

CHAPTER 42

TAXATION OF ACCOUNTS AND FEES OF SOLICITORS

PART I

TAXATION OF ACCOUNTS

Remit to the Auditor

42.1.-(1) Where expenses are found due to a party in any cause, the court shall-

- (a) pronounce an interlocutor finding that party entitled to expenses and, subject to rule 42.6(1) (modification of expenses awarded against assisted persons), remitting to the Auditor for taxation; and
- (b) without prejudice to rule 42.4 (objections to report of the Auditor), unless satisfied that there is special cause shown for not doing so, pronounce an interlocutor decerning against the party found liable in expenses as taxed by the Auditor.

(2) Any party found entitled to expenses shall-

- (a) lodge an account of expenses in process not later than 4 months after the final interlocutor in which a finding in respect of expenses is made; and
- (aa) if he has failed to comply with sub-paragraph (a), lodge such account at any time with leave of the court but subject to such conditions (if any) as the court thinks fit to impose; and
- (b) give written intimation of the lodging of the account, and send a copy of it, to the party found liable to pay those expenses.

(3) Rule 4.6(1) (intimation of steps of process) shall not apply to the lodging of an account of expenses.

Diet of taxation

42.2.-(1) On receipt of the process of the cause, the Auditor shall-

- (a) fix a diet for taxation; and
- (b) intimate the diet to-
 - (i) the party found entitled to expenses; and
 - (ii) the party found liable in expenses.

(1A) The party found liable in expenses shall, not later than 3 working days prior to the diet of taxation, intimate to the Auditor and to the party found entitled to expenses, specific points of objection, setting out each item objected to and stating concisely the nature and ground of objection in each case.

(1B) Subject to paragraph (1C), if the party found liable in expenses fails to intimate points of objection under paragraph (1A) within the time limit set out there, the Auditor shall not take account of them at the diet of taxation.

(1C) The Auditor may relieve a party from the consequences of a failure to comply with the requirement contained in paragraph (1B) because of mistake, oversight or other excusable cause on such conditions, if any, as the Auditor thinks fit.

(2) At the diet of taxation, the party found entitled to expenses shall make available to the Auditor all vouchers, documents, drafts or copies of documents sought by the Auditor and relevant to the taxation.

Report of taxation

42.3.-(1) The Auditor shall-

- (a) prepare a report of the taxation of the account of expenses, stating the amount of expenses as taxed;
- (b) transmit the process of the cause and the report to the appropriate department of the Office of Court; and
- (c) on the day on which he transmits the process, intimate that fact and the date of his report to each party to whom he intimated the diet of taxation.

(2) The party found entitled to expenses shall, within seven days after the date of the report prepared under paragraph (1), exhibit the taxed account, or send a copy of it, to the party found liable to pay the expenses.

Objections to report of the Auditor

42.4.-(1) Any party to a cause who has appeared or been represented at the diet of taxation may state any objection to the report of the Auditor by lodging in process a note of objection within 14 days after the date of the report.

(2) A party lodging a note of objection shall-

- (a) intimate a copy of the note to any other party who appeared or was represented at the diet of taxation and to the Auditor;
- (b) apply by motion for an order-
 - (i) allowing the note to be received; and
 - (ii) ordaining the Auditor to state by minute, within 14 days after intimation under sub-paragraph (c), the reasons for his decision in relation to the items to which objection is taken in the note; and
- (c) intimate forthwith to the Auditor a copy of the interlocutor pronounced on a motion under sub-paragraph (b).

(3) After the minute of the Auditor has been lodged in process, the party who lodged the note of objection shall, in consultation with any other party wishing to be heard, arrange with the Keeper of the Rolls for a diet of hearing before the appropriate court.

(4) At the hearing on the note of objection, the court may-

- (a) sustain or repel any objection in the note or remit the account of expenses to the Auditor for further consideration; and
- (b) find any party liable in the expenses of the procedure on the note.

(5) In the event of an objection being sustained, the court shall ordain the Auditor to amend his report to give effect to the decision of the court.

Modification or disallowance of expenses

42.5.-(1) In any cause where the court finds a party entitled to expenses, the court may direct that expenses shall be subject to such modification as the court thinks fit.

(2) Where it appears to the Auditor that a party found entitled to expenses-

- (a) was unsuccessful, or
- (b) incurred expenses through his own fault,

in respect of a matter which would otherwise be included in those expenses, the Auditor may disallow the expenses in respect of that matter in whole or in part.

Modification of expenses awarded against assisted persons

42.6.-(1) In a cause in which the court finds an assisted person liable in expenses, the court may, on the motion of any party to the cause, instead of remitting the account of expenses of the party in whose favour the finding is made to the Auditor for taxation, determine to what extent the liability of the assisted person for such expenses shall be modified under-

- (a) section 2(6)(e) of the Legal Aid (Scotland) Act 1967 **(a)**; or
- (b) section 18(2) of the Legal Aid (Scotland) Act 1986 **(b)**.

(2) Where a remit is made to the Auditor for taxation in a cause in which an assisted person is found liable in expenses, an application for modification under a statutory provision mentioned in paragraph (1) may be made by motion within 14 days after the date of the report of the Auditor made under rule 42.3 (report of taxation).

Taxation of solicitors' own accounts

42.7.-(1) Subject to section 61A(1) of the Solicitors (Scotland) Act 1980 **(c)**, the court may remit to the Auditor the account of a solicitor to his client-

- (a) where the account is for work done in relation to a cause in the Court of Session, on the motion of the solicitor or the client; or
- (b) in an action in which the solicitor or his representative sues the client for payment of the account.

(2) A motion under paragraph (1)(a) may be enrolled notwithstanding that final decree in the cause has been extracted.

(3) The account referred to in paragraph (1) shall-

- (a) be in such form as will enable the Auditor to establish the nature and extent of the work done to which the account relates;
- (b) detail the outlays incurred by the solicitor; and
- (c) be accompanied by such supporting material as is necessary to vouch the items in the account.

(4) The Auditor shall-

- (a) fix a diet of taxation not earlier than 14 days after the date on which he receives the account; and
- (b) intimate the diet to the solicitor.

(5) On receipt of intimation of the diet of taxation from the Auditor, the solicitor shall forthwith send to his client by registered post or the first class recorded delivery service-

- (a) a copy of the account to be taxed;
- (b) a copy of the interlocutor remitting the account; and
- (c) a notice in Form 42.7 of the date, time and place of the diet of taxation.

(6) In taxing an account remitted to him under paragraph (1), the Auditor-

- (a) shall allow a sum in respect of such work and outlays as have been reasonably incurred;
- (b) shall allow, in respect of each item of work and outlay, such sum as may be fair and reasonable having regard to all the circumstances of the case;

(a) 1967 c.43.

(b) 1986 c.47; section 18(2) was amended by the Legal Aid Act 1988 (c.34), Schedule 4, paragraph 7.

(c) 1980 c.46; section 61A was inserted by the Law Reform (Miscellaneous Provisions)(Scotland) Act 1990 (c.40), section 36(3).

- (c) shall, in determining whether a sum charged in respect of an item of work is fair and reasonable, take into account any of the following factors:-
 - (i) the complexity of the cause and the number, difficulty or novelty of the questions raised;
 - (ii) the skill, labour, and specialised knowledge and responsibility required, of the solicitor;
 - (iii) the time spent on the item of work and on the cause as a whole;
 - (iv) the number and importance of any documents prepared or perused;
 - (v) the place and circumstances (including the degree of expedition required) in which the work of the solicitor or any part of it has been done;
 - (vi) the importance of the cause or the subject-matter of it to the client;
 - (vii) the amount or value of money or property involved in the cause; and
 - (viii) any informal agreement relating to fees;
 - (d) shall presume (unless the contrary is demonstrated to his satisfaction) that-
 - (i) an item of work or outlay was reasonably incurred if it was incurred with the express or implied approval of the client;
 - (ii) the fee charged in respect of an item of work or outlay was reasonable if the amount of the fee or the outlay was expressly or impliedly approved by the client; and
 - (iii) an item of work or outlay was not reasonably incurred, or that the fee charged in respect of an item of work or outlay was not reasonable if the item of work, outlay or fee charged, was unusual in the circumstances of the case, unless the solicitor informed the client before carrying out the item of work or incurring the outlay that it might not be allowed (or that the fee charged might not be allowed in full) in a taxation in a cause between party and party; and
 - (e) may disallow any item of work or outlay which is not vouched to his satisfaction.
- (7) The Auditor shall-
- (a) prepare a report of the taxation of the account remitted to him under paragraph (1);
 - (b) transmit his report to the appropriate department of the Office of Court; and
 - (c) send a copy of his report to the solicitor and the client.

PART II

FEES OF SOLICITORS

Application and interpretation of this Part

42.8.-(1) This Part applies to fees of solicitors in a cause other than fees-

- (a) provided for by regulations made by the Secretary of State under section 14A of the Legal Aid (Scotland) Act 1967 **(a)**; or
- (b) for which the Secretary of State may make regulations under section 33 of the Legal Aid (Scotland) Act 1986 **(b)**.

(2) In this Part, "the Table of Fees" means the Table of Fees in rule 42.16.

Form of account of expenses

42.9. An account of expenses presented to the Auditor in accordance with an order of the court shall set out in chronological order all items in respect of which fees are claimed and shall be taxed as if the whole work in the cause had been carried out by one solicitor.

(a) 1967 c.43; section 14A was inserted by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c.12), section 3.

(b) 1986 c.47; section 33 was amended by the Legal Aid Act 1988 (c.34), Schedule 4, paragraph 5.

Basis of charging

42.10.-(1) Only such expenses as are reasonable for conducting the cause in a proper manner shall be allowed.

(2) Where the work can properly be performed by a local solicitor, the Auditor in taxing an account shall allow such expenses as would have been incurred if the work had been done by the nearest local solicitor, including reasonable fees for instructing and corresponding with him, unless the Auditor is satisfied that it was in the interests of the client that the solicitor in charge of the cause should attend personally.

(3) Subject to paragraph (4), a solicitor may charge an account either on the basis of Chapter I or on the basis of Chapter III of the Table of Fees, but he may not charge partly on one basis and partly on the other.

(4) Where the inclusive fees set out in Chapter III of the Table of Fees are not conveniently applicable or do not properly cover the work involved, an account may be charged on the basis of Chapter I of that Table.

(5) The Auditor may increase or reduce an inclusive fee in Chapter III of the Table of Fees in appropriate circumstances whether or not those circumstances fall under Part IX of that Chapter.

Value added tax

42.12.-(1) Where work done by a solicitor constitutes a supply of services in respect of which value added tax is chargeable by him, there may be added to the amount of fees an amount equal to the amount of value added tax chargeable.

(2) An account of expenses or a minute of election to charge the inclusive fee in paragraph 1 of Chapter III of the Table of Fees shall contain a statement as to whether or not the party entitled to the expenses is registered for the purposes of value added tax.

Charges for witnesses

42.13.-(1) Charges for the attendance at a proof or jury trial of a witness-

- (a) present but not called to give evidence, or
- (b) who is held as concurring with another witness who has been called,

may be allowed if a party has, at any time before the diet of taxation, enrolled a motion for the name of that witness to be noted in the minute of proceedings in the cause.

(2) Subject to paragraph (3), where it was reasonable in any cause to employ a skilled person to make investigations or to report for any purpose, any charges for such investigations and report and for any attendance at any proof or jury trial shall be allowed in addition to the ordinary witness fee of such person at such rate as the Auditor shall determine is fair and reasonable.

(2A) Subject to paragraph (3)(a) in the case of a skilled witness and paragraph (3)(b) in the case of a professional witness, in any cause in which evidence has been given by affidavit, charges shall be allowed to the deponent in terms of paragraph (2) of this rule or of paragraph (2)(a)(iii) of Chapter II of the Table of Fees as the case may be.

Chapter 42.11 was deleted by Act of Sederunt (S.I. 1998/2674) on 1.12.98.

(3) The Auditor may make no determination under paragraph (2) or (2A) unless the court has, on granting a motion made for the purpose, before or at the time at which it awarded expenses or on a motion enrolled at any time thereafter but before the diet of taxation -

- (a) certified that the witness was a skilled witness;
- (aa) certified that it was reasonable to employ that person to make investigations or to report; and
- (b) recorded the name of that witness in the interlocutor pronounced by the court.

(4) Where a motion under paragraph (3) is enrolled after the court has awarded expenses, the expenses of the motion shall be borne by the party enrolling it.

Additional fee

42.14.-(1) An application for the allowance of an additional fee shall be made by motion to the court.

(2) The court may, on such an application to it-

- (a) determine the application itself; or
- (b) remit the application to the Auditor for him to determine whether an additional fee should be allowed.

(3) In determining whether to allow an additional fee under paragraph (2), the court or the Auditor, as the case may be, shall take into account any of the following factors:-

- (a) the complexity of the cause and the number, difficulty or novelty of the questions raised;
- (b) the skill, time and labour, and specialised knowledge required, of the solicitor or the exceptional urgency of the steps taken by him;
- (c) the number or importance of any documents prepared or perused;
- (d) the place and circumstances of the cause or in which the work of the solicitor in preparation for, and conduct of, the cause has been carried out;
- (e) the importance of the cause or the subject-matter of it to the client;
- (f) the amount or value of money or property involved in the cause;
- (g) the steps taken with a view to settling the cause, limiting the matters in dispute or limiting the scope of any hearing.

(4) In fixing an additional fee, the Auditor shall take into account any of the factors mentioned in paragraph (3).

Fees of a reporter

42.15. Subject to any other provision in these Rules, any order of the court or agreement between a party and his solicitor, where any matter in a cause is remitted by the court, at its own instance or on the motion of a party, to a reporter or other person to report to the court-

- (a) the solicitors for the parties shall be personally liable, in the first instance, to the reporter or other person for his fee and outlays unless the court otherwise orders; and
- (b) where-
 - (i) the court makes the remit at its own instance, the party ordained by the court, or
 - (ii) the court makes the remit on the motion of a party, that party, shall be liable to the reporter or other person for his fee and outlays.

Table of fees

42.16.-(1) The Table of Fees shall regulate the fees of a solicitor charged in an account in any cause between party and party.

(2) In the Table of Fees, "sheet" means a page of 250 or more words or numbers.

(3) The Table of Fees is as follows.

TABLE OF FEES

CHAPTER I

TABLE OF DETAILED CHARGES

Paragraph

1. Framing documents

(a)	Framing precognitions and other papers (but not including affidavits), per sheet	£15.50
(b)	Framing formal documents such as inventories and title pages, etc., per sheet.....	£6.45
(c)	Framing affidavits, per sheet	£22.80
<u>(d)</u>	Framing accounts of expenses, per sheet	£14.90

Note. Where a skilled witness prepares his own precognition or report, the solicitor shall be allowed half drawing fee for perusing it (whether or not in the course of doing so he revises or adjusts it).

2. Copying

For the copying of papers by whatever means -

- (a) where a copy is required to be lodged, or sent, in pursuance of any rules 4.7, 22.1 and 22.3, such charge as the Auditor may from time to time determine (and he may make different provision for different classes of case); and
- (b) in any other case, if the Auditor determines (either or both) that -
 - (i) the copying had to be done in circumstances which were in some way exceptional;
 - (ii) the papers which required to be copied were unusually numerous having regard to the nature of the cause,such charge, if any, as the Auditor considers reasonable (but a charge based on time expended by any person in copying shall not be allowed).

Notes.

- (1) Where a determination is required under sub-paragraph (b), the purpose of copying, the number of copies made and the charge claimed shall be shown in the account.
- (2) Copying done other than in the place of business of the solicitor shall be shown as an outlay.

3. Revising

Papers drawn by counsel, open and closed records, etc., for each five sheets or part of a sheet	£6.45
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4. Citation of parties, witnesses, havers and instructions to messenger-at-arms

(a)	Each party	£15.50
(b)	Each witness or haver	£15.50
(c)	Instructing messenger-at-arms including examining, execution and settling fee	£15.50

5. Time charge

(a)	Preparation for proof, jury trial or any other hearing at court, per quarter hour or such other sum as in the opinion of the Auditor is justified.	£30.75
(b)	Attendance at meetings, proof, jury trial or any other hearing at court including waiting time, or consultation with counsel, per quarter hour or such other sum as in the opinion of the Auditor is justified.	£30.75
(c)	Perusal of documents per quarter hour or such other sum as in the opinion of the Auditor is justified.	£30.75
(d)	Allowance for time of clerk, one-half of the above.	
(e)	Attendance at Office of Court-	
	(i) for making up and lodging process	£15.50
	(ii) for lodging all first steps of process	£15.50
	(iii) for performance of formal work (other than work under head (ii)).....	£6.45

Notes.

- (1) Time necessarily occupied in travelling is to be regarded as if occupied on business. Reasonable travelling and maintenance expenses are to be allowed in addition.
- (2) In the event of a party in a proof or jury trial being represented by one counsel only, allowance may be made to the solicitor should the case warrant it, for the attendance of a clerk at one half the rate chargeable for the attendance of the solicitor.□

6. Correspondence

(a)	Letters including instruction to counsel (whether sent by hand, post, telex or facsimile transmission), each page of 125 words.....	£15.50
(b)	Formal letters	£3.15
(c)	Telephone calls (except under sub-paragraph (d))	£6.45
(d)	Telephone calls (lengthy), to be charged at attendance rate.□	

Note. In relation to sub-paragraph (d), whether a telephone call is "lengthy" will be determined by the Auditor.□

CHAPTER II

WITNESSES' FEES

1. Skilled Persons

Where it is necessary to employ a skilled person to make investigation in order to qualify that person to report and/or give evidence in any action, charges for such investigations and for attendance at any hearing in the action shall be allowed at a rate which the Auditor of Court shall determine is fair and reasonable.

2. Witnesses

A person who is cited to give evidence and in consequence incurs financial loss shall be allowed reimbursement, being such reasonable sum as the Auditor may determine to have been reasonably and necessarily incurred by the witness, but not exceeding £400 per day.

3. Travelling allowance

In respect of any witness there shall be allowed a travelling allowance, being

such sum as the Auditor may determine to have been reasonably and necessarily incurred by the witness in travelling from and to the witnesses' residence or place of business and the court. □

4. Subsistence allowance

In respect of any witness there shall be allowed a subsistence allowance, being such sum as the Auditor may determine to have been reasonably incurred by the witness for the extra cost of subsistence during the witnesses' absence from the witnesses' home or place of business for the purpose of giving evidence, and where the witness reasonable requires to stayovernight, for the reasonable cost of board and lodging. □

5. Value added tax

Where any witness is a taxable person in terms of the Value Added Tax Act 1983, the amount of value added tax may be added by the witness to the witnesses' note of fee, and may be paid to the witness by the Solicitor. □

6. Receipts and vouchers □

Receipts and detailed vouchers for all payments claimed in respect of a witness shall be produced to the party found liable in expenses, prior to the taxation of the account of expenses, and to the Auditor, if the Auditor requires. □

7. Account of fees of witnesses

The fees charged for any witness shall be stated in the account of expenses in a lump sum and the details of the charges shall be entered in a separate schedule appended to the account as follows:-

Name and designation	Where from	Days charged	Rate per day	Travelling and subsistence allowance □	Total	Taxed off

CHAPTER III

PART I

UNDEFENDED CAUSES

(other than consistorial actions)

1. Inclusive fee

In all undefended causes where no proof is led, the pursuer's solicitor may at his option elect to charge an inclusive fee to cover all work from taking instructions up to and including obtaining extract decree. The option shall be exercised by the solicitor for the pursuer endorsing a minute of election to the above effect on the principal summons or petition before decree is taken. □

- (a) All work up to and obtaining extract decree £276.95
- (b) Outlays to an amount not exceeding £351.40 (exclusive of value added tax) shall also be allowed.

PART II

*UNDEFENDED CONSISTORIAL ACTIONS
(other than by affidavit procedure in Part III of this Chapter)*

1.	All work (other than precognitions) up to and including the calling of the summons in court.....	£388.85
	Note. Precognitions to be charged as in paragraph 5 of Part V of this Chapter of this Table.	
2.	Incidental procedure	
	Fixing diet, enrolling action, preparing for proof, citing witnesses, etc.....	£222.45
3.	Amendment	
	(a) Where summons amended, re-service is not ordered and motion is not starred.....	£57.10
	(b) Where summons amended, re-service is not ordered and motion is starred	£82.40
	(c) Where summons amended and re-service is ordered	£102.45
4	Commission to take evidence on interrogatories	
	(a) All work up to and including lodging of completed interrogatories, but excluding attendance at execution of commission.....	£100.05
	(b) Attendance at execution of commission (if required), per quarter hour	£30.75
	(c) In addition a fee per sheet for completed interrogatories, including all copies, of.....	£17.10
5.	Commission to take evidence on open commission	
	(a) All work up to and including lodging of report of commission, but excluding attendance at execution of commission.....	£92.45
	(b) Attendance at execution of commission, per quarter hour.....	£30.75
6.	Other matters	
	Where applicable, charges under paragraphs 6, 7, 10, 14, 16 and 21 of Part V of this Chapter of this Table. □	
7.	Proof and completion fee	
	All work to and including sending extract decree, but excluding account of expenses.....	£276.95
8.	Accounts	
	Framing and lodging account and attending taxation.....	£85.35

PART III

*UNDEFENDED CONSISTORIAL ACTIONS
(affidavit procedure)*

1.-(1) This paragraph applies to any undefended action of divorce or separation where-

- (a) the facts set out in section 1(2)(a) (adultery) or 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976 (a) ("the 1976 Act") are relied on;
- (b) there are no conclusions relating to any ancillary matters; and
- (c) the pursuer seeks to prove those facts by means of affidavits.

(2) The solicitor for the pursuer may, in respect of the work specified in column 1 of Table A below, charge the inclusive fee specified in respect of that work in column 2 of that Table.

(3) Where the pursuer has been represented in respect of work specified in column 1 of Table A below by an Edinburgh solicitor and a solicitor outside Edinburgh, the Auditor may, where he is satisfied that it was appropriate for the pursuer to be so represented, allow the inclusive fee specified in column 3 instead of the inclusive fee specified in column 2 of that Table.

TABLE A

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i> £	Column 3 <i>Discretionary inclusive fee Edinburgh solicitor and solicitor outside Edinburgh</i> £
1. All work to and including calling of the summons	611.00	697.80
2. All work from calling to and including swearing affidavits □	434.45	527.45
3. All work from swearing affidavits to and including sending extract decree	133.30	195.75
4. All work to and including sending extract decree	1178.75	1421.45

2.-(1) This paragraph applies to any undefended action of divorce or separation where-

- (a) the facts set out in section 1(2)(c) (desertion), 1(2)(d) (two years' non-cohabitation and consent) or 1(2)(e) (five years' non-cohabitation) of the 1976 Act are relied on;
- (b) there are no conclusions relating to any ancillary matters; and
- (c) the pursuer seeks to prove those facts by affidavit.

(a) 1976 c.39.

(2) The solicitor for the pursuer may, in respect of the work specified in column 1 of Table B below, charge the inclusive fee specified in respect of that work in column 2 of that Table.

(3) Where the pursuer has been represented in respect of work specified in column 1 of Table B below by an Edinburgh solicitor and a solicitor outside Edinburgh, the auditor may, where he is satisfied that it was appropriate for the pursuer to be so represented, allow the inclusive fee specified in respect of that work in column 3 instead of the inclusive fee specified in column 2 of that Table.

TABLE B

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i> £	Column 3 <i>Discretionary inclusive fee Edinburgh solicitor and solicitor outside Edinburgh</i> £
1. All work to and including calling of the summons	502.70	589.45
2. All work from calling to and including swearing affidavits □	241.85	307.15
3. All work from swearing affidavits to and including sending extract decree	133.30	195.75
4. All work to and including sending extract decree	877.75	1092.10

3. If-
- (a) the solicitor for the pursuer charges an inclusive fee under either paragraph 1 or 2 of this Part, and
 - (b) the action to which the charge relates includes a conclusion relating to an ancillary matter, in addition to that fee he may charge in respect of the work specified in column 1 of Table C below the inclusive fee specified in respect of that work in column 2 of that Table.

TABLE C

Column 1 <i>Work done</i>	Column 2 <i>Inclusive fee</i> £
1. All work to and including calling of the summons	114.15
2. All work from calling to and including swearing affidavits	128.10
3. All work under items 1 and 2	241.95

PART IV

OUTER HOUSE PETITIONS

1. Unopposed petition	
(a) All work including precognitions and all copyings, up to and obtaining extract decree.....	£576.35
(b) Where the party has been represented by an Edinburgh solicitor and a solicitor outside Edinburgh, the Auditor may, where he is satisfied that it was necessary for the party to be so represented, allow a fee of.	£798.45
(c) Outlays including duplicating charges to be allowed in addition.	
2. Opposed petition	
(a) All work (other than precognitions) up to and including lodging petition, obtaining and executing warrant for service.....	£424.85
(b) Outlays including duplicating charges to be allowed in addition.	
(c) Where applicable, charges under paragraphs 1A, 2, 3 and 5 and 21 of Part V of this Chapter of this table.	
3. Reports in opposed petitions	
(a) For each report by the Accountant of Court	£64.70
(b) For any other report, as under paragraph 6 of part V of this Chapter of this Table.	
4. Obtaining bond of caution	£65.95

PART V

DEFENDED ACTIONS

1. Instruction	
(a) All work (apart from precognitions) from commencement until lodgement of open record.....	£589.40
(b) Instructing re-service where necessary	£63.55
(c) If counterclaim lodged, additional fee for each party	£124.00
1A. Work before action commences	
All work which the Auditor is satisfied has reasonably been undertaken in contemplation of, or preparatory to, the commencement of proceedings.....	£377.70
or such other sum as in the opinion of the Auditor is justified.	
2. Record	
(a) All work in connection with adjustment and closing of record including subsequent work in connection with By Order Adjustment Roll	£626.70
(b) All work as above, so far as applicable, where cause settled or disposed of before record closed	£387.70

(c)	If consultation held before record closed, additional fees may be allowed as follows-	
(i)	arranging consultation	£63.55
(ii)	attendance at consultation, per quarter hour	£33.45
(d)	Additional fee to sub-paragraph (a) or (b) (to include necessary amendments) to the pursuer and existing defender, to be allowed for each pursuer, defender or third party brought in before the record is closed, each of	£185.95
(e)	If an additional pursuer, defender or third party is brought in after the record is closed, an additional fee shall be allowed to the existing pursuer and the existing defender or defenders, each of	£276.05
2A.	Notes of Argument	
(a)	Instructing, perusing and lodging first Note of Arguments (either party)	£122.95
(b)	Perusing opponent's Note of Arguments	£66.90
(c)	Instructing, perusing and lodging any further Note of Arguments (either party)	£66.90
3.	Procedure Roll or hearing	
(a)	Preparing for hearing including all work, incidental work and instruction of counsel	£124.00
(b)	Attendance fee, per quarter hour	£33.45
(c)	Advising and work incidental to it	£92.75
4.	Adjustment of issues and counter-issues <input type="checkbox"/>	
(a)	All work in connection with and incidental to the lodging of an issue, and adjustment and approval of it	£117.85
(b)	If one counter-issue, additional fee to pursuer of	£33.45
(c)	Where more than one counter-issue, an additional fee to pursuer for each additional counter-issue	£16.80
(d)	All work in connection with lodging of counter-issue and adjustment and approval of it	£117.85
(e)	Fee to defender or third party for considering issue where no counter-issue lodged	£33.45
(f)	Fee to defender or third party for considering each additional counter-issue	£16.80
5	Precognitions	
	Taking and drawing precognitions, per sheet	£62.35
	Note. Where a skilled witness prepares his own precognition or report, the solicitor shall be allowed, for perusing it (whether or not in the course of doing so he revises or adjusts it), half of the taking and drawing fee per sheet.	
6.	Reports obtained under order of court excluding Auditor's report <input type="checkbox"/>	
(a)	All work incidental to it	£133.55
(b)	Additional fee for perusal of report, per quarter hour	£18.60
	or such other sum as in the opinion of the Auditor is justified. <input type="checkbox"/>	
7.	Specification of documents	
(a)	Instructing counsel, revising and lodging and all incidental procedure to obtain a diligence up to and including obtaining interlocutor	£124.05
(b)	Fee to opponent	£60.25

(ba)	Arranging commission to recover documents, citing havers, instructing commissioner and shorthand writer and preparation for commission	£117.05
(c)	Attendance at execution of commission, per quarter hour, of	£33.45
(d)	If alternative procedure adopted, a fee per person on whom order served, of	£49.60
(e)	Fee for perusal of documents recovered under a specification of documents (or by informal means) where not otherwise provided for in the Table of Fees, per quarter hour	£33.45
8.	Commission to take evidence on interrogatories	
(a)	Applying for commission to cover all work up to and including lodging report of commission with completed interrogatories and cross-interrogatories	£231.05
(b)	Fee to opponent if cross-interrogatories lodged	£201.75
(c)	Fee to opponent if no cross-interrogatories lodged	£74.45
(d)	In addition to above, fee per sheet to each party for completed interrogatories or cross-interrogatories, including all copies, of	£18.60
9.	Commission to take evidence on open commissions □	
(a)	Applying for commission up to and including lodging report of commission, but excluding sub-paragraph (c)	£276.05
(b)	Fee to opponent	£124.00
(c)	Fee for attendance at execution of commission, per quarter hour, of ...	£33.45
10.	Miscellaneous motions and minutes where not otherwise covered by this Part	
(a)	Where attendance of counsel and/or solicitor not required	£33.45
(b)	Where attendance of counsel and/or solicitor required, inclusive of instruction of counsel, not exceeding half hour	£92.75
(c)	Thereafter attendance fee, per additional quarter hour	£33.50
(d)	Instructing counsel for a minute (other than a minute ordered by the court), revising and lodging as a separate step in process including any necessary action	£92.75
(e)	Perusing a minute of admission or abandonment	£33.45
11.	Incidental procedure (not chargeable prior to approval of issue or allowance of proof)	
	Fixing diet, obtaining note on the line of evidence, etc., borrowing and returning process, lodging productions, considering opponent's productions and all other work prior to the consultation on the sufficiency of evidence	£350.75
12.	Amendment of record	
(a)	Amendment of conclusions only, fee to proposer	£92.75
(b)	Amendment of conclusions only, fee to opponent	£33.45
(c)	Amendment of pleadings after record closed, where no answers to the amendment are lodged, fee to proposer	£136.35
(d)	In same circumstances, fee to opponent	£62.65
(e)	Amendment of pleadings after record closed, where answers are lodged, fee for proposer and each party lodging answers	£317.60
(f)	Fee for adjustment of minute and answers, where applicable, to be allowed in addition to each party, of	£176.70

13. Preparation for proof or jury trial (to include fixing consultation on the sufficiency of evidence, fee-funding precept, citing witnesses, all work checking and writing up process and preparing for proof or jury trial)□	
(a) If action settled before proof or jury trial, or lasts only one day, to include, where applicable, instruction of counsel	£852.80
(b) For each day or part of day after the first, including instruction of counsel	£75.95
(c) Preparing for adjourned diets and all work incidental to it as in sub-paragraph (a), if adjourned for more than five days	£155.45
(d) If consultation held before proof or jury trial, attendance at it, per quarter hour	£33.45

14. Copying

For the copying of papers by whatever means -

- (a) where a copy is required to be lodged, or sent, in pursuance of any rules 4.7, 22.1 and 22.3, such charge as the Auditor may from time to time determine (and he may make different provision for different classes of case); and
- (b) in any other case, if the Auditor determines (either or both) that -
 - (i) the copying had to be done in circumstances which were in some way exceptional;
 - (ii) the papers which required to be copied were unusually numerous having regard to the nature of the cause, such charge, if any, as the Auditor considers reasonable (but a charge based on time expended by any person in copying shall not be allowed).

Notes.

- (1) Where a determination is required under sub-paragraph (b), the purpose of copying, the number of copies made and the charge claimed shall be shown in the account.
- (2) Copying done other than in the place of business of the solicitor shall be shown as an outlay.

15. Settlement

(a) Settlement by tender	
(i) Lodging or considering first tender	£185.95
(ii) Lodging or considering each further tender	£124.00
(iii) If tender accepted, an additional fee to each accepting party	£124.00
(b) Extrajudicial settlement - advising on, negotiating and agreeing extrajudicial settlement (not based on judicial tender) to include preparation and lodging of joint minute	£310.20
(c) The Auditor may allow a fee in respect of work undertaken with a view to settlement (whether or not settlement is in fact agreed), including offering settlement, of	£527.30
(d) If consultation held to consider tender, extra judicial settlement (not based on judicial tender) or with a view to settlement (whether or not settlement is in fact agreed), attendance at it, per quarter hour	£33.45

16. Hearing limitation fee

To include all work undertaken with a view to limiting the matters in dispute or limiting the scope of any hearing, and including exchanging documents, £659.30

	precognitions and expert reports, agreeing any fact, statement or document, and preparing and lodging any joint minute	
17.	Proof or jury trial <input type="checkbox"/>	
	Attendance fee, per quarter hour	£33.45
18.	Accounts	
	(a) _____ To include framing, adjusting and lodging account	£200.75
	(b) To include considering Notes of Objections, and generally preparing for taxation.	£200.75
	(c) Attendance at taxation, per quarter hour	£33.45
19.	Ordering and obtaining extract	£49.60
20.	Final procedure	
	(a) If case goes to proof or jury trial, or is settled within 14 days before the diet of proof or jury trial, to include all work to close of cause so far as not otherwise provided for	£251.30
	(b) In any other case	£75.95

PART VA

DEFENDED PERSONAL INJURIES ACTIONS COMMENCED ON OR AFTER 1 APRIL 2003

1.	Precognitions/Expert Reports/Factual Reports	
	(a) Taking and drawing precognitions, per sheet	£62.25
	(b) Perusal fee for consideration of Reports (whether or not in the course of doing so he revises or adjusts it), half thereof, per sheet	£31.15
2.	Pre-litigation fee	
	All work which the Auditor if satisfied has reasonably been undertaken in contemplation of, or preparatory to the commencement of proceedings particularly to include communications between parties in relation to areas of medical/quantum/discussion re settlement or such other sum as in the opinion of the Auditor is justified	£376.90
3.	Instruction	
	(a) To cover all work (except as otherwise specially provided for in this Chapter) from commencement to the lodging of Defences	£588.20
	(b) Specification of Documents per Form 43.2-B	£82.65
	(c) In the event of the summons being drafted without the assistance of Counsel or a Solicitor-Advocate such further fee will be allowed as the Auditor considers appropriate	£200.45
	(d) Instructing re-service where necessary	£63.45
	(e) If counterclaim lodged, additional fee for each party to include Answers	£200.45
	(f) Arranging commission to recover documents, citing havers, instructing Commission and shorthand writer and preparation for commission	£111.95

(g)	Attendance at execution of commission, per quarter hour of	£33.45
(h)	If alternative procedure adopted, a fee per person on whom order served of	£49.50
(i)	Fee for perusal of documents recovered under a Specification of Documents (or by informal means) where not otherwise provided for in the Table of Fees, per quarter hour	£33.45
4.	Record	
(a)	All work in connection with adjustment and closing of record.....	£625.40
(b)	All work, as above, so far as applicable, where cause settled or disposed of before record closed	£386.90
(c)	If consultation held before record closed, additional fees may be allowed as follows-	
(i)	arranging consultation	£63.45
(ii)	attendance at consultation, per quarter hour	£33.45
(d)	Additional fee to sub-paragraph (a) or (b), (to include necessary Amendments) to the pursuer and existing defender, to be allowed for each pursuer, defender or third party brought in before the record is closed, each of	£185.60
(e)	If an additional pursuer, defender or third party is brought in after the record is closed, an additional fee shall be allowed to the existing pursuer and the existing defender or defenders, each of	£275.60
5.	Valuation of claim	
(a)	Fee to cover Note on Quantum/Valuation of Claim	£400.95
(b)	Opponent's fee for inspection of Valuation of Claim	£200.45
(c)	Inspection of documents, per quarter hour	£33.45
6.	Adjustment of issues and counter-issues	
(a)	All work in connection with and incidental to the lodging of an issue, and adjustment and approval of it	£117.60
(b)	If one counter-issue, additional fee to pursuer of	£33.45
7.	By Order Roll/Variation of timetable order/Adjustment on Final Decree/Interim Payment of Damages	
(a)	Fee to cover preparing and instruction of Counsel, to include attendance not exceeding half an hour	£92.55
(b)	Thereafter attendance fee, per additional quarter hour	£33.45
(c)	In the event of a separate Advising/Opinion and all work incidental thereto	£92.55
8.	Reports obtained under order of court excluding Auditor's Report	
(a)	All work incidental to it	£133.15
(b)	Additional fee for perusal of report, per quarter hour or such other sum as in the opinion of the Auditor is justified	£18.60
9.	Incidental procedure	
	(not chargeable prior to approval of issue or allowance of proof)	£349.95
	Noting diet, obtaining note on the line of evidence, etc., borrowing and returning process, and all other work prior to the consultation on the sufficiency of evidence	

10.	Specification of Documents (if further specification considered necessary)	
(a)	Instructing counsel, revising and lodging and all incidental procedure to obtain a diligence up to and including obtaining interlocutor	£123.80
(b)	Fee to opponent	£60.15
(c)	Arranging commission to recover documents, citing havers, instructing commissioner and shorthand writer and preparation for commission	£111.95
(d)	Attendance at execution of commission, per quarter hour, of	£33.45
(e)	If alternative procedure adopted, a fee per person on whom order served, of	£49.50
(f)	Fee for perusal of documents recovered under a Specification of Documents (or by informal means) where not otherwise provided for in the Table of Fees, per quarter hour	£33.45
11.	Commission to take evidence on interrogatories	
(a)	Applying for commission to cover all work up to and including lodging report of commission with completed interrogatories and cross-interrogatories	£250.80
(b)	Fee to opponent if cross-interrogatories lodged	£201.30
(c)	Fee to opponent if no cross-interrogatories lodged	£75.00
(d)	In addition to above, fee per sheet to each party for completed interrogatories or cross-interrogatories, including all copies, of	£18.60
12.	Commission to take evidence on open commission	
(a)	Applying for commission up to and including lodging report of commission, but excluding sub-paragraph (c)	£275.60
(b)	Fee to opponent	£123.80
(c)	Fee for attendance at execution of commission, per quarter hour, of	£33.45
13.	Miscellaneous motions and minutes where not otherwise covered by this Part	
(a)	Where attendance of counsel and/or solicitor not required	£33.45
(b)	Where attendance of counsel and/or solicitor required inclusive of instruction of counsel, not exceeding half hour	£95.35
(c)	Thereafter attendance fee, per quarter hour	£33.45
(d)	Instructing counsel for a minute/note on further procedure (if applicable), revising and lodging as a separate step in process including any necessary action	£92.55
(e)	Perusing a minute of admission or abandonment/note ordered by court/notice of grounds	£33.45
14.	Amendment of record	
(a)	Amendment of conclusions only, fee to proposer	£92.55
(b)	Amendment of conclusions only, fee to opponent	£33.45
(c)	Amendment of pleadings after record closed, where no answers to the amendment are lodged, fee to proposer	£136.15
(d)	In same circumstances, fee to opponent	£62.55
(e)	Amendment of pleadings after record closed, where answers are lodged, fee for proposer and each party lodging answers	£316.85

(f)	Fee for adjustment of minute and answers, where applicable, to be allowed in addition to each party of	£176.35
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15. Copying

For the copying of papers by whatever means -

- (a) where a copy is required to be lodged, or sent, in pursuance of any of Rules 4.7, 22.1 and 22.3, such charge as the Auditor may from time to time determine (and he may make different provision for different classes of case); and
- (b) in any other case, if the Auditor determines (either or both) that -
 - (i) the copying had to be done in the circumstances which were in some way exceptional;
 - (ii) the papers which required to be copied were unusually numerous having regard to the nature of the cause,
 such charge, if any, as the Auditor considers reasonable (but a charge based on time expended by any person in copying shall not be allowed).

Notes.

- (1) Where a determination is required under sub-paragraph (b), the purpose of copying, the number of copies made and the charge claimed shall be shown in the account.
- (2) Copying done other than in the place of business of the solicitor shall be shown as an outlay.

16. Preparation for proof or jury trial

(to include fixing consultation on the sufficiency of evidence, fee-funding precept, citing witnesses, all work checking and writing up process and preparing for proof or jury trial)

(a)	If action settled before proof or jury trial, or lasts only one day, to include where applicable, instruction of counsel	£851.05
(b)	For each day or part of day after the first, including instruction of counsel	£75.75
(c)	Preparing for adjourned diets and all work incidental to it as in sub-paragraph (a), if adjourned for more than five days	£154.95
(d)	If consultation held before proof or jury trial, attendance at it, per quarter hour	£33.45

17. Pre-trial meeting

(a)	Fee arranging pre-trial meeting (each occasion)	£63.45
(b)	Fee preparing for pre-trial meeting	£334.15
(c)	Fee attending pre-trial meeting, per quarter hour	£33.45
(d)	Joint Minute of pre-trial meeting -	
	(i) in respect of Section 1 only	£103.20
	(ii) in respect of Sections 1 and 2 only	£206.35
	(iii) in respect of Sections 1 and 3 only	£239.75
	(iv) in respect of sections 1, 2 and 3 only	£309.55

18. Hearing limitation fee		£267.40
	For any work undertaken to limit matters in dispute not otherwise provided for - subject to details being provided	
19. Settlement		
(a) Settlement by tender		
(i) Lodging or considering first tender		£185.65
(ii) Lodging or considering each further tender		£123.80
(iii) If tender accepted, an additional fee to each accepting party ..		£123.80
(b) Extrajudicial settlement - advising on, negotiating and agreeing extrajudicial settlement (not based on judicial tender or joint minute) to include preparation and lodging of joint minute		£309.55
(c) The Auditor may allow a fee in respect of work undertaken with a view to settlement (whether or not settlement is in fact agreed), including offering settlement, of		£526.10
(d) If consultation held to consider tender, extrajudicial settlement (not based on judicial tender) or with a view to settlement (whether or not settlement is in fact agreed), attendance at it, per quarter hour		£33.45
20. Proof of jury trial		£33.45
	Attendance fee, per quarter hour	
21. Accounts		
(a) Preparation of judicial account, to include production of vouchers and adjustment of expenses		£267.40
(b) Perusal of points of objections, per quarter hour		£22.25
(c) Attendance at taxation, per quarter hour		£22.25
22. Ordering and obtaining extract		£49.50
23. Final procedure		
(a) If case goes to proof or jury trial, or is settled within 14 days before the diet of proof or jury trial, to include all work to close of cause so far as not otherwise provided for		£250.80
(b) In any other case		£75.55

PART VI

INNER HOUSE BUSINESS

1. Reclaiming motions		
(a) Fee for appellant for all work up to interlocutor sending cause to roll		£185.95
(b) Fee for respondent		£92.75
(c) Additional fee for each party for preparing or revising every 50 pages of Appendix		£77.80
2. Appeals from inferior courts <input type="checkbox"/>		
(a) Fee for appellant		£224.75
(b) Fee for respondent		£111.40
(c) Additional fee for each party for preparing or revising every 50 pages of Appendix		£75.95

3.	Summar Roll	
	(a) Preparing for discussion and instructing counsel	£186.00
	(b) Attendance fee, per quarter hour	£33.45
4.	Other matters	
	Where applicable, charges under Part V of this Chapter of this Table.□	
5.	Special cases, Inner House petitions and appeals other than under paragraph 2 of this Part.	
	According to circumstances of the case.	
6.	Obtaining bond of caution	£75.95

PART VII

ADMIRALTY AND COMMERCIAL CAUSES, MERCANTILE SEQUESTRATIONS AND APPLICATIONS FOR SUMMARY TRIAL UNDER SECTION 26 OF THE ACT OF 1988 AND CAUSES REMITTED FROM THE SHERIFF COURT

Charges under this Part shall be based on this Table according to the circumstances.

PART VIII

SOLICITORS EXERCISING RIGHTS OF AUDIENCE UNDER SECTION 25 OF THE SOLICITORS (SCOTLAND) ACT 1980

1. The Auditor shall allow to a solicitor who exercises a right of audience by virtue of section 25A of the Solicitors (Scotland) Act 1980 (a) such fee for each item of work done by the solicitor in the exercise of such right as he would allow to counsel for an equivalent item of work.□
2. Where a solicitor exercises a right of audience by virtue of section 25A of the Solicitors (Scotland) Act 1980, and is assisted by another solicitor or a clerk, the Auditor may also allow attendance fees in accordance with Parts IV and V of this Chapter of this Table.□

PART IX

GENERAL

The Auditor shall have power to apportion the foregoing fees in this chapter between parties' solicitors in appropriate circumstances or to modify them in the case of a solicitor acting for more than one party in the same cause or in the case of the same solicitor acting in more than one cause arising out of the same circumstances or in the event of a cause being settled or disposed of at a stage when the work covered by an inclusive fee has not been completed.□

CHAPTER IV

TRANSCRIPTS OF EVIDENCE ETC.

- 1. Attendance of shorthand writer**

Attendance by shorthand writer at proof, jury trial or commission, per hour,

	with a minimum fee of £135.17 per day	£33.81□
2.	Notes of evidence: extension by shorthand writer or transcriber	
	(a) Except where these are transcribed daily, per sheet	£5.53
	(b) Where these are transcribed daily, per sheet	£6.78

(a) 1980 c.46; section 25A was inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), section 24.

- (c) Where notes of evidence have been directed to be supplied for the use of the court, copies may be made available to parties, payable to the shorthand writer or transcriber by the solicitor for the parties obtaining the copies, per sheet

£0.44

Notes.

- (1) Transcripts of evidence will be made only on directions from the court, and the cost of them in defended causes will, in the first instance, be payable by the solicitors for the parties in equal proportions. The daily transcripts of evidence shall be made only if all compearing parties consent. When an undefended cause is continued, or where for other reasons the court considers it necessary that transcripts be made for the use of the court and so directs, the cost will be borne by the solicitor for the pursuer in the first instance. In any cause where the transcripts have not been made but are required for a reclaiming motion, the solicitor for the reclamer may request that they be made; and when they are thus available they will be lodged in court, the cost of transcription being payable in the first instance by the solicitor for the reclamer. □
- (2) In any cause where the court, on a motion enrolled for the purpose, certifies that there is reasonable ground for reclaiming and that the reclamer is unable, for financial reasons, to meet the cost of the necessary transcription from which copies for the use of the Inner House are made, the cost of such transcription will be paid out of public funds. □

PART III

FEES IN SPECULATIVE CAUSES

Fees of solicitors in speculative causes

42.17.-(1) Where-

- (a) any work is undertaken by a solicitor in the conduct of a cause for a client,
(b) the solicitor and client agree that the solicitor shall be entitled to a fee for the work only if the client is successful in the cause, and
(c) the agreement is that the fee of the solicitor for all work in connection with the cause is to be based on an account prepared as between party and party,

the solicitor and client may agree that the fees element in that account shall be increased by a figure not exceeding 100 per cent.

(2) The client of the solicitor shall be deemed to be successful in the cause where-

- (a) the cause has been concluded by a decree which, on the merits, is to any extent in his favour;
(b) the client has accepted a sum of money in settlement of the cause; or
(c) the client has entered into a settlement of any other kind by which his claim in the cause has been resolved to any extent in his favour.

(3) In paragraph (1), "the fees element" means all the fees in the account of expenses of the solicitor-

- (a) for which any other party in the cause other than the client of the solicitor has been found liable as taxed or agreed between party and party;
- (b) before the deduction of any award of expenses against the client; and
- (c) excluding the sums payable to the solicitor in respect of-
 - (i) any fees payable for copying documents and the proportion of any session fee in the Table of Fees and posts and incidental expenses under rule 42.11;
 - (ii) any additional fee allowed under rule 42.14 to cover the responsibility undertaken by the solicitor in the conduct of the cause; and
 - (iii) any charges by the solicitor for his outlays.