
STATUTORY INSTRUMENTS

1999 No. 755 (S. 59)

COURT OF SESSION, SCOTLAND

The Court of Session etc. Fees Amendment Order 1999

<i>Made</i>	- - - -	<i>8th March 1999</i>
<i>Laid before Parliament</i>		<i>11th March 1999</i>
<i>Coming into force</i>	- -	<i>1st April 1999</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 Amendment Order 1999 and shall come into force on 1st April 1999.

Amendment of Fees Order

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

(2) In article 4 (fees payable), for the words “and article 5”, substitute “and articles 5, 5A and 5B”.

(3) After article 5 (exemption of certain persons from fees in simplified divorce applications), insert the following—

“Exemption of certain motions from fees

5A.—(1) This article applies to motions which are enrolled in the process of the cause or made orally at the bar in accordance with rule 23.2 of the Rules of Court (enrolment of motions).

(2) The fees specified in items B23 and C22 of the Table of Fees shall not be payable in respect of motions which operate solely so as to activate further steps of procedure and any opposition to such motions.

(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) S.I. 1997/688.

(3) Without prejudice to the generality of paragraph (2) above, motions which are exempt from the payment of fees include motions under the following rules of the Rules of Court—

- (a) rule 19.1 (decrees in absence);
- (b) rule 22.3(5)(a) (closing record);
- (c) rule 36.13 (death, disability, retiral, etc. of Lord Ordinary);
- (d) rules 37.1(2)(b), 37.1(6) and 37.1(7) (applications for jury trial);
- (e) rule 37.10 (application of verdicts);
- (f) rule 38.17(1) (orders for hearing);
- (g) rule 40.7(3) (procedure following transmission of appeal process);
- (h) rule 40.11(1)(a) (early disposal of appeal) but only insofar as the motion relates to rule 40.7A (required application for early disposal of appeal against interlocutor other than final judgment);
- (i) rule 40.15(1) (orders for hearing of appeal);
- (j) rule 41.15(1) (motions for hearing of appeals); and
- (k) rule 41.22(1) (motion for further procedure).

Calculation of fees payable

5B.—(1) Subject to article 5A above, the fees specified in items B23 and C22 of the Table of Fees shall be payable in addition to those fees which are specified in items B2, B6 and C5 of the Table of Fees.

(2) The fees specified in items B23 and C22 of the Table of Fees shall not be payable in addition to those fees which are specified in items B9, B10 and B13 and C10, C13 and C14 of the Table of Fees.”.

(4) For the Table of Fees in Schedule 1, there shall be substituted the Table of Fees set out in the Schedule to this Order.

St Andrew’s House,
Edinburgh
4th March 1999

Henry B McLeish
Minister of State, Scottish Office

We concur,

8th March 1999

Clive Betts
Bob Ainsworth
Two of the Lords Commissioners of Her
Majesty’s Treasury

SCHEDULE

Article 2(4)

TABLE OF FEES

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable)(3)</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	£ 57.00	£ 56.00
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)	£ 97.00	£ 95.00
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	£ 97.00	£ 95.00
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)	£ 74.00	£ 72.00
4. Simplified divorce application (inclusive of all procedure other than that	£ 57.00	£ 56.00

(3) Column 3 shows the fees which were payable under [S.I. 1997/688](#) 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)(3)</i>
specified in item B5 of this Table)		
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	£ 38.00	£ 37.00
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	£ 74.00	£ 72.00
7. Fee for initial lodging of affidavits in a family action where proof by affidavit evidence has been allowed	£ 32.00	£ 31.00
8. Special case–		
For each party	£ 49.00	£ 48.00
Maximum fee payable per case	£197.00	£192.00
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	£ 25.00	£ 24.00
12. Citation of each jury to include outlays incurred in citing and countermanding – payable on receipt of instructions for issue of precept	£137.00	£134.00
13. Reclaiming motion – fee payable by party enrolling motion	£ 97.00	£ 95.00

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable)(3)</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	£ 49.00	£ 48.00
15. Allowing proof, etc. – fee payable by each party on diet of proof, jury trial, procedure roll or summar roll hearing being allowed	£ 26.00	£ 25.00
16. Proof or Procedure Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 13.00	£13.00
17. Summar Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 26.00	–
18. Jury Trial – fee payable by each party appearing at the trial for every 30 minutes or part thereof	£ 13.00	£13.00
19. Outer House hearing other than items B16, B18, B21 and B24 of this Table – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 13.00	£13.00
20. Inner House hearing other than items B17, B22 and B24 of this Table – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 26.00	–
21. 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
22. Single Bills hearing – fee payable by each party appearing at the hearing <i>after first 30 minutes</i> – for every 30 minutes or part thereof	£ 26.00	–

(3) Column 3 shows the fees which were payable under [S.I. 1997/688](#) 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)(3)</i>
23. Fee payable by any party enrolling a motion or making a motion orally at the bar; and any party opposing any such motion	£ 25.00	–
24. Hearing out of hours – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 26.00	£25.00
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 Jurisdiction and Judgments Act 1982(4)	£ 97.00	£ 95.00
2. Additional fee payable when a petition in terms of item C1 of this Table is presented outwith normal office hours	£ 57.00	£ 56.00
3. Petition to be admitted as a notary public:		
For each applicant	£ 73.00	£ 71.00
4. Petition to be admitted as a solicitor:		
For each applicant	£ 73.00	£ 71.00
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	£ 97.00	£ 95.00
6. Caveat	£ 25.00	£ 24.00

(3) Column 3 shows the fees which were payable under [S.I. 1997/688](#) before the coming into force of this Order.

(4) [1982 c. 27](#).

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable)(3)</i>
7. Fiat	£ 25.00	£ 24.00
8. Registering official 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	£ 97.00	£ 95.00
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	£ 49.00	£ 48.00
12. Allowing proof, etc. – fee payable by each party on diet of proof, procedure roll, summar roll or judicial review hearing being allowed	£ 26.00	£ 25.00
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(5)	£ 9.00	£ 9.00
16. Proof or Procedure Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 13.00	£ 13.00
17. Summar Roll – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 26.00	–
18. Outer House hearing other than items C16, C20 and C23 of this Table – fee payable	£ 13.00	£ 13.00

(3) Column 3 shows the fees which were payable under [S.I. 1997/688](#) before the coming into force of this Order.

(5) [1986 c. 45](#).

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>	<i>Column 3 (Fee formerly payable)(3)</i>
by each party appearing at the hearing for every 30 minutes or part thereof		
19. Inner House hearing other than items C17, C21 and C23 of this Table – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 26.00	–
20. 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
21. Single Bills hearing – fee payable by each party appearing at the hearing <i>after first 30 minutes</i> – for every 30 minutes or part thereof	£ 26.00	–
22. Fee payable by any party enrolling a motion or making a motion orally at the bar; and any party opposing any such motion	£ 25.00	–
23. Hearing out of hours – fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£ 26.00	£ 25.00
D. COURT FOR HEARING APPEALS RELATING TO THE REGISTRATION OF ELECTORS		
Appeal – inclusive fee	£ 97.00	£ 95.00
E. ELECTION COURT		
1. Parliamentary election petition	£ 97.00	£ 95.00
2. Statement of matters	£ 9.00	£ 9.00
3. Any other petition, application, answers or objections submitted to the court	£ 25.00	£ 24.00
4. Certificate of judgement	£ 25.00	£ 24.00
F. LANDS VALUATION APPEAL COURT		

(3) Column 3 shows the fees which were payable under [S.I. 1997/688](#) 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)(3)</i>
1. Appeal – inclusive fee	£ 97.00	£ 95.00
2. Answers – inclusive fee	£ 97.00	£ 95.00
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	£ 27.00	£ 26.00
2. Extract of admission as a solicitor	£ 24.00	£ 23.00
3. Extract of protestation	£ 24.00	£ 23.00
4. Certificate under the Civil Jurisdiction and Judgments Act 1982	£ 24.00	£ 23.00
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 in a foreign jurisdiction or otherwise	£ 14.00	£ 14.00
8. Acknowledgement of receipt of a notice under <u>section 19(6) or 21(2)</u> of	£ 24.00	£ 23.00

(3) Column 3 shows the fees which were payable under [S.I. 1997/688](#) 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)(3)</i>
the Conveyancing and Feudal Reform (Scotland) Act 1970(6)		
9. Acknowledgement of receipt of an offer under section 9 of the Conveyancing Amendment (Scotland) Act 1938(7)	of £ 24.00	£ 23.00
<p>PART III – FEES IN THE OFFICE OF THE AUDITOR OF THE COURT OF SESSION</p> <p>I. OFFICE OF THE AUDITOR OF THE COURT OF SESSION</p> <p>PART II – FEES IN THE OFFICE OF THE ACCOUNTANT OF COURT</p> <p>H. OFFICE OF THE ACCOUNTANT OF COURT</p> <p><i>I. In Factories and Curatories</i></p>		
1. For registering case and receiving and delivering up bond of caution –	£ 24.00	£ 23.00
in Court of Session appointments		
in Sheriff Court appointments	£ 16.00	£ 16.00
2. For examining factor's inventory – 0.333% of the value of the estate as disclosed	£ 17.00	£ 17.00
minimum fee payable		
maximum fee payable	£430.00	£420.00
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	17.5%	17.5%

(3) Column 3 shows the fees which were payable under S.I. 1997/688 before the coming into force of this Order.

(6) 1970 c. 35.

(7) 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)(3)</i>
commission if chargeable or fully allowed)		
4. For reporting <i>re</i> discharge, special powers or on other special matters	£ 29.00 to £132.00	£ 28.00 to £129.00
5. For granting consent in terms of section 2(4) of the Trusts (Scotland) Act 1961(8) and rule 61.14 of the Rules of Court	£ 70.00	£ 68.00
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	£301.00	£294.00
7. For certificate under seal	£ 17.00	£ 17.00
<i>II. In Consignations</i>		
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	£ 45.00	£ 44.00
<i>III. Liquidations</i>		
10. For uplifting bond of caution	£ 4.00	£ 4.00
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		

(3) Column 3 shows the fees which were payable under S.I. 1997/688 before the coming into force of this Order.

(8) 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)(3)</i>
(b) Auditor's fee for taxing accounts of expenses etc. (i) up to £300	£ 12.00	£ 12.00
(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>		
<i>PART IV – FEES COMMON TO ALL OFFICES</i>		
<i>J. MISCELLANEOUS</i>		
1. Certified copy of proceedings for appeal to the House of Lords	£ 97.00	£ 95.00
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 – first copy: each of first 10 pages	£ 1.00	£ 1.00
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	£ 24.00	£ 23.00

(3) Column 3 shows the fees which were payable under [S.I. 1997/688](#) before the coming into force of this Order.

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a maximum of two hours		
(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
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	£630.00	£615.00

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Court of Session etc. Fees Order 1997 (“the principal Fees Order”) by increasing from 1st April 1999 many 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%.

The Order introduces a new motion fee in items B23 and C22 of the Table of Fees payable by any party enrolling a motion or making a motion orally at the bar, and any party opposing any such motion. Article 2 of the Order inserts articles 5A and 5B into the principal Fees Order. Article 5A provides that motions which operate solely so as to activate further steps of procedure and any opposition to such motions will be exempt from the new motion fee and lists some of those motions made under the Rules of the Court of Session 1994 which are exempt. Article 5B provides that the operation of the new motion fee is without prejudice to the fees which are payable in respect of items B2, B6 and C5 of the Table of Fees. Article 5B also provides that the new motion fee will not be payable in addition to those fees which are specified in items B9, B10 and B13 and C10, C13 and C14 of the Table of Fees.

The Order also increases the fee for hearings in the Inner House to double that which is payable in respect of hearings in the Outer House with the exception of hearings out of hours where there is no distinction drawn between the Inner House and the Outer House. Items B17, B20 and B22 and C17, C19 and C21 in the Table of Fees implement this increase.

(3) Column 3 shows the fees which were payable under [S.I. 1997/688](#) before the coming into force of this Order.

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