

# Scottish Statutory Instrument 2002 No. 269

## The Sheriff Court Fees Amendment Order 2002

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SCOTTISH STATUTORY INSTRUMENTS

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## 2002 No. 269

### SHERIFF COURT

#### The Sheriff Court Fees Amendment Order 2002

|  |                      |
|--|----------------------|
| <i>Made</i>                                | <i>5th June 2002</i> |
| <i>Laid before the Scottish Parliament</i> | <i>7th June 2002</i> |
| <i>Coming into force</i>                   | <i>1st July 2002</i> |

The Scottish Ministers, in exercise of the powers conferred by section 2 of the Courts of Law Fees (Scotland) Act 1895<sup>[1]</sup> and of all other powers enabling them in that behalf, hereby make the following Order:

#### **Citation and commencement**

1. This Order may be cited as the Sheriff Court Fees Amendment Order 2002 and shall come into force on 1st July 2002.

#### **Amendment of Fees Order**

2. - (1) The Sheriff Court Fees Order 1997<sup>[2]</sup> shall be amended in accordance with the following paragraphs.

(2) For article 7 (exemption of certain persons from fees in simplified divorce applications) substitute-

#### **" Exemption of certain persons from fees**

7. - (1) A fee to which this article applies shall not be payable by a person-

(a) who is in receipt of income support, working families' tax credit or disabled person's tax credit under Part VII of the Social Security Contributions and Benefits Act 1992<sup>[3]</sup>;

(b) who is in receipt of an income-based jobseeker's allowance (payable under the Jobseekers Act 1995<sup>[4]</sup>);

(c) who is in receipt of civil legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986<sup>[5]</sup> in respect of the matter in the Table of Fees in connection with which the fee is payable;

(d) where the fee is payable in connection with a simplified divorce 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; or

(e) where 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.

(2) This article applies to all fees regulated by this Order except-

(a) the fees specified in Part I (Commissary proceedings) of the Table of Fees; and

(b) in Part II (sheriff court proceedings) of the Table of Fees, the fee specified in paragraph 19 (petition for removal of disqualification).".

(3) For the Table of Fees in Schedule 1[6] substitute the Table of Fees set out in the Schedule to this Order.

*JAMES WALLACE*

A member of the Scottish Executive

St Andrew's House, Edinburgh

5th June 2002

## SCHEDULE

Article 2(3)

### TABLE OF FEES

| <i>Column 1</i>  | <i>Column 2</i>      | <i>Column 3</i>                  |
|--|----------------------|----------------------------------|
| <i>(Matters)</i>   | <i>(Fee Payable)</i> | <i>(Fee Formerly Payable)[7]</i> |
| <b>PART I - COMMISSARY PROCEEDINGS</b>   |                      |                                  |
| <b>1.</b> Petition for (a) appointment of executor, (b) restriction of caution, (c) special warrant, (d) sealing up of repositories or the like, or (e) appointment of Commissary factor | £11.00               | £10.00                           |
| <b>2.</b> Sealing up repositories or the like, per hour  | £16.00               | £15.00                           |

|   |         |                |
|---|---------|----------------|
| <p><b>3.</b></p> <p>(a) Receiving and examining inventory of estate, except where sub-paragraph (b) or (c) of this paragraph applies-</p> <p>(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[8] is required does not exceed-</p> |         |                |
| £5,000  | No fee  | <i>No fee</i>  |
| £50,000   | £81.00  | <i>£74.00</i>  |
| (ii) where the amount of the said estate exceeds £50,000  | £114.00 | <i>£105.00</i> |
| (b) Receiving and examining additional or corrective inventory of estate or inventory of estate <i>ad non executa</i>   | £81.00  | <i>£74.00</i>  |
| (c) Receiving and examining inventory of estate where it is declared that confirmation is not required:   |         |                |
| 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><b>4. Commissary copying and extracting</b></p> <p>(1) Issuing certificate of confirmation</p>   |         |                |
| (a) if ordered when lodging inventory - each certificate  | £3.00   | <i>£3.00</i>   |

|  |        |        |
|--|--------|--------|
| (b) if ordered subsequent to lodging inventory-  |        |        |
| (i) first certificate - including search fee   | £10.00 | £9.00  |
| (ii) each subsequent certificate   | £3.00  | £3.00  |
| (2) Copy or duplicate confirmation-  |        |        |
| (a) if ordered when lodging inventory  | £5.00  | £5.00  |
| (b) if ordered subsequent to lodging inventory-  |        |        |
| (i) first duplicate - including search fee   | £12.00 | £11.00 |
| (ii) each subsequent duplicate if ordered at the same time as the first duplicate            | £5.00  | £5.00  |
| (3) Certified extract confirmation and will (if any)-  |        |        |
| (a) if ordered when lodging inventory  | £12.00 | £11.00 |
| (b) if ordered subsequent to lodging inventory-  |        |        |
| (i) first certified extract - including search fee   | £19.00 | £17.00 |
| (ii) each subsequent certified extract if ordered at the time of the first certified extract | £12.00 | £11.00 |
| (4) Copy will-   |        |        |
| (a) if ordered when lodging inventory  | £3.50  | £3.50  |
| (b) if ordered subsequent to lodging inventory-  |        |        |

|   |        |        |
|---|--------|--------|
| (i) first copy - including search fee   | £10.00 | £9.50  |
| (ii) each subsequent copy, if ordered at the same time as the first copy  | £3.50  | £3.50  |
| <b>5.</b> Application under section 4 of the Requirements of Writing (Scotland) Act 1995[9]   | £11.00 | £10.00 |
| <b>PART II - SHERIFF COURT PROCEEDINGS</b>  |        |        |
| <b>6.</b> Initial writ in any proceedings not being proceedings for which any other paragraph of this Table prescribes a fee            | £50.00 | £46.00 |
| <i>Actions of divorce (other than simplified divorce application)</i>   |        |        |
| <b>7.</b> Initial writ in an action of divorce other than a simplified divorce application  | £81.00 | £74.00 |
| <i>Simplified divorce application</i>   |        |        |
| <b>8.</b> Simplified divorce application (inclusive of all procedures other than those specified at paragraphs 31 and 32 of this Table) | £62.00 | £57.00 |
| <i>Summary warrants</i>   |        |        |
| <b>9.</b> Application for summary warrant   | £39.00 | £36.00 |
| <i>Bankruptcy proceedings</i>   |        |        |
| <b>10.</b> Petition for sequestration of estates  | £63.00 | £58.00 |
| <b>11.</b> Petition for discharge of a bankrupt or application for approval of composition or deed of arrangement                       | £19.00 | £17.00 |
| <b>12.</b> Miscellaneous applications including appeals under the Bankruptcy (Scotland) Act 1985[10]                                    | £32.00 | £29.00 |
| <i>Service of heirs</i>   |        |        |

|   |         |         |
|---|---------|---------|
| <b>13.</b> Petition for general or special service or completion of title, or note for a Crown or Prince's charter, writ or precept | £126.00 | £116.00 |
| <i>Summary cause</i>  |         |         |
| <b>14.</b> Summons - summary cause (including small claim)-   |         |         |
| (a) actions for payment of money less than £50  | £7.00   | £6.00   |
| (b) other actions   | £39.00  | £36.00  |
| (c) in relation to a small claim summons, citation of, or intimation to, any party by sheriff officer                               | £26.00  | £24.00  |
| (d) on the marking of an appeal   | £32.00  | £29.00  |
| <i>Miscellaneous</i>  |         |         |
| <b>15.</b> Application under section 4 of the Requirements of Writing (Scotland) Act 1995   | £11.00  | £10.00  |
| <b>16.</b> Caveat   | £19.00  | £17.00  |
| <i>Enforcement of UK judgments</i>  |         |         |
| <b>17.</b> Any proceedings under section 12 or 18 of the Civil Jurisdiction and Judgments Act 1982[ <a href="#">11</a> ]            | £13.00  | £12.00  |
| <i>Criminal procedure</i>   |         |         |
| <b>18.</b> Complaint  | £19.00  | £17.00  |
| <i>Road Traffic Offenders Act 1988</i> [ <a href="#">12</a> ]   |         |         |
| <b>19.</b> Petition for removal of disqualification   | £50.00  | £46.00  |
| <i>Defender's responses - non-divorce cases</i>   |         |         |

|   |        |        |
|---|--------|--------|
| <b>20.</b> 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 | £50.00 | £46.00 |
| <i>Defender's responses - divorces</i>  |        |        |
| <b>21.</b> First writ or attendance to state a defence or oppose an interim order, each defender or compeerer in an action of divorce other than a simplified divorce application       | £81.00 | £74.00 |
| <i>Civil court procedure</i>  |        |        |
| <b>22.</b> 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[13]                                    | £63.00 | £58.00 |
| <b>23.</b> Fee to be paid by the pursuer on the lodging of a certified closed record under the additional procedure of the said Rules   | £63.00 | £58.00 |
| <b>24.</b> Fee to be paid by the pursuer on the fixing of a proof, a debate or a hearing in a summary or miscellaneous application on the merits of the cause                           | £28.00 | £26.00 |
| <b>25.</b> 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                  | £63.00 | £58.00 |
| NOTE: The above fee does not apply if the proof, debate or hearing does not proceed on that day.  |        |        |
| <b>26.</b> 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  | £26.00 | £24.00 |



|   |        |        |
|---|--------|--------|
| <b>27.</b> Fee to be paid on marking an appeal to the Sheriff Principal in any proceedings (other than as provided for in paragraph 14 (d) of this Table) | £63.00 | £58.00 |
| <b>28.</b> 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           | £37.00 | £34.00 |
| <i>Bankruptcy (Scotland) Act 1985</i>   |        |        |
| <b>29.</b> Act and warrant of trustee   | £26.00 | £24.00 |
| <b>30.</b> Application (written or oral) for discharge of trustee   | £19.00 | £17.00 |
| <i>Simplified divorce</i>   |        |        |
| <b>31.</b> In relation to a simplified divorce application, citation of, or intimation to, any person or persons by sheriff officer                       | £35.00 | £32.00 |
| <b>32.</b> Subsequent application upon change of circumstances by party to a simplified divorce application   | £17.00 | £16.00 |
| <i>Miscellaneous</i>  |        |        |
| <b>33.</b> Note in a liquidation or judicial factory  | £19.00 | £17.00 |
| <i>Sheriff court books</i>  |        |        |
| <b>34.</b> Recording protest of a bill or promissory note   | £13.00 | £12.00 |
| NOTE: Extract to be charged as in paragraph 39 of this Table.   |        |        |
| <b>35.</b> Preservation of deeds, each deed   | £5.00  | £5.00  |
| NOTE: Recording and extracting to be charged as in paragraph 39 of this Table.  |        |        |
| <i>Miscellaneous office procedures</i>  |        |        |

|   |         |                |
|---|---------|----------------|
| <b>36.</b> Lodging each set of plans or other Parliamentary deposit   | £39.00  | <i>£36.00</i>  |
| <b>37.</b> Inspection of report of sale and the auditor of court's report   | £9.00   | <i>£8.00</i>   |
| <b>38.</b> Inspection by a trade protection society, licensed credit reference agency or trade publication of protests, Act Book and Court Rolls- |         |                |
| (a) weekly for twelve months (payable in advance)   | £190.00 | <i>£174.00</i> |
| (b) Twice weekly for twelve months (payable in advance)   | £378.00 | <i>£347.00</i> |
| (c) four times weekly for twelve months (payable in advance)  | £759.00 | <i>£696.00</i> |
| <b>39.</b> Recording, engrossing, extracting or copying all documents except as provided for at paragraph 4 of this Table-                        |         |                |
| (a) by manuscript or typescript (exclusive of search fee):<br><br>for each page or part thereof   | £7.00   |                |
| (b) by copying by any other means (exclusive of search fee):<br><br>for each page or part thereof   | £0.30   |                |
| NOTE: Recording in Sheriff Court Register of Deeds to be charged as in (a) or (b).  |         |                |
| <b>40.</b> Searches: for each search of records or archives, except as provided for at paragraph 4 of this Table-                                 |         |                |

|  |        |               |
|--|--------|---------------|
| (a) for first half hour of time taken  | £7.00  | <i>£6.00</i>  |
| (b) for more than one half hour up to a maximum of two hours   | £13.00 | <i>£12.00</i> |
| (c) for each half hour or part thereof in excess of two hours  | £7.00  | <i>£6.00</i>  |
| (d) plus correspondence fee where applicable   | £7.00  | <i>£6.00</i>  |
| <b>PART III - AUDITOR OF COURT</b>   |        |               |
| <b>41.</b> 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  | £30.00 | <i>£12.00</i> |
| (2) auditor's fee for taxing accounts of expenses etc.-  |        |               |
| (a) up to £400   | £16.00 | <i>£12.00</i> |
| (b) for every additional £100 or part thereof  | £4.00  | <i>£4.00</i>  |
| NOTE: Fee to be determined by auditor of court on amount of account as submitted.  |        |               |
| (3) fee for cancellation of diet of taxation-  |        |               |
| (a) where written notice of cancellation received within three working days of diet, half of fee that would have been payable under sub-paragraph (2) of this paragraph                          |        |               |
| (b) where written notice of cancellation received 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 |        |               |

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## 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 in simplified divorce actions) so as to provide exemption from certain of the fees payable for persons in receipt of certain forms of benefits and legal aid (article 2(2)). The exemption is also extended to civil sheriff court proceedings generally.

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 April 1999. Some fee levels remain unchanged and the increases represent an average of approximately 9% except (a) the lodging fee to be paid to the Auditor of Court increases from £12 to £30; and (b) the auditor's fee for taxing the first £400 (formerly £300) of an account increases from £12 to £16 (article 2(3) and the Schedule).

Finally, the Order simplifies the fees payable relating to recording, engrossing and copying documents and makes new provision for payment of a fee on cancellation of a diet of taxation (article 2(3) and the Schedule, in particular paragraphs 39 and 41).

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### Notes:

[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).  
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[2] S.I. 1997/687 as amended by S.I. 1999/754.[back](#)

[3] 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. Section 128, which provides for working families' tax credit, was amended by the Tax Credits Act 1999 (c. 10), section 1(2) and Schedule 1, paragraphs 1(a) and (b) and 2(g) and by the Jobseekers Act 1995, section 41(4) and Schedule 2, paragraph 33. Section 129, which provides for disabled person's tax credit, was amended by the Tax Credits Act 1999, sections 1(2) and 14(1) and (5) and Schedule 1, paragraphs 1(a) and (b) and 2(h), the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 10(2) and (3) and 11(1) and Schedule 1, paragraph 32, the Welfare Reform and Pensions Act 1999, section 88

and Schedule 13, Part IV, the Jobseekers Act 1995, section 41(4) and Schedule 2, paragraph 34 and by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraph 2.[back](#)

[4] 1995 c.18.[back](#)

[5] 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).[back](#)

[6] Schedule 1 was substituted by S.I. 1999/754, article 2(3).[back](#)

[7] Column 3 shows the fees which were payable under S.I. 1997/687 (as amended by S.I. 1999/754) 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.[back](#)

[8] 1892 c.6.[back](#)

[9] 1995 c.7.[back](#)

[10] 1985 c.66.[back](#)

[11] 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.[back](#)

[12] 1988 c.53.[back](#)

[13] See Schedule 1 to the Sheriff Courts (Scotland) Act 1907 (c.51).[back](#)

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