

Scottish Statutory Instrument 2002 No. 270

The Court of Session etc. Fees Amendment Order 2002

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SCOTTISH STATUTORY INSTRUMENTS

2002 No. 270

COURT OF SESSION

The Court of Session etc. 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[1] 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 Court of Session etc. Fees Amendment Order 2002 and shall come into force on 1st July 2002.

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) For article 5 (exemption of certain persons from fees in simplified divorce applications) substitute-

" Exemption of certain persons from fees

5. A fee regulated by this Order 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[3];

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

(c) who is in receipt of civil legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986[5] 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) 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.".

(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>
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	£62.00	£57.00
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)	£106.00	£97.00

<p>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 course or proceeding other than a family action</p>	£106.00	<i>£97.00</i>
<p>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)</p>	£81.00	<i>£74.00</i>
<p>4. Simplified divorce application (inclusive of all procedure other than that specified in item B5 of this Table)</p>	£62.00	<i>£57.00</i>
<p>5. In relation to a simplified divorce application, citation of any persons 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.</p>	£41.00	<i>£38.00</i>
<p>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</p>	£81.00	<i>£74.00</i>

7. Fee for initial lodging of affidavits in a family action where proof by affidavit evidence has been allowed	£35.00	<i>£32.00</i>
8. Special case-		
For each party	£53.00	<i>£49.00</i>
Maximum fee payable per case	£215.00	<i>£197.00</i>
9. Application by minute or motion for variation of an order in a family action	£19.00	<i>£17.00</i>
10. Answers or opposition to an application under item B9 of this Table	£19.00	<i>£17.00</i>
11. Letter of request to a foreign court	£27.00	<i>£25.00</i>
12. Citation of each jury, to include outlays incurred in citing and countermanding - payable on receipt of instruments for issue of precept	£149.00	<i>£137.00</i>
13. Reclaiming motion - fee payable by party enrolling motion	£106.00	<i>£97.00</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	£53.00	<i>£49.00</i>
15. Allowing proof, etc. - fee payable by each party on diet of proof, jury trial, procedure roll or summar roll hearing being allowed	£28.00	<i>£26.00</i>

16. Proof or Procedure Roll - fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£16.00	<i>£13.00</i>
17. Summar Roll - fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£33.00	<i>£26.00</i>
18. Jury Trial - fee payable by each party appearing at the trial for every 30 minutes or part thereof	£16.00	<i>£13.00</i>
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	£16.00	<i>£13.00</i>
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	£33.00	<i>£26.00</i>
21. Motion Roll hearing - fee payable by each party appearing at the hearing after first 30 minutes - for every 30 minutes or part thereof	£16.00	<i>£13.00</i>
22. Single Bills hearing - fee payable by each party appearing at the hearing after first 30 minutes - for every 30 minutes or part thereof	£33.00	<i>£26.00</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	£27.00	<i>£25.00</i>

24. Hearing out of hours - fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£33.00	<i>£26.00</i>
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 ^[8]	£106.00	<i>£97.00</i>
2. Additional fee payable when a petition in terms of item C1 of this Table is presented outwith normal office hours	£62.00	<i>£57.00</i>
3. Petition to be admitted as a notary public:		
For each applicant	£80.00	<i>£73.00</i>
4. Petition to be admitted as a solicitor:		
For each applicant	£80.00	<i>£73.00</i>
5. Answers, objection 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	£106.00	<i>£97.00</i>
6. Caveat	£27.00	<i>£25.00</i>
7. Fiat	£27.00	<i>£25.00</i>

8. Registering official copies of orders of courts in England and Wales or Northern Ireland	£10.00	<i>£9.00</i>
9. Issue of an abbreviate in sequestration	£10.00	<i>£9.00</i>
10. Reclaiming motion - fee payable by party enrolling motion	£106.00	<i>£97.00</i>
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	£53.00	<i>£49.00</i>
12. Allowing proof, etc. - fee payable by each party on diet of proof, procedure roll, summar roll or judicial review hearing being allowed	£28.00	<i>£26.00</i>
13. Application by minute or motion for variation of an order in a petition for custody, aliment or access	£20.00	<i>£18.00</i>
14. Answers or opposition to a motion under item C13 of this Table	£20.00	<i>£18.00</i>
15. Registering orders for enforcement under section 426 of the Insolvency Act 1986 ^[9]	£10.00	<i>£9.00</i>
16. Proof or Procedure Roll - fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£16.00	<i>£13.00</i>
17. Summar Roll - fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£33.00	<i>£26.00</i>

18. Outer House hearing other than items C16, C20 and C23 of this Table - fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£16.00	<i>£13.00</i>
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	£33.00	<i>£26.00</i>
20. Motion Roll Hearing - fee payable by each party appearing at the hearing after first 30 minutes - for every 30 minutes or part thereof	£16.00	<i>£13.00</i>
21. Single Bills hearing - fee payable by each party appearing at the hearing after first 30 minutes - for every 30 minutes or part thereof	£33.00	<i>£26.00</i>
22. Fee payable by any party enrolling a motion or making a motion orally at the bar; and any party opposing any such motion	£27.00	<i>£25.00</i>
23. Hearing out of hours - fee payable by each party appearing at the hearing for every 30 minutes or part thereof	£33.00	<i>£26.00</i>
D. COURT FOR HEARING APPEALS RELATING TO THE REGISTRATION OF ELECTORS		
Appeal - inclusive fee	£106.00	<i>£97.00</i>
E. ELECTION COURT		
1 Parliamentary election petition	£106.00	<i>£97.00</i>
2. Statement of matters	£10.00	<i>£9.00</i>

3. Any other petition, application, answers or objections submitted to the court	£27.00	<i>£25.00</i>
4. Certificate of judgement	£27.00	<i>£25.00</i>
F. LANDS VALUATION APPEAL COURT		
1. Appeal - inclusive fee	£106.00	<i>£97.00</i>
2. Answers - inclusive fee	£106.00	<i>£97.00</i>
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	£29.00	<i>£27.00</i>
2. Extract of admission as a solicitor	£26.00	<i>£24.00</i>
3. Extract of protestation	£26.00	<i>£24.00</i>
4. Certificate under the Civil Jurisdiction and Judgments Act 1982	£26.00	<i>£24.00</i>
5. Documentation evidencing divorce, nullity or dissolution of marriage:		
(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	£15.00	<i>£14.00</i>
(b) Certificate of divorce in decree pronounced prior to 23rd September 1975	£15.00	<i>£14.00</i>

(c) Certified copy interlocutor in decree pronounced prior to 23rd September 1975	£15.00	£14.00
6. Extract from the Register of Acts and Decrees - per sheet or part thereof	£15.00	£14.00
7. Sealing and certifying any document for exhibition in a foreign jurisdiction or otherwise	£15.00	£14.00
8. Acknowledgement of receipt of a notice under section 19(6) or 21 (2) of the Conveyancing and Feudal Reform (Scotland) Act 1970[10]	£26.00	£24.00
9. Acknowledgement of receipt of an offer under section 9 of the Conveyancing Amendment (Scotland) Act 1938[11]	£26.00	£24.00
PART II - FEES IN THE OFFICE OF THE ACCOUNTANT OF COURT		
H. OFFICE OF THE ACCOUNTANT OF COURT		
<i>I. In Factories and Curatories</i>		
1. For registering case and receiving and delivering up bond of caution-		
in Court of Session appointments	£26.00	£24.00
in Sheriff Court appointments	£17.00	£16.00
2. For examining factor's inventory - 0.333% of the value of the estate as disclosed		
minimum fee payable	£19.00	£17.00
maximum fee payable	£469.00	£430.00
3. For auditing each account-		

basic fee	£10.00	£9.00
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 <i>re</i> discharge, special powers or on other special matters	£32.00 to £144.00	£29.00 to £132.00
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	£76.00	£70.00
6. For report on scheme of division-		
basic fee	£17.00	£16.00
additional fee for each £1,000 (excluding the first £1,000) or part thereof of value of estate to be divided	£10.00	£9.00
maximum fee payable	£328.00	£301.00
7. For certificate under seal	£19.00	£17.00
<i>II. In Consignations</i>		
8. For lodging consignment	£14.00	£13.00
9. For producing or delivering up-		
basic fee	£14.00	£13.00
additional fee for every £100 or part thereof uplifted	£1.00	£1.00
maximum fee payable	£49.00	£45.00
<i>III. Liquidations</i>		
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		
1. 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:		
(a) Auditor's fee on lodging account for taxation	£30.00	£12.00
(b) Auditor's fee for taxing accounts for expenses etc.		
(i) up to £400	£16.00	£12.00
(ii) for every additional £100 or part thereof	£4.00	£4.00
<i>Note:</i> fee to be determined by the Auditor of the Court of Session on amount of account as submitted		
2. Fee for assessing account remitted to the Auditor to determine whether an additional fee should be paid	£200.00	
3. Fee for cancellation of diet of taxation-	(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 item I1 (b) of this Table	
(a) where written notice of cancellation received within three working days of diet, half of fee that would have been payable under item I1 (b) of this Table		
PART IV - FEES COMMON TO ALL OFFICES		
J. MISCELLANEOUS		

1. Certified copy of proceedings for appeal to the House of Lords	£106.00	<i>£97.00</i>
2. Certifying of any other document (plus copying charges if necessary)	£10.00	<i>£9.00</i>
3. Recording, engrossing, extracting or copying- all documents: (a) By manuscript or typescript (exclusive of search fee)-		
for each page or part thereof	£7.00	
(b) By copying by any other means (exclusive of search fee)-		
for each page	£0.30	
4. Searches - for any search of records or archives:		
(a) For first half hour of time taken	£10.00	<i>£9.00</i>
(b) For more than one half hour up to a maximum of two hours	£26.00	<i>£24.00</i>
(c) For each half hour or part thereof in excess of two hours	£7.00	<i>£6.00</i>
(d) Correspondence fee where applicable	£7.00	<i>£6.00</i>
5. Captions:		
(a) Marking caption when ordered	£5.00	<i>£5.00</i>
(b) Warrant for caption when issued	£5.00	<i>£5.00</i>

6. Rolls of Court - annual subscription fee per copy including delivery	£687.00	£630.00
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Court of Session etc. Fees Order 1997 ("the 1997 Order").

The Order amends article 5 of the 1997 Order (exemption of certain persons from fees in simplified divorce actions) so as to provide exemption from the fees payable under the Order for persons in receipt of certain forms of benefits and legal aid (article 2(2)). The exemption is also extended to proceedings generally.

The Order also specifies for fees payable to the Principal Clerk of Session, to the Accountant of Court and to the Auditor of Court of Session or to any officer acting for any of them respectively in relation to proceedings in the Court of Session, new fee levels in substitution for those applicable since the 1997 Order was last amended on 1st April 1999. The increases represent an average of approximately 9% except-

- (a) for fees payable in relation to a hearing before a Judge (where the increase is 25%);
- (b) the lodging fee to be paid to the Auditor of Court increases from £12 to £30; and
- (c) 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 in relation to recording, engrossing and copying documents and makes new provision for fees payable in connection with the cancellation of a diet of taxation or a remit to the Auditor to determine whether an additional fee should be paid (article 2(3) and the Schedule, in particular items I2, I3 and J3).

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. 1997/688 as amended by S.I. 1999/755.[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) to (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. 1999/755, article 2(4).[back](#)

[7] Column 3 shows the fees which were payable under S.I. 1997/688 (as amended by S.I. 1999/755) 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] 1982 c.27.[back](#)

[9] 1986 c.45.[back](#)

[10] 1970 c.35.[back](#)

[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.[back](#)

[12] 1961 c.57; section 2 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act (c.55), section 8.[back](#)

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