
STATUTORY INSTRUMENTS

1997 No. 688 (S.48)

COURT OF SESSION, SCOTLAND

The Court of Session etc. Fees Order 1997

| | | |
|-------------------------------|---------|------------------------|
| <i>Made</i> | - - - - | <i>4th March 1997</i> |
| <i>Laid before Parliament</i> | | <i>11th March 1997</i> |
| <i>Coming into force</i> | - - | <i>1st April 1997</i> |

The Secretary of State, in exercise of the powers conferred on him by section 2 of the Courts of Law Fees (Scotland) Act 1895(1) and of all other powers enabling him in that behalf, and with the concurrence of the Treasury, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Court of Session etc. Fees Order 1997 and shall come into force on 1st April 1997.

Interpretation

2.—(1) In this Order—

“Office of Court” has the same meaning as in rule 3.1(1) of the Rules of Court;

“Rules of Court” mean the Rules of the Court of Session 1994(2);

“Table of Fees” means the Table of Fees specified in Schedule 1 to this Order.

(2) For the purposes of any reference in this Order to a party—

(a) except in relation to a special case, a set of persons with the same interest, for whom one and the same first paper is or has been lodged, shall be treated as a single party; and

(b) in relation to a special case, each person or set of persons who appear as one of the separate parties to the case shall be treated as a party.

Offices to which Order applies and officers to whom fees are payable

3.—(1) This Order shall regulate the fees payable in the Office of Court, the office of the Accountant of Court and the office of the Auditor of the Court of Session.

(1) 1895 c. 14; section 2 was substituted by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12), section 4.
(2) See Schedule 2 to S.I. 1994/1443.

- (2) The fees regulated by this Order shall be payable—
- (a) in relation to the Office of Court, to the Principal Clerk of Session or any officer acting for him;
 - (b) in relation to the office of the Accountant of Court, to the Accountant of Court or any officer acting for him; and
 - (c) in relation to the office of the Auditor of the Court of Session, to the Auditor of the Court of Session or any officer acting for him.

Fees payable

4.—(1) Subject to paragraph (2) and article 5 below, the fees payable in respect of the matters specified in column 1 of the Table of Fees shall be the fees specified in relation to those matters in column 2 of that Table (the fees previously payable being shown in column 3 of that Table).

(2) No fees shall be payable by a debtor in connection with any proceedings under the Debtors (Scotland) Act 1987(3).

Exemption of certain persons from fees in simplified divorce applications

5. The fees specified in items B4 and B5 of the Table of Fees shall not be payable by a person making a simplified divorce application who is in receipt of—

- (a) income support or family credit under Part VII of the Social Security Contributions and Benefits Act 1992(4);
- (b) an income-based jobseeker's allowance (payable under the Jobseekers Act 1995(5)); or
- (c) advice and assistance from a solicitor under the Legal Aid (Scotland) Act 1986(6) in respect of the simplified divorce application.

Revocations

6. The Orders specified in Schedule 2 to this Order are hereby revoked.

St Andrew's House,
Edinburgh
27th February 1997

James Douglas-Hamilton
Minister of State, Scottish Office

(3) 1987 c. 18.
(4) 1992 c. 4.
(5) 1995 c. 18.
(6) 1986 c. 47.

We concur,

4th March 1997

Patrick McLoughlin
Bowen Wells
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Article 4

TABLE OF FEES

| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|--|-----------------------------------|---|
| PART I – FEES IN THE CENTRAL OFFICE OF THE COURT | | |
| A. SIGNETING | | |
| Signeting of any writ or summons, if attendance is necessary outwith the normal office hours | £56.00 | £55.00 |
| B. GENERAL DEPARTMENT | | |
| 1. Appeal, summons, or other writ or step by which any cause or proceeding, other than a family action, is originated in either the Inner or Outer House —fee (to comprehend signeting in normal office hours) | £95.00 | £93.00 |
| 2. Defences, answers or other writ including a joint minute) or step in process or enrolment or opposition to a motion in a pending process by which a party other than an originating party first makes an appearance in a cause or proceeding other than a family action | £95.00 | £93.00 |
| 3. Writ by which a family action is originated (other than a simplified divorce application) —inclusive fee (to comprehend signeting within normal office hours and, if applicable, issue to the pursuer of an extract in terms of item G5(a) of this Table, and to the defender, if appropriate, of a duplicate thereof) | £72.00 | £70.00 |
| 4. Simplified divorce application (inclusive of all procedure other than that specified in item B5 of this Table) | £56.00 | £55.00 |

(7) Column 3 shows the fees which were payable under S. I. 1984/256 mas amended by S.I. 1996/514 before the coming into force of this Order.

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| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|---|-----------------------------------|---|
| 5. In relation to a simplified divorce application, citation of any person under rule 16.1(1)(a)(i), (ii) or (iii), as applied by rule 49.76, of the Rules of Court, or intimation to any person or persons under rule 16.1(1)(a)(i), (ii) or (iii), as applied by rule 49.76, of those Rules, where such intimation is required | £37.00 | £36.00 |
| 6. Defences, answers or other writ including a joint minute) or step in process or enrolment of or opposition to a motion in a pending process by which a party other than an originating party first makes appearance in a family action | £72.00 | £70.00 |
| 7. Fee for initial lodging of affidavits in a family action where proof by affidavit evidence has been allowed | £31.00 | £30.00 |
| 8. Special case— For each party | £48.00 | £47.00 |
| Maximum fee payable per case | £192.00 | £187.00 |
| 9. Application by minute or motion for variation of an order in a family action | £17.00 | £17.00 |
| 10. Answers or opposition to an application under item B9 of this Table | £17.00 | £17.00 |
| 11. Letter of request to a foreign court | £24.00 | £23.00 |
| 12. Citation of each jury, to include outlays incurred in citing and countermanding—payable on receipt of instructions for issue of precept | £134.00 | £131.00 |
| 13. Reclaiming motion—fee payable by party enrolling motion | £95.00 | £93.00 |

(7) Column 3 shows the fees which were payable under S. I. 1984/256 as amended by S.I. 1996/514 before the coming into force of this Order.

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| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|--|-----------------------------------|---|
| 14. Closed record—fee payable by each party on the lodging of the closed record or, where no closed record is lodged, when mode of enquiry is determined | £48.00 | £47.00 |
| 15. Allowing proof, etc.— fee payable by each party on diet of proof, jury trial, procedure roll or summar roll hearing being allowed | £25.00 | £24.00 |
| 16. Proof, Procedure Roll, Summar Roll— fee payable by each party appearing at the proof or hearing for every 30 minutes or part thereof | £13.00 | £13.00 |
| 17. Jury Trial—fee payable by each party appearing at the trial for every 30 minutes or part thereof | £13.00 | £13.00 |
| 18. Hearing other than items B16, B17, B19 and B20 of this Table—fee payable by each party appearing at the hearing for every 30 minutes or part thereof | £13.00 | £13.00 |
| 19. Motion Roll hearing— fee payable by each party appearing at the hearing <i>after first 30 minutes</i> — for every 30 minutes or part thereof | £13.00 | £13.00 |
| 20. Hearing out of hours —fee payable by each party appearing at the hearing for every 30 minutes or part thereof | £25.00 | £24.00 |
| C. PETITION DEPARTMENT | | |
| 1. Petition of whatever nature presented to Inner or Outer House other than a petition under item C3 or C4 of this Table, whether in respect of the first or any subsequent step of process, and any application for registration or recognition of a judgment under the Civil | £95.00 | £93.00 |

(7) Column 3 shows the fees which were payable under S. I. 1984/256 mas amended by S.I. 1996/514 before the coming into force of this Order.

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| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|--|-----------------------------------|---|
| Jurisdiction and Judgments Act 1982(8) | | |
| 2. Additional fee payable when a petition in terms of item C1 of this Table is presented outwith normal office hours | £56.00 | £55.00 |
| 3. Petition to be admitted as a notary public: For each applicant | £71.00 | £69.00 |
| 4. Petition to be admitted as a solicitor: For each applicant | £71.00 | £69.00 |
| 5. Answers, objections or other writ including a joint minute) or step in process or enrolment or opposition to a motion in a pending process by which a party other than an originating party first makes appearance in a proceeding to which item C1 of this Table applies | £95.00 | £93.00 |
| 6. Caveat | £24.00 | £23.00 |
| 7. Fiat | £24.00 | £23.00 |
| 8. Registering office copies of orders of courts in England and Wales or Northern Ireland | £9.00 | £9.00 |
| 9. Issue of an abbreviate in sequestration | £9.00 | £9.00 |
| 10. Reclaiming motion—fee payable by party enrolling motion | £95.00 | £93.00 |
| 11. Closed record—fee payable by each party on the lodging of the closed record or, when no closed record is lodged, when mode of enquiry is determined | £48.00 | £47.00 |
| 12. Allowing proof, etc.—fee payable by each party on diet of proof, procedure roll, | £25.00 | £24.00 |

(7) Column 3 shows the fees which were payable under S. I. 1984/256 mas amended by S.I. 1996/514 before the coming into force of this Order.

(8) 1982 c. 27.

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| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|--|-----------------------------------|---|
| summar roll or judicial review hearing being allowed | | |
| 13. Application by minute or motion for variation of an order in a petition for custody, aliment or access | £18.00 | £18.00 |
| 14. Answers or opposition to a motion under item C13 of this Table | £18.00 | £18.00 |
| 15. Registering orders for enforcement under section 426 of the Insolvency Act 1986(9) | £9.00 | £9.00 |
| 16. Proof, Procedure Roll, Summar Roll— fee payable by each party appearing at the proof or hearing for every 30 minutes or part thereof | £13.00 | £13.00 |
| 17. Hearing other than items C16, C18 and C19 of this Table —fee payable by each party appearing at the hearing for every 30 minutes or part thereof | £13.00 | £13.00 |
| 18. Motion Roll Hearing— fee payable by each party appearing at the hearing <i>after first 30 minutes</i> — for every 30 minutes or part thereof | £13.00 | £13.00 |
| 19. Hearing out of hours —fee payable by each party appearing at the hearing for every 30 minutes or part thereof | £25.00 | £24.00 |
| D. COURT FOR HEARING APPEALS RELATING TO THE REGISTRATION OF ELECTORS | | |
| Appeal—inclusive fee | £95.00 | £93.00 |
| E. ELECTION COURT | | |
| 1. Parliamentary election petition | £95.00 | £93.00 |
| 2. Statement of matters | £9.00 | £9.00 |
| 3. Any other petition, application, answers or | £24.00 | £23.00 |

(7) Column 3 shows the fees which were payable under S. I. 1984/256 mas amended by S.I. 1996/514 before the coming into force of this Order.

(9) 1986 c. 45.

| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|--|-----------------------------------|---|
| objections submitted to the court | | |
| 4. Certificate of judgement | £24.00 | £23.00 |
| F. LANDS VALUATION APPEAL COURT | | |
| 1. Appeal—inclusive fee | £95.00 | £93.00 |
| 2. Answers—inclusive fee | £95.00 | £93.00 |
| G. EXTRACTS DEPARTMENT | | |
| 1. Extract decree following upon a summons, petition or appeal, or after protestation of a note, and whether in absence or otherwise | £26.00 | £25.00 |
| 2. Extract of admission as a solicitor | £23.00 | £22.00 |
| 3. Extract of protestation | £23.00 | £22.00 |
| 4. Certificate under the Civil Jurisdiction and Judgments Act 1982 | £23.00 | £22.00 |
| 5. Documentation evidencing divorce, nullity or dissolution of marriage: | £14.00 | £14.00 |
| (a) Extract from Consistorial Register of Decrees of decree pronounced on or after 23rd September 1975 if not issued in terms of item B3 or B4 of this Table | | |
| (b) (b) Certificate of divorce in decree pronounced prior to 23rd September 1975 | £14.00 | £14.00 |
| (c) (c) Certified copy interlocutor in decree pronounced prior to 23rd September 1975 | £14.00 | £14.00 |
| 6. Extract from the Register of Acts and Decrees—per sheet or part thereof | £14.00 | £14.00 |
| 7. Sealing and certifying any document for exhibition | £14.00 | £14.00 |

(7) Column 3 shows the fees which were payable under [S. I. 1984/256](#) as amended by [S.I. 1996/514](#) before the coming into force of this Order.

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| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|---|-----------------------------------|---|
| in a foreign jurisdiction or otherwise | | |
| 8. Acknowledgement of receipt of a notice under section 19(6) or 21(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970((10)) | £23.00 | £22.00 |
| 9. Acknowledgement of receipt of an offer under section 9 of the Conveyancing Amendment (Scotland) Act 1938((11)) | £23.00 | £22.00 |
| PART II—FEES IN THE OFFICE OF THE ACCOUNTANT OF COURT | | |
| H. OFFICE OF THE ACCOUNTANT OF COURT | | |
| I. In Factories and Curatories | | |
| 1. For registering case and receiving and delivering up bond of caution - in Court of Session appointments | £23.00 | £22.00 |
| in Sheriff Court appointments | £16.00 | £16.00 |
| 2. For examining factor's inventory— 0.333% of the value of the estate as disclosed minimum fee payable | £17.00 | £17.00 |
| maximum fee payable | £420.00 | £410.00 |
| 3. For auditing each account — | £9.00 | £9.00 |
| basic fee | | |
| additional percentage fee on the factor's commission as fixed (or what would have been the factor's full commission if chargeable or fully allowed) | 17.5% | 17.5% |
| 4. For reporting discharge, special powers or on other special matters | <i>re</i> £28.00 to £129.00 | £27.00 to £126.00 |

(7) Column 3 shows the fees which were payable under S. I. 1984/256 as amended by S.I. 1996/514 before the coming into force of this Order.

(10) 1970 c. 35.

(11) 1938 c. 24; section 9 was amended by the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35), section 46, and by the Land Tenure Reform (Scotland) Act 1974 (c. 38), section 13.

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| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|--|-----------------------------------|---|
| 5. For granting consent in terms of section 2(4) of the Trusts (Scotland) Act 1961(12) and rule 61.14 of the Rules of Court | £68.00 | £66.00 |
| 6. For report on scheme of division – basic fee | £16.00 | £16.00 |
| additional fee for each £1,000 excluding the first £1,000) or part thereof of value of estate to be divided | £9.00 | £9.00 |
| maximum fee payable | £294.00 | £287.00 |
| 7. For certificate under seal | £17.00 | £17.00 |
| II. In Consignations | | |
| 8. For lodging consignment | £13.00 | £13.00 |
| 9. For producing or delivering up – basic fee | £13.00 | £13.00 |
| additional fee for every £100 or part thereof uplifted | £1.00 | £1.00 |
| maximum fee payable | £44.00 | £43.00 |
| III. Liquidations | | |
| 10. For uplifting bond of caution | £4.00 | £4.00 |
| PART III—FEES IN THE OFFICE OF THE AUDITOR OF THE COURT OF SESSION | | |
| I. OFFICE OF THE AUDITOR OF THE COURT OF SESSION | | |
| Taxing accounts of expenses incurred in judicial proceedings (including proceedings in the High Court of Justiciary) remitted to the Auditor of the Court of Session for taxation: | £12.00 | £12.00 |
| (a) Auditor’s fee on lodging account for taxation | | |
| (b) Auditor’s fee for taxing accounts of expenses etc. | £12.00 | £12.00 |

(7) Column 3 shows the fees which were payable under S. I. 1984/256 as amended by S.I. 1996/514 before the coming into force of this Order.

(12) 1961 c. 57: section 2 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55), section 8.

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| <i>Column 1 (Matters)</i> | <i>Column 2 (Fee payable)</i> | <i>Column 3 (Fee formerly payable)(7)</i> |
|--|-----------------------------------|---|
| (i) up to £300 | | |
| (ii) for every additional £100 or part thereof | £4.00 | £4.00 |
| <i>Note: fee to be determined by the Auditor of the Court of Session on amount of account as submitted</i> | | |
| PART IV—FEES COMMON TO ALL OFFICES | | |
| J. MISCELLANEOUS | | |
| 1. Certified copy of proceedings for appeal to the House of Lords | £95.00 | £93.00 |
| 2. Certifying of any other document (plus copying charges if necessary) | £9.00 | £9.00 |
| 3. Recording, engrossing, extracting or copying—all documents: | £6.00 | £6.00 |
| (a) By manuscript or typescript—per sheet or part thereof | | |
| (b) (b) By copying by any other means – | £1.00 | £1.00 |
| first copy: each of first 10 pages | | |
| each page after first 10 | £0.30 | £0.30 |
| subsequent copies: each page | £0.30 | £0.30 |
| 4. Searches—for any search of records or archives: | £9.00 | £9.00 |
| (a) For first half hour of time taken | | |
| (b) (b) For more than one half hour up to a maximum of two hours | £23.00 | £22.00 |
| (c) (c) For each half hour or part thereof in excess of two hours | £6.00 | £6.00 |
| (d) (d) Correspondence fee where applicable | £6.00 | £6.00 |

(7) Column 3 shows the fees which were payable under S. I. 1984/256 as amended by S.I. 1996/514 before the coming into force of this Order.

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|--|-----------------------------------|---|
| 5. Captions: | £5.00 | £5.00 |
| (a) Marking caption when ordered | | |
| (b) (b) Warrant for caption when issued | £5.00 | £5.00 |
| 6. Rolls of Court—annual subscription fee per copy including delivery of same | £615.00 | £600.00 |

SCHEDULE 2

Article 6

REVOCATIONS

| <i>Orders revoked</i> | <i>Reference</i> |
|--|------------------|
| The Court of Session etc. Fees Order 1984 | S.I.1984/256 |
| The Court of Session etc. Fees Amend ment Order 1985 | S.I. 1985/826 |
| The Court of Session etc. Fees Amend ment (No. 2) Order 1988 | S.I. 1988/969 |
| The Court of Session Etc. Fees Amend ment (No. 3) Order 1988 | S.I. 1988/1892 |
| The Court of Session etc. Fees Amend ment Order 1996 | S.I. 1996/514 |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order increases from 1st April 1997 most of the fees payable to the Principal Clerk of Session, to the Accountant of Court and to the Auditor of the Court of Session or to any officer acting for any of them respectively in relation to proceedings in the Court of Session and specialised courts and offices. The increases average 2.5%. This Order replaces the Court of Session etc. Fees Order 1984 which, along with its amending orders, is revoked by Schedule 2.

(7) Column 3 shows the fees which were payable under S. I. 1984/256 mas amended by S.I. 1996/514 before the coming into force of this Order.