrangement being entered into for payment of that fee.

Exemption of certain persons from fees

3.—(1) A fee provided for by this Order is not payable by a person if—

- (a) the person or the person's partner is in receipt of income support under the Social Security Contributions and Benefits Act 1992(a);
- (b) the person is in receipt of an income-based jobseeker's allowance under the Jobseekers Act 1995(b);
- (c) the person is in receipt of universal credit under Part 1 of the Welfare Reform Act 2012(c);
- (d) the person is in receipt of civil legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986(d) in respect of the matter in the Table of Fees in Schedule 1, 2 or 3 in connection with which the fee is payable;
- (e) 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;
- (f) the person's solicitor is undertaking work in relation to the matter in the Table of Fees in Schedule 1, 2 or 3 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;
- (g) the person or the person's partner is in receipt of guarantee credit under the State Pension Credit Act 2002(e);
- (h) the person or the person's partner is in receipt of working tax credit, provided that—
 - (i) child tax credit 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(f)) 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 £16,642 or less; or
- (i) the person or the person's partner is in receipt of income-related employment and support allowance under the Welfare Reform Act 2007(g).

(2) In this article "partner" means a person to whom a person is married or with whom the person is in a civil partnership.

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- (a) 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; the Welfare Reform and Pensions Act 1999 (c.30), section 70 and Schedule 8, Part IV, paragraph 28; the State Pension Credit Act 2002 (c.16), Schedules 2 and 3; the Civil Partnership Act 2004 (c.33), Schedule 24; the Welfare Reform Act 2007 (c.5), Schedules 3 and 8; the Welfare Reform Act 2009 (c.24), section 3; and the Welfare Reform Act 2012 (c.5), Schedule 14.
 - (b) 1995 c.18.
 - (c) 2012 c.5.
 - (d) 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).
 - (e) 2002 c.16.
 - (f) 2002 c.21. Section 3(5A) was substituted for section 3(5) to (6) by the Civil Partnership Act 2004, Schedule 24, paragraph 144(3).
 - (g) 2007 c.5.

Exemptions relating to particular proceedings

4.—(1) The fees provided for by this Order do not apply to any appeal to the Sheriff Appeal Court under or by virtue of the Children’s Hearings (Scotland) Act 2011(a).

(2) The fees provided for by this Order do not apply to a debtor or creditor in any appeal to the Sheriff Appeal Court under the Debtors (Scotland) Act 1987(b) or the Debt Arrangement and Attachment (Scotland) Act 2002(c).

PAUL WHEELHOUSE

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
4th November 2015

(a) 2011 asp 1, as relevantly modified by section 109 of the Courts Reform (Scotland) Act 2014 and as relevantly amended by paragraph 7 of Part 1 of the Schedule to the Courts Reform (Scotland) Act 2014 (Consequential and Supplemental Provisions) Order 2015 (S.S.I. 2015/xxx).

(b) 1987 c.18.

(c) 2002 asp 17.

SCHEDULE 1

Article 2(1)(a)

TABLE OF FEES

Payable from 1st January 2016

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable) £</i>
1. Lodging or opposing a motion.	47
2. Fixing a hearing date.	53
3. Lodging an appeal in a cause other than a summary cause; lodging an application under section 69 or 71 of the Courts Reform (Scotland) Act 2014.	111
4. Hearing fee per day or part thereof (bench of 1). (NOTE: This fee does not apply to the first 30 minutes of the hearing.)	223
5. Hearing fee per day or part thereof (bench of 3 or more). (NOTE: This fee does not apply to the first 30 minutes of the hearing.)	557
6. Copying of—	
(a) each document, up to 10 pages;	6
(b) each further page or part thereof;	0.5
(c) each document in electronic form.	6
7. Any search of records or archives, per 30 minutes or part thereof.	11
In addition, correspondence fee where applicable.	11
8. Taxing accounts of expenses incurred in judicial proceedings remitted to the auditor of court for taxation—	
(a) lodging account for taxation;	42
(b) taxing accounts of expenses etc.—	
(i) up to £400;	20
(ii) for every additional £100 or part thereof.	5
(NOTE: Fee to be determined by auditor of court on amount of account as submitted.)	
(c) cancellation of diet of taxation—	
(i) where written notice of cancellation received from receiving party after 4.00 pm on the fourth working day before the day of diet of taxation;	50% of fee that would have been payable under sub-paragraph (b) of this paragraph
(ii) where written notice of cancellation received from receiving party after 4.00 pm on the second working day before the day of the diet of taxation.	75% of fee that would have been payable under sub-paragraph (b) of this paragraph

SCHEDULE 2

Article 2(1)(b)

TABLE OF FEES

Payable from 1st April 2016

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable) £</i>	<i>Column 3 (Fee Formerly Payable)(a) £</i>
1. Lodging or opposing a motion.	48	47
2. Fixing a hearing date.	54	53
3. Lodging an appeal in a cause other than a summary cause; lodging an application under section 69 or 71 of the Courts Reform (Scotland) Act 2014.	113	111
4. Hearing fee per day or part thereof (bench of 1). (NOTE: This fee does not apply to the first 30 minutes of the hearing.)	227	223
5. Hearing fee per day or part thereof (bench of 3 or more). (NOTE: This fee does not apply to the first 30 minutes of the hearing.)	568	557
6. Copying of—		
(a) each document, up to 10 pages;	6	6
(b) each further page or part thereof;	0.5	0.5
(c) each document in electronic form.	6	6
7. Any search of records or archives, per 30 minutes or part thereof.	12	11
In addition, correspondence fee where applicable.	12	11
8. Taxing accounts of expenses incurred in judicial proceedings remitted to the auditor of court for taxation—		
(a) lodging account for taxation;	43	42
(b) taxing accounts of expenses etc.—		
(i) up to £400;	20	20
(ii) for every additional £100 or part thereof.	5	5
(NOTE: Fee to be determined by auditor of court on amount of account as submitted.)		
(c) cancellation of diet of taxation—		
(i) where written notice of cancellation received from receiving party after 4.00 pm on the fourth working day before the day of diet of taxation;	50% of fee that would have been payable under sub-paragraph (b) of this paragraph	50% of fee that would have been payable under sub-paragraph (b) of this paragraph

(a) Column 3 shows the fees which were payable by virtue of Schedule 1 to this Order immediately before the coming into force of this Schedule.

(ii) where written notice of cancellation received from receiving party after 4.00 pm on the second working day before the day of the diet of taxation.	75% of fee that would have been payable under sub-paragraph (b) of this paragraph	75% of fee that would have been payable under sub-paragraph (b) of this paragraph
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SCHEDULE 3

Article 2(1)(c)

TABLE OF FEES

Payable from 1st April 2017

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee Payable) £</i>	<i>Column 3 (Fee Formerly Payable)(a) £</i>
1. Lodging or opposing a motion.	49	48
2. Fixing a hearing date.	55	54
3. Lodging an appeal in a cause other than a summary cause; lodging an application under section 69 or 71 of the Courts Reform (Scotland) Act 2014.	115	113
4. Hearing fee per day or part thereof (bench of 1). (NOTE: This fee does not apply to the first 30 minutes of the hearing.)	232	227
5. Hearing fee per day or part thereof (bench of 3 or more). (NOTE: This fee does not apply to the first 30 minutes of the hearing.)	579	568
6. Copying of—		
(a) each document, up to 10 pages;	6	6
(b) each further page or part thereof;	0.5	0.5
(c) each document in electronic form.	6	6
7. Any search of records or archives, per 30 minutes or part thereof.	12	12
In addition, correspondence fee where applicable.	12	12
8. Taxing accounts of expenses incurred in judicial proceedings remitted to the auditor of court for taxation—		
(a) lodging account for taxation;	44	43
(b) taxing accounts of expenses etc.—		
(i) up to £400;	20	20
(ii) for every additional £100 or part thereof.	5	5
(NOTE: Fee to be determined by auditor of court on amount of account as submitted.)		
(c) cancellation of diet of taxation—		
(i) where written notice of cancellation received from receiving party after 4.00 pm on the fourth working day before the day of diet of taxation;	50% of fee that would have been payable under sub-paragraph (b) of this paragraph	50% of fee that would have been payable under sub-paragraph (b) of this paragraph

(a) Column 3 shows the fees which were payable by virtue of Schedule 2 to this Order immediately before the coming into force of this Schedule.

(ii) where written notice of cancellation received from receiving party after 4.00 pm on the second working day before the day of the diet of taxation.	75% of fee that would have been payable under sub-paragraph (b) of this paragraph	75% of fee that would have been payable under sub-paragraph (b) of this paragraph
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the fees payable in the Sheriff Appeal Court, to the Clerk of the Sheriff Appeal Court or any officer acting for the Clerk.

Article 2 and Schedules 1 to 3 specify fee levels payable in the Sheriff Appeal Court in respect of certain matters.

- The fee levels for the period from 1st January 2016 until 31st March 2016 are given effect by the Table of Fees in Schedule 1.
- The fee levels for the period from 1st April 2016 until 31st March 2017 are given effect by substituting the Table of Fees in Schedule 1 with the Table of Fees in Schedule 2.
- The fee levels from 1st April 2017 onwards are given effect by substituting the Table of Fees in Schedule 2 with the Table of Fees in Schedule 3.

Article 2(3) provides that fees are not to be payable by the Crown in the enforcement of the criminal law or in the exercise of powers or the performance of duties arising out of or relating to that enforcement.

Article 2(4) provides that the Clerk of the Sheriff Appeal Court or officer acting for the Clerk is not required to do any act in connection with the matter specified in relation to that fee without either prior payment of the fee or entering into an arrangement for payment of the fee.

Article 3 exempts certain persons from payment of fees.

Article 4 exempts certain appeal proceedings under the Children's Hearings (Scotland) Act 2011, the Debtors (Scotland) Act 1987 and the Debt Arrangement and Attachment (Scotland) Act 2002 from fees.

A Business and Regulatory Impact Assessment has been prepared for this Order and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrews House, Edinburgh EH1 3DG.

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