



**Scottish  
Civil Justice  
Council**

**CONSULTATION ANALYSIS: regarding a  
simplified table of fees (*for officers of court*)**

**Issued: 12 September 2025**

## **CONTENTS**

	<u>Page</u>
Section 1 – Introduction	3
Section 2 – Responses to the Consultation Questions	4
Section 3 – Conclusions	24
Section 4 – Next Steps	25
<i>Bibliography</i>	27

## SECTION 1 - INTRODUCTION

### Purpose

1. To analyse the 26 responses received to the proposal to simplify the regulated fees set for messengers at arms and sheriff officers; which can be achieved by consolidating the 2 existing sets of regulations from 2002 and then adopting the use of “*unit based charging*”.
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### Timing

2. This consultation was opened on 28 May 2025 for a 12 week duration; with a closing date of 22 August 2025.
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### Background

3. The Council holds a statutory responsibility to provide a charging instrument that sets the *regulated fees* that a messenger at arms or sheriff officer is able to legally charge when they are providing a chargeable service.
  4. The level of the fee rates set do need to reflect the Council making a necessary trade-off between two conflicting policy objectives:
    - *SERVICE AVAILABILITY* – where the aim is to meet consumer needs by ensuring that a sufficient number of viable service providers remain available to instructing parties within this market; and
    - *PROPORTIONATE FEES* – where the regulated fees need to be set at a reasonable level that would be considered affordable for most paying parties; and kept under review.
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### Why was this consultation undertaken?

5. This consultation sought feedback on making a change to the charging model used. Historically the Council had specified fixed fee amounts for each of the 60 line items narrated within the fee tables. In future the Council intends to simplify its approach by adopting the use of *unit based charging*.
6. The policy objectives that justify this simplification exercise are:
  - *To facilitate more timely updates* – by reducing the level of legal and policy input previously required to generate an updated statutory instrument whenever a straightforward request for a fees uplift was made;

- *To provide improved transparency* – as breaking the ‘amount charged’ into its 2 component parts<sup>1</sup> will improve the ability for consumers, the Council, and service providers to assess comparability between each line item;
- *To better evidence the need for change* – as explicitly stating the *units of work* required will in turn help to identify any service that needs to be amended or withdrawn, and provide benchmarks for use when pricing new services; and
- *To provide comparable rules* – as *unit based charging* has been working as intended within the rules covering recovery of judicial expenses<sup>2</sup> since 2019.

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## The responses received

7. There were a total of 26 consultation responses received of which the majority were from service providers:

NUMBER OF RESPONSES				
CATEGORY	RESPONDENT	Organisations	Individuals	COMBINED TOTAL
Officers of Court	SMASSO	1	-	1
	Messengers at arms & sheriff officers	4	15	19
Business	Credit Services Association	1		1
Judiciary	ACMASO	1		1
Legal Practitioners	Faculty of Advocates	1		1
	Law Society of Scotland	1		1
	Scottish Law Agents Society	1		1
Advice & Assistance	Money Advice Scotland	1		1
	TOTALS	11	15	26

8. In line with the permissions given; readers of this report can view 21 of those 26 responses online via the consultation pages on the Councils website’.

<https://www.scottishciviljusticecouncil.gov.uk/consultations/scjc-consultations>

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## SECTION 2 – RESPONSES TO THE CONSULTATION QUESTIONS

9. Feedback was sought with regard to 9 questions.

### **PROPOSAL 1 - CONSOLIDATION**

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<sup>1</sup>amount charged = monetary amount x units of work

<sup>2</sup> Act of Sederunt (Taxation of Judicial Expenses Rules) 2019 ([SSI 2019/75](#))

**Question 1 – Do you agree that the 2 existing sets of regulations from 2002 should be replaced with 1 new consolidated instrument? If not why not?**

RESPONDENT	Responded to Q1	Should the 2002 regulations be replaced?
1	No	
2	Yes	Yes
3	Yes	Yes
4	Yes	Yes
5	Yes	Yes
6	Yes	Yes
7	Yes	Yes
8	Yes	Yes
9	Yes	Yes
10	Yes	Yes
11	Yes	Yes
12	Yes	Yes
13	Yes	Yes
14	Yes	Yes
15	Yes	Yes
16	Yes	Yes
17	Yes	Yes
18	Yes	Yes
19	Yes	Yes
20	Yes	No – could retain separate schedules for the 2 roles
21	Yes	Yes
22	Yes	Yes
23	Yes	Yes
24	Yes	Yes
25	Yes	Yes
26	Yes	Yes – but the title of the SSI should specify both roles

10.24 respondents agreed the 2002 instruments should now be revoked in favour of adopting the 1 consolidating statutory instrument:

*“We believe that consolidating these into a single instrument titled “Fees of Officers of Court” will simplify the regulatory structure, making it easier for consumers, particularly those supported by money and debt advice agencies, to understand and verify fees, and this will help in reducing the risk of overcharging or disputes.”*

*“...the table as it stands is out of date and requires modernisation.”*

*“...makes it more streamlined and easier for users to access the information.”*

11.1 respondent favoured retaining the use of 2 separate instruments; on the basis that it might help to minimise any confusion.

12.1 respondent suggested the title for that consolidated instrument should be “Fees of messengers at arms and sheriff officers” (*rather than “officers of court”*).

**PROPOSAL 2 – ADOPTING UNIT BASED CHARGING:**

**Question 2 – Do you agree that a change to “unit based charging” will provide improved transparency on the level of fee being charged? If not why not?**

RESPONDENT	Responded to Q2	Would ‘unit based charging’ improve transparency?
1	No	
2	Yes	Yes
3	Yes	Yes
4	Yes	Yes
5	Yes	Yes
6	Yes	Yes
7	Yes	Yes
8	Yes	Yes
9	Yes	Yes
10	Yes	Yes
11	Yes	Yes
12	Yes	Yes
13	Yes	Yes
14	Yes	Yes
15	Yes	Yes
16	Yes	Yes
17	Yes	Yes
18	Yes	Yes
19	Yes	Yes
20	Yes	Yes
21	Yes	Yes
22	Yes	Yes
23	Yes	Yes
24	Yes	Yes
25	Yes	Yes
26	Yes	The change is being made for convenience not transparency

13. All respondents agreed that a consolidated instrument should be prepared, and that it should adopt the use of *unit based charging*:

*“Following other court users with a unit-based system would seem logical.”*

*“We agree that a change to “unit-based charging” will provide improved transparency on the level of fee being charged, which is important for consumers facing debt enforcement actions.”*

*“...this change would improve transparency and simplify the process.”*

*“The current system creates unnecessary duplication of effort, as both fee tables must be updated and maintained separately.”*

14. 1 respondent took the view this change was being made for administrative convenience so it would not necessarily deliver an increase in transparency for consumers.

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**Question 3 – Do you agree that the baseline “monetary value” should start at £5.40 and that 1 unit of time should be fixed at 6 minutes? If not why not?**

RESPONDENT	Responded to Q3	Should the baseline be £5.40 per 6 minute unit of work?
1	No	
2	Yes	Yes
3	Yes	Yes
4	Yes	Yes
5	Yes	Yes
6	Yes	No firm view expressed – as that’s a matter for SMASO
7	Yes	Yes
8	Yes	Yes
9	Yes	Yes
10	Yes	Yes
11	Yes	Yes
12	Yes	Yes
13	Yes	Yes
14	Yes	Yes
15	Yes	Yes
16	Yes	Yes
17	Yes	Yes
18	Yes	Yes
19	Yes	Yes
20	Yes	No – does not take into account the need to pay staff the living wage
21	Yes	Yes
22	Yes	Yes – but they should be increased
23	Yes	Yes
24	Yes	Yes
25	Yes	Yes
26	Yes	Yes to £5:40 but no to <i>units of work</i> ?

**To simplify the Table of Fees**

15. To provide a logical starting point the baseline “*monetary amount*” of £5.40 reflects the figure applicable under the existing Act of Sederunt and prior to the next inflation adjustment. Dependent on the latest published inflation indices available at the time the new consolidated instrument is enacted the actual *monetary amount* fixed will be set between 10% and 20% higher.

Confirming the 'monetary amount':

16. Most respondents agreed that using a baseline *monetary amount* of £5.40 does provide an appropriate starting figure:

*"This I believe will help provide a clear and straightforward transition from the existing system."*

*"The £5.40 per unit value, derived from the current fee for a 30-minute task ensures initial cost neutrality, aligning with existing fees and allowing consumers to understand fee breakdowns more clearly."*

17. 1 respondent noted that the figure of £5.40 only reflects services provided by a single officer so there should be an explicit adjustment (or surcharge) made for those services where it is mandatory for a witness to be in attendance.

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Confirming the "unit" of work:

18. Most respondents agreed that using a 6 minute unit would provide the most appropriate way to break time related tasks down into the reasonable *units of work* required:

*"...one unit of time should be fixed at 6 minutes, as this provides a transparent foundation for unit-based charging that could benefit consumers facing debt enforcement actions."*

*"Fixing one unit at 6 minutes, consistent with the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019, standardises calculations across court-related services, enabling consumers to verify charges."*

*"Dividing into 6 minutes units of time provides enough flexibility with fee calculation to allow for the vagaries of Sheriff Officer Services"*

*"The system's alignment with legal billing practices, using a 6-minute unit, supports potential digitisation of fee recording, which could minimise billing errors and disputes, ensuring fairer charges for consumers."*

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Confirming the baseline "units of work" for each line item:

19. Most respondents agreed the initial baseline *units of work* should be set by dividing the existing fixed fees by the baseline *monetary amount* of £5.40:

*"...a good starting point making the transition cost neutral"*

*"...enables the current table of fees to be easily converted to the unit based system."*



**Question 4 – Do you agree that the proposed changes to the general regulations will support the adoption of unit based charging?**

RESPONDENT	Responded to Q4	Will the updated 'general regulations' support the change?
1	No	
2	Yes	Yes
3	Yes	Yes
4	Yes	Yes
5	Yes	Yes
6	Yes	Yes
7	Yes	Yes
8	Yes	Yes
9	Yes	Yes
10	Yes	Yes
11	Yes	Yes
12	Yes	Yes
13	Yes	Yes
14	Yes	Yes
15	Yes	Yes
16	Yes	Nothing to add
17	Yes	Yes
18	Yes	Yes
19	Yes	Yes
20	Yes	Yes
21	Yes	Yes
22	Yes	Yes
23	Yes	Yes
24	Yes	Yes
25	Yes	Yes
26	Yes	Yes

**To simplify the 'general regulations'**

20. All respondents agreed that consolidating the existing 'general regulations' into 1 generic narrative provides the right framework to underpin *unit based charging*:

*"We believe that consolidating and rewording the regulations to apply generically to both messengers-at-arms and sheriff officers streamlines the framework, enabling a clear implementation of unit-based charging."*

*"...the proposal to consolidate the two sets of General Regulations is a crucial step toward successfully implementing a unit-based charging structure. By linking a single regulatory set to a single charging model, the entire system becomes more transparent and easier for all stakeholders to understand."*

21. 1 respondent suggested that regulation 1B should be removed:

## Consultation Analysis: regarding a simplified table of fees

*“The provisions in regulation 1B should be completely removed. These types of cases are generally for parties who have precarious possession with no right or title such as squatters. By nature they are more difficult to carry out and often have reduced periods of notice. This kind of work should not attract a reduction.”*

22.1 respondent suggested that regulation 9 should be amended so that time becomes chargeable “after the first 30 minutes” rather than “after the first hour”:

*“Time units should be chargeable after the end of the first 30 minutes, not the first hour”*

23.1 respondent suggested that the wording of regulation 15 should be amended:

*“I would recommend that with the consolidation of our fees the regulation be amended to read “shall be calculated in accordance with the fees specified for an Ordinary action”. This reflects how the regulation was framed before the introduction of column A & B in 2011.”*

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**Question 5 – With regard to annex 4, do you have a view on whether any of the current 60 line items shown are no longer required, or whether any of the baseline unit of work should be amended? If so why?**

RESPONDENT	Responded to Q5	Should any of the 60 line items be amended or withdrawn?
1	No	
2	Yes	Yes
3	Yes	Yes
4	Yes	Yes
5	Yes	Yes
6	Yes	That’s more a matter for SMASO
7	Yes	Yes
8	Yes	Yes
9	Yes	Yes
10	Yes	Yes
11	Yes	Yes
12	Yes	Yes
13	No	
14	Yes	Yes
15	Yes	Yes
16	Yes	Nothing to add
17	Yes	Yes
18	Yes	All 60 line items still required
19	Yes	Nothing to add
20	Yes	Yes
21	Yes	Yes
22	Yes	Yes
23	Yes	Yes
24	Yes	No view expressed
25	Yes	Yes
26	Yes	All 60 line items still required

## Are any of the current 60 line items no longer required?

24. The consensus view was that all 60 line items were still needed. No respondents identified any specific line items that should be withdrawn.

## Should any of the baseline *units of work* for those 60 line items be amended?

*Additional copy fee:*

SERVICE'S PROVIDED - BY A SHERIFF OFFICER	LINE COUNT	FEE ITEM	COLUMN B	UNITS (at £5.40 )
<b>SERVICE OR INTIMATION OF A DOCUMENT</b>				
- each person at a different address	1	1a (i)	96.27	18
- each additional person at that address	1	1a (ii)	21.72	4
- postal service	1	1b	31.95	6
- postal diligence	1	1c	48.02	9

25. 1 respondent noted that the *units of work* for serving an additional copy of a document to another person at the same address undervalued the work involved:

*"We would recommend an increase to the additional copy fee in Section 1 for Intimation and Service of a Document. Alternatively, consideration should be to align a fee of 50% of the main fee to all service types where additional copy fees are listed. (i) Currently set at £21.72 under Section 1. This is too low for the work required to prepare and serve. It equates to 22.5% of the £96.27 fee whereas most other additional; copy fees are a greater percentage of the fee. E.G. Inhibition is 32% and Inhibition & Service is 43.4%. (Not sure how this fee was originally calculated). (ii) I would recommend that a fee of 50% of the fee is reasonable remuneration for serving an additional copy at the same address. Whilst there is no additional travel, the sheriff officer will undertake a separate service, execution and report for each defender, as well as ensuing enquiries."*

## *Apprehending people and uplifting children:*

SERVICE'S PROVIDED - BY A SHERIFF OFFICER	LINE COUNT	FEE ITEM	COLUMN B	UNITS (at £5.40 )
<b>TAKING POSSESSION OF EFFECTS</b>				
- arranging possession	1	9a	97.42	18
- arranging & executing possession	1	9b	179.87	33
<b>APPREHENSIONS</b>				
- arranging apprehension	1	10a	97.42	18
- arranging and apprehending	1	10b	179.87	33
<b>UPLIFTING CHILDREN</b>				
- arranging uplift	1	11a	97.42	18
- uplifting each child	1	11b	179.87	33

26. Several respondents noted that the baseline *units of work* for these 3 diligences undervalue the complexity of the work required:

## Consultation Analysis: regarding a simplified table of fees

*“These items particularly apprehending people and uplifting children are incredibly complex cases. They involve planning, liaising with various parties, sensitivities and often protracted visits to achieve a positive outcome which fulfils the Court’s order. We recommend a significant increase in the base line fee by 50% from 18 units to 36 units and 33 units to 66 units to reflect the complexity and amount of work involved.”*

*“...apprehending individuals and the uplift of children, can be extremely sensitive and challenging to execute. Much planning with risk assessments and liaison with other parties involved can involve much sheriff officer management time. I would recommend that the base fee is increased by 50% from 18 units to 36 units and 36 units to 66 units.”*

### Attachment and the subsequent auction of goods:

SERVICE'S PROVIDED – BY A SHERIFF OFFICER	LINE COUNT	FEE ITEM	COLUMN B	UNITS (at £5.40 )
<b>ATTACHMENTS</b>				
- arranging attachment - but unable to execute	1	4b	101.99	19
- arranging & executing attachment - value of £708 or less	1	4c (i)	119.33	22
- arranging & executing attachment - value of £708 to £2,845	1	4c (ii)	184.98	34
- arranging & executing attachment - value of £2,845 to £28,648	1	4c (iii)	%	-
- arranging & executing attachment - value of £28,649 to £143,231	1	4c (iv)	%	-
- arranging & executing attachment - value over £143,232	1	4c (v)	%	-
- reporting attachment	1	4d	11.31	2
<b>ATTACHMENT OF MOTOR VEHICLES etc.</b>				
- arranging & executing attachment - value of £708 or less	1	5a (i)	119.33	22
- arranging & executing attachment - value of £708 to £3,147	1	5a (ii)	184.98	34
- arranging & executing attachment - value of £3,148 to £143,231	1	5a (iii)	%	-
- arranging & executing attachment - value over £143,232	1	5a (iv)	%	-
- reporting attachment	1	5b	11.31	2
<b>MONEY ATTACHMENTS</b>				
- arranging attachment - but unable to execute	1	6a	101.99	19
- arranging & executing attachment - value of £708 or less	1	6b (i)	119.33	22
- arranging & executing attachment - value of £708 to £2,845	1	6b (ii)	184.98	34
- arranging & executing attachment - value of £2,845 to £28,648	1	6b (iii)	%	-
- arranging & executing attachment - value of £28,649 to £143,231	1	6b (iv)	%	-
- arranging & executing attachment - value over £143,232	1	6b (v)	%	-
- reporting attachment	1	6c	11.31	2
<b>AUCTIONS</b>				
- arranging auction	1	7a	29.51	5
- intimating auction & removal details	1	7b	use 1a or 1b	refer above
- officer & witness attending - auction does proceed	1	7c	97.42	18
- officer & witness attending - auction doesn't proceed	1	7d	179.47	33

27. Several respondents noted that the baseline *units of work* set for these 4 diligences undervalue the work required: particularly as the market value that can be achieved when those goods are auctioned has fallen considerably:

*"The base fee chargeable on these line items no longer reflects the amount of time and work involved. It is also worth noting that the number of these types of diligence have reduced significantly. The Diligence Statistics published by the Accountant in Bankruptcy reveal a consistent drop in volume of these diligences. With regards to Attachment the model of charging increased fees bases on the appraised value of goods attached has been greatly impacted by the open market prices that goods now fetch when sold at auction. An attachment carried out today of multiple articles will be appraised at a much lower value than a comparable attachment 20 years ago. The amount of time it would take a Sheriff Officer to carry out the attachment would however remain the same."*

*"...the volume of these instructions has decreased significantly. This is largely down to the decrease in open market prices that goods now fetch when sold at auction. An attachment carried out today will be appraised at a much lower value than a comparable attachment 20 years ago, however the amount of time it takes to carry out the attachment remains the same. At present the base fee is in effect 24% higher than the fee for service of a document which in no way reflects the time involved in not only carrying out the attachment but the preparation and submission of the report of attachment. I would recommend an increase in the base value of at least 50% to allow these diligences to remain viable."*

### Ejections:

SERVICE's PROVIDED - BY A SHERIFF OFFICER	LINE COUNT	FEE ITEM	COLUMN B	UNITS (at £5.40 )
<b>EJECTIONS</b>				
- arranging ejection	1	8a	97.42	18
- arranging & executing ejection	1	8b	151.21	28

28. Several respondents noted that facilitating ejections is one of the most difficult and contentious court orders a sheriff officer can be asked to enforce. Those respondents believe the *units of work* should be amended upwards in order to reflect the complexities involved:

*"I would observe anecdotally that the tradesmen in attendance to change locks actually receive a higher remuneration than the Sheriff Officer. I recommend increasing the base line fee in line item 8b to 56 units."*

*"I would recommend at least a 50% increase in these fees."*

*"Ejection instructions remain a regular part of sheriff officers workload but significantly less than in the past, they can be difficult, time consuming, a degree of diplomacy by the sheriff officer is required when the occupant still remains in the property and does not want to move, in these instances the sheriff officer has to liaise with stakeholders involved, this can be quite time consuming."*

*"We would recommend a minimum 50% increase in number of units allocated to such instructions."*

*"Ejection is the most challenging diligence for sheriff officers to undertake, which is a regular activity. The current fee is not commensurate to the difficulties involved in carrying out this activity and all firms regularly experience dangerous situations, where threats and assaults have taken place, notwithstanding the level of planning and risk assessments involved. Ironically the fees for tradesman attending these evictions are greater than the sheriff officer"*

## Consultation Analysis: regarding a simplified table of fees

*fee and the fee involved for this ultimate diligence should be higher. I would suggest that consideration be given to increase the base line fee under item 8b to around 60 units."*

*"The current fee for executing an ejection is not adequate given the time sensitive nature of the instruction, the need to co-ordinate arrangements with various third parties and the potentially contentious nature of the work. Consideration should be given to increasing the base line fee from 28 units to 56 units."*

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### Miscellaneous Fees (arranging locksmith to attend):

SERVICE's PROVIDED - BY A SHERIFF OFFICER	LINE COUNT	FEE ITEM	COLUMN B	UNITS (at £5.40 )
MISCELLANEOUS				
- arranging locksmith or tradesperson to attend	1	13c	7.24	1

29. One respondent suggested that in practice 1 unit of work (6 minutes) was insufficient to arrange the attendance of a locksmith:

*"Current fee is insufficient remuneration to make arrangements with any tradesman which involves engaging with tradesman, agreeing a date of attendance and sending confirmation to the tradesperson."*

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### Miscellaneous Fees (under the Hague Convention):

SERVICE's PROVIDED - BY A SHERIFF OFFICER	LINE COUNT	FEE ITEM	COLUMN B	UNITS (at £5.40 )
MISCELLANEOUS				
- service of a document in Scotland - under Hague Convention	1	13h	169.02	31

30. Where the service of cross border documents arises under the 'Hague Convention' then the current Act of Sederunt only provides for a fee to be charged where a sheriff officer serves those documents within Scotland. There is no ability to charge the instructing party a fee for the work undertaken before transmitting documents to others for service abroad. Several respondents suggested that gap in the charging model should be addressed:

*"Messenger at Arms and Sheriff Officers became the official transmitting agent at the request of the Scottish Government International Law Team in September 2024, there is already a fee within the table of fees as a receiving agent for service from Hague Convention Countries in Scotland, there is currently no statutory fee as a transmitting authority, this involves preparing Hague Model Forms, locating the appropriate body/person in the country of service, where necessary obtain translations, transmitting documents, I believe 47 time units would be a suitable unit based price."*

*"The modern practice of receiving electronic files and handling international cases through the Hague Service Convention are not accounted for in the current fee table. Introducing new fees for electronic file conversion and separately a transmitting fee for international instruction would compensate officers for these new, time-consuming tasks that did not exist when the current fees were established."*

*The addition of an “Electronic File Conversion” fee:*

31. Some respondents noted a change in working practice whereby they now print out the documents previously provided by the instructing party. In their view a new fee should be added to recover those additional costs:

*“Post COVID, our profession has seen a significant shift away from paper-based instructions to digital. Previously, instructing agents would provide a set of paper copies of all relevant service documentation. This is no longer the case as most instructions are received by way of email with a PDF attachment. This has added a new stage in the service and production process, whereby SMASO members are required to convert the electronic file into paper. This can be very time consuming with additional costs in terms of consumables. In light of same we recommend the insertion of a new line item for converting an electronic instruction into hardcopy, possibly 1 unit for every 20 pages capped at 3 units. We would recommend a new fee item for managing the conversion of an electronic file into a paper file.”*

**Should the use of surcharges be extended?**

32. The absence of any requests for change implies that the 3 existing surcharges are working as intended:

- The surcharge for ‘out of hour’s’ working;
- The surcharge for “remote rural areas”; and
- The surcharge for “higher value actions.”

Adding surcharges to cover the services being provided by a “messenger at arms”

SERVICE PROVIDED - BY MESSENGER AT ARMS (Where a % increase in the amount of the fee has been applied)	LINE COUNT	FEE ITEM	FEE AMOUNT	VARIANCE £ % mark up	
<b>SERVICE OR INTIMATION OF A DOCUMENT</b>					
- each person at a different address	1	1a (i)	123.10	26.83	27.9%
- each additional person at that address	1	1a (ii)	24.28	2.56	11.8%
- postal service	1	1b	34.99	3.04	9.5%
- postal diligence	1	1c	53.31	5.29	11.0%
<b>INHIBITIONS</b>					
- Inhibitions - each person at a different address	-	2a (i)	123.10	nil	nil
- Inhibitions - each additional person at that address	-	2a (ii)	39.61	nil	nil
- Inhibition & service - each person at a different address	1	2b (i)	146.95	3.54	2.5%
- Inhibition & service - each additional person at that address	1	2b (ii)	63.83	1.52	2.4%
- Inhibitions, service & interdict - each person at a different address	1	2c (i)	244.07	5.85	2.5%
- Inhibitions, service & interdict - each additional person at that address	1	2c(ii)	103.75	2.37	2.3%
<b>TOTALS</b>	<b>8</b>				

33. Several respondents agreed that using surcharges was preferable to maintaining a separate column with the fees table; as it would continue to provide due recognition of the differences within the services provided:

*“Given that Court of Session actions are generally more complex and relatively higher values, there is certainly merit in having a provision for a higher “Court of Session” fee. Since*

*inhibition has become available in the Sheriff Court and other changes to jurisdiction rules, we are seeing significantly lower volumes of Court of Session instructions. We are also concerned that fewer Sheriff Officers are progressing in their career, by taking the Messenger at Arms examination. Perhaps if the financial reward was greater, then this might encourage more Sheriff Officers, to progress their qualification to Messenger at Arms status. We recommend a 50% surcharge to be a more realistic value."*

34. In the absence of any views favouring retention; it would be appropriate to now use surcharges to avoid the duplication involved in having a table of fees for the 8 line items above. To support a cost neutral and simplified approach the following surcharges should now be added:

For service of intimation of a document

- For personal service – a flat surcharge of 25% (reducing to 10%);
- For postal service – a flat surcharge of 10%; and
- For postal diligence – a flat surcharge of 10%.

For inhibition and service

- A flat surcharge of 2.5%.

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**Should any other surcharges be considered?**

Same day service

35. Several respondents noted the current Act of Sederunt prevents service providers from charging an additional fee where urgency applies. That gap in the charging model could be addressed by adding a surcharge to cover an instructing party who requested a same day service:

*"In other parts of the UK Process Servers will charge upwards of £200 for same day service, however there are no provisions in our regulations for an additional surcharge where service is requested to be carried out on the same day of receipt. I would recommend line item 3 be replaced with a regulation allowing for the surcharge of an additional 20 units for service within 24 hours or for orders for delivery, interdicts (including non-harassment orders) and anti-social behaviour orders."*

*"Sheriff Officers have always had to deal with urgent matters and accommodate this for clients anywhere in Scotland, which can have a significant impact on the operation, but we feel obliged to deal with the service. I believe that it would be appropriate to incorporate a premium levy on the fee of 100% of the fee to accommodate such service. I appreciate that the Regulations allow sheriff officers to negotiate a fee, but from a commercial perspective this can be a difficult conversation with the instructor and if this was incorporated in the new Table of Fees, then it will provide a uniform and fair application."*

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**Are the existing reductions appropriate?**

36. For low value claims of £1,500 or less; column A within the existing fees table makes provision for the reduction of 18 specific fee amounts relative to the normal fees otherwise charged under Column B.



37. The proposed simplification would avoid the need for that duplicate column by changing to the simpler approach of using a flat 33% fee reduction:

SERVICE PROVIDED (Where a reduction in the amount of the fee has been applied)	COUNT	FEE ITEM	COLUMN A	COLUMN B	% REDUCTION
<b>SERVICE OR INTIMATION OF A DOCUMENT</b>					
- each person at a different address	1	1a(i)	61.70	96.27	35.9%
- each additional person at that address	1	1a(ii)	13.45	21.72	38.1%
- postal service	1	1b	18.86	31.95	41.0%
- postal diligence	1	1c	29.27	48.02	39.0%
<b>INHIBITIONS</b>					
- Inhibitions - each person at a different address	1	2a(i)	79.53	123.10	35.4%
- Inhibitions - each additional person at that address	1	2a(ii)	25.63	39.61	35.3%
- Inhibitions & service - each person at a different address	1	2b(i)	92.85	143.41	35.3%
- Inhibitions & service - each additional person at that address	1	2b(ii)	40.34	62.31	35.3%
<b>ATTACHMENTS</b>					
- service notice of entry	1	4a	8.83	13.63	35.2%
- arranging attachment - but unable to execute	1	4b	69.67	101.99	31.7%
<b>MONEY ATTACHMENTS</b>					
- arranging attachment - but unable to execute	1	6a	69.67	101.99	31.7%
<b>AUCTIONS</b>					
- officer & witness attending - auction doesn't proceed	1	7c	64.92	97.42	33.4%
<b>EJECTIONS</b>					
- arranging ejection	1	6a	64.92	97.42	33.4%
- arranging & executing ejection	1	8b	133.32	151.21	11.8%
<b>TAKING POSSESSION OF EFFECTS</b>					
- arranging possession	1	9a	64.92	97.42	33.4%
- arranging & executing possession	1	9b	133.32	179.87	25.9%
<b>ARRESTING VEHICLES, AIRCRAFT &amp; CARGO</b>					
- arranging to arrest	1	12a	64.92	97.42	33.4%
- arranging & executing arrestment	1	12b	163.74	297.68	45.0%
<b>TOTALS</b>	<b>18</b>		<b>66.66</b> (average)	<b>100.14</b> (average)	<b>33.4%</b> (average)

38. Most respondents agreed that adopting the use of a standardised % reduction was preferable to maintaining a separate column of 18 items.

39. 1 respondent sought clarification that reductions would not be applied regarding the services related to "summary warrants" given that they are served on behalf of local authorities rather than the courts.

40. Several respondents were of the view that the level % reduction should be reduced to either 20% or 10%. Some went further and suggested this reduction should be completely withdrawn.

## Should the threshold for low value claims be amended?

41.1 respondent suggested that to support those who are vulnerable and in financial distress the £1,500 threshold should be increased to £5,000; as that is the limit that now applies when a low value claim is made under simple procedure:

*“...we have concerns that the £1,500 threshold for fee reductions, applied to 18 services and unchanged since 1988, is significantly outdated due to inflation, limiting its effectiveness for consumers with smaller debts. This threshold fails to reflect current economic realities, excluding many modern claims from the 33% fee reduction (e.g., reducing a money attachment fee from £101.99 to £69.67 when not executed), which disproportionately impacts vulnerable consumers. We recommend adjusting this threshold to £5,000, aligning with the 2008 summary cause limit, to ensure more consumers benefit from reduced fees, thereby alleviating financial burdens.”*

42.1 respondent suggested reducing that £1,500 threshold to £300; as that is the statutory limit below which *judicial expenses* would not be awarded in a simple procedure case.

## Should the profession be asked to fund “access to justice” at all?

43. Several respondents believe that the significant contraction in the overall size of the market over the last 4 decades means it is no longer appropriate for sheriff officers to be asked to subsidise “access to justice” in lower value cases. As the profession is not being publicly funded they think the Scottish Government should not be asking them to provide cross subsidisation within their services in order to achieve the wider policy aims of the Scottish Ministers:

*“My understanding is that the discount applied to Column A is a result of Government policy to improve access to justice. As we receive no funding from the Government I am unclear why we should bear this cost despite the work in question requiring exactly the same resources, time and qualifications as Column B. It seems fair that we remove column A and any discount which would ensure members are remunerated fairly for their work.”*

*“We accept that we do hold public office and acknowledge the need for access to justice, however, noting that Sheriff Officers receive no direct financial support from Government, and in the context of the current shrinking citation and diligence market, this represents a loss-making business obligation. Accordingly, we believe this provision should be discontinued, or to soften the financial impact on Sheriff Officer Firms, restricted to a -10% reduction of the fee value.”*

*“I would suggest the following changes - Removing the reduction altogether however should a reduction remain it should be changed from 33% to 20% this would negate some of the losses incurred. The base value should also be changed to £1000 and under.”*

*“...The level of work involved is the same involved as the fee under Column B and as such this fee should be the basis of all service fees for sheriff officers. As such it is not fair that sheriff officers should conduct work at a loss and carry the cost to deliver these professional services, as we no longer have the volume of work to subsidise these loss-making fees.”*

*“The cost to a sheriff officer firm of undertaking any particular instruction is the same regardless of the principal sum claimed for in the action therefore it is inappropriate for any discount to be applied for lower value actions. Private sector businesses should not be expected to bear the cost of government policy to improve access to justice for creditors in lower value actions.”*

*“The type of work carried out by Sheriff Officers has changed over time with the current table of fees relying heavily of the 1987 Debtor (Scotland) Act. In addition, wider issues in the debt recovery landscape have meant a continual decrease in “traditional” instructions as court users are reluctant to initiate proceedings with many cases having virtually no hope of recovery. These overall lower volumes impact the viability of servicing “Column A” cases which in truth, given these are largely instructed by Party Litigants, present an extremely time-consuming challenge. As with all other professions, costs within Sheriff Officer Businesses have increased dramatically with investment in training, technology, compliance, and human resources. We as a profession have been raising these issues for some time with the continued sustainability and viability of our profession being a real concern.”*

*“... “Column A” fees no longer reflect the amount of work undertaken to complete these instructions. We understand this lower fee was implemented by Scottish Government to assist with “Access to Justice” however I cannot understand why this policy is being paid for by our members as private business owners. The cost of printing, preparing and serving a Simple Procedure Claim and its subsequent diligences is the same, regardless, if the claim is above or below £1500. The unintended consequence of continuing with a reduction for actions in “Column A” has a detrimental effect on Access to Justice with Sheriff Officers having to prioritise instructions which pay higher fees rather than these “Column A” cases. I would strongly recommend this reduction disappears completely to prevent our members operating at a loss on these instructions.”*

*“Due to the introduction of Simple Procedure and increasing solicitor costs, more party litigants have embarked on doing the work themselves. Sheriff Officers are obliged to assist and advise these individuals/small businesses, and our own business has identified the challenges to apportion time for our sheriff officers to advise them and thereafter undertake service under the Column A fee scale. A higher fee for actions under £1500 would allow sheriff officers to dedicate more time to party litigants and provide access to justice without taking a loss.”*

### **Question 6 – Do you have a view on any unintended consequences that might arise from implementing a change to unit based charging?**

RESPONDENT	Responded to Q6	Are there any unintended consequences in making this change?
1	No	
2	Yes	No
3	Yes	No
4	Yes	Yes – fee increases could outpace consumers ability to pay
5	Yes	No
6	Yes	No
7	Yes	Yes – reductions are always not applicable
8	Yes	No
9	Yes	Yes - summary warrants are chargeable irrespective of the debt value
10	Yes	No
11	Yes	Yes – increased queries (about the units of time allocated)
12	Yes	Yes - summary warrants are chargeable irrespective of the debt value
13	Yes	No
14	Yes	No
15	Yes	No
16	Yes	No
17	Yes	No

*Consultation Analysis: regarding a simplified table of fees*

18	Yes	No
19	Yes	Yes – the charges fixed may not cover the costs
20	Yes	Yes - % uplifts mean lower fees & higher fees become further apart
21	Yes	Yes – increased queries (about the units of time allocated)
22	Yes	Yes – clients may not understand why the change was made
23	Yes	No
24	Yes	No view expressed
25	Yes	No
26	Yes	No

44. Most responses flagged the potential implementation issues that could arise:

- Firms in this market may need to update their *complaints procedures* to respond to an increased volume of queries such as;
  - The reasons why this change to the charging model was made;
  - The reasonableness of the ‘*units of work*’ fixed for a given service;
- Some providers remain nervous that the updated charges set may still not ensure they will fully recover the costs of service provision; and
- The level of fee increases that are made within the next fees instrument may outpace the ability of some consumers to pay.

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**PROPOSAL 3 – ADJUSTING FOR INFLATION IN ADVANCE:**

**Question 7 – Do you have a view on the proposed change to the Council progressing inflation adjustments in advance?**

RESPONDENT	Responded to Q7	Should inflation adjustments be made in advance?
1	No	
2	Yes	Yes– increased queries (about the units of time allocated)
3	Yes	Yes
4	Yes	No - disagree with the use of forecasts
5	Yes	Yes
6	Yes	Yes
7	Yes	Yes
8	Yes	Yes
9	Yes	Yes
10	Yes	Yes
11	Yes	Yes
12	Yes	Yes
13	Yes	Yes
14	Yes	Yes
15	Yes	Yes
16	Yes	Yes
17	Yes	Yes
18	Yes	Yes

### Consultation Analysis: regarding a simplified table of fees

19	Yes	Yes
20	Yes	Yes
21	Yes	Yes
22	Yes	Yes
23	Yes	Yes
24	Yes	Yes
25	Yes	Yes
26	Yes	No – could be done in arrears providing there was minimal delay

#### 45. Most respondents support the improved certainty provided by adjusting for inflation in advance and on a three yearly cycle:

*“I welcome this proposal which will provide greater certainty and allow for planning, budgeting and investment for sheriff officer businesses. At present under the current process there is very little stability and...it is very difficult to make long term investment into the profession.”*

*“The other benefit will be more gradual increases with increased transparency. At present with increases being applied several years apart it can result in significant increases to take into account the intervening period. The proposed changes will mean that service users will not experience “price shocks”...”*

*“Amending orders would be reduced in complexity to a single paragraph, simply stating the monetary value of the unit for the next three years. This makes the fee structure more transparent and predictable.”*

*“By simplifying the review process, the new model ensures that fees remain current and fair without the delays caused by the current system.”*

*“It allows the Council to focus on substantive changes, such as adding or removing services, rather than grappling with the complexities of multiple individual line-item adjustments.”*

#### 46.2 respondents were opposed to adjusting for inflation in advance:

*“We do not support the proposal to progress inflation adjustments in advance, as it poses significant risks for consumers, potentially worsening their financial distress.”*

*“If we could predict inflation we would be able to make our fortunes in the government bond market. This is a notoriously difficult area in which to make any predictions. There is no great harm in retaining the existing system as regards increases. There should obviously be as little delay as possible in changing the unit value to reflect inflation.”*

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#### **Question 8 – Do you have a view on which indices (CPI, CPIH or a combination of both) should be used when forecasting inflation?**

RESPONDENT	Responded to Q8	Do you have a view on which inflation indices should be used?
1	No	
2	Yes	Yes – combination of CPI & CPIH
3	Yes	Yes – combination of CPI & CPIH
4	Yes	Disagree with the use of forecasts
5	Yes	Yes – combination of CPI & CPIH

### Consultation Analysis: regarding a simplified table of fees

6	Yes	Yes – combination of CPI & CPIH
7	Yes	Yes – combination of CPI & CPIH
8	Yes	Yes – combination of CPI & CPIH
9	Yes	Yes – combination of CPI & CPIH
10	Yes	Yes – combination of CPI & CPIH
11	Yes	Yes – combination of CPI & CPIH
12	Yes	No firm view
13	Yes	Yes – combination of CPI & CPIH
14	Yes	Yes – combination of CPI & CPIH
15	Yes	Yes – combination of CPI & CPIH
16	Yes	Yes – combination of CPI & CPIH
17	Yes	Yes – combination of CPI & CPIH
18	Yes	Yes – combination of CPI & CPIH
19	Yes	Yes – combination of CPI & CPIH
20	Yes	Yes – combination of CPI & CPIH
21	Yes	Yes – combination of CPI & CPIH
22	Yes	Yes – combination of CPI & CPIH
23	Yes	Yes – combination of CPI & CPIH
24	Yes	No view expressed
25	Yes	Yes – combination of CPI & CPIH
26	Yes	Should not be attempting to forecast inflation

47. Given it was the historic working practice: 22 respondents suggested that the blended use of both the CPI and CPIH indices remained appropriate:

*“...a blended combination of CPI and CPIH indices should be used when forecasting inflation. This has been the approach in recent years in calculating previous fee increases and has worked well and provided a fair reflection of changes.”*

48. 2 respondents were opposed to the use of forecasts:

*“We believe the SCJC should not rely on forecasting inflation for fee adjustments, as it risks overestimating increases, leading to higher fees that could exacerbate financial distress for consumers facing debt enforcement actions.”*

*“We do not believe that predicting inflation is a task that should be adopted at all in the setting of these fees, and have no view on which index is better than another.”*

### **OTHER OPPORTUNITIES TO MODERNISE**

**Question 9 – Are you aware of any other opportunities to modernise how these regulated fees are set by the courts and charged to end users?**

RESPONDENT	Responded to Q9	Do you have a view on any other options for change?
1	No	
2	Yes	Yes – fees working group?

### Consultation Analysis: regarding a simplified table of fees

3	Yes	Yes – fees working group?
4	Yes	Yes
5	Yes	Yes – fees working group?
6	Yes	No
7	Yes	No – these proposals already provide significant modernisation
8	Yes	Yes – fees working group?
9	Yes	Yes
10	Yes	Yes – fees working group?
11	Yes	Yes – fees working group?
12	Yes	Yes
13	No	
14	Yes	Yes – fees working group?
15	Yes	Yes – fees working group?
16	Yes	Nothing to add
17	Yes	Yes – fees working group?
18	Yes	Yes – agree with SMSAO proposal
19	Yes	No
20	Yes	Yes – option to make adhoc fee increases if justified
21	Yes	Yes
22	Yes	Yes
23	Yes	Yes – fees working group?
24	Yes	No view expressed
25	Yes	Yes – fees working group?
26	Yes	Yes – there are options for improving ‘public awareness’

#### *Having a fees working group*

49. Several respondents reinforced the need for dialogue between the Council and the profession when setting fees. In line with paragraph 40 of the consultation paper; the implementation plan requires the secretariat to undertake an appropriate Fees Review Process with SMSAO every 3 years.

#### *Meeting the costs of unsuccessful diligence*

50. Some respondents noted the costs of diligence can only be recovered from the specific diligence used. In practice that will leave a creditor out of pocket for any other unsuccessful diligences they may have previously instructed as a means to secure payment of the sum owed:

*At present the fees for unsuccessful or abortive diligence is borne wholly by the creditor. While this follows the general principle that costs follow success it should not necessarily apply in this circumstance. Given that creditors have already succeeded by obtaining judgment in their favour and that the debtor has failed to comply with that decree by not making payment, the creditor has no other option other than to instruct diligence in order for the order of the court to be enforced. The success of diligences such as Arrestment and Earnings Arrestment can only be measured after they have been carried out. Similarly there is a disincentive here for creditors to negotiate with debtors, and withdraw an instruction to attach for example and enter into a repayment agreement, as they would be left bearing the cost of abortive diligence.”*

*“... in instances where a creditor has had to attempt various diligences to secure payment of their decree they invariably bear costs. This is a particularly acute issue for Party Litigants. These individuals have often utilised the Simple Procedure process who subsequently discover that despite going through the courts they then find an additional challenge to recover the sums they have been awarded. With no access to information on the party they are pursuing they are left with little option other than to attempt diligence. In the event that they prove unsuccessful they find themselves with additional costs. This has the cumulative effect of reducing confidence in our civil justice system. I recommend that any previous diligence or the costs of unsuccessful diligence should be chargeable to the debtor.”*

- To improve procedural fairness for those granted an enforceable court order the Council may wish to consider:
  - *Information Disclosure Orders*<sup>3</sup> - if the Council was of the view that pursuing the implementation of such orders could provide a pragmatic way to minimise the costs of unsuccessful diligences? or
  - *Legislative Change* – if the Council was of the view that under the Debtors (Scotland) Act 2007 a change should be sought to [section 93](#) (*Recovery from debtor of expenses of certain diligences*) so that the costs of both successful and unsuccessful diligences would be recoverable?

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## SECTION 3 – CONCLUSIONS

51. The conclusions of this analysis are:

***Proposal 1 – was to consolidate the 2 existing sets of regulations from 2002 into a new simplified statutory instrument.***

52. As 24 respondents were in favour of making this change, with only 1 favouring the status quo, the Council should proceed with instructing a consolidated instrument. The proposed *drafting instructions* would be:

- Use “Fees of Messengers at Arms and Sheriff Officers” as the title;
- Reword the General Regulations;
- Reword the Table of Fees in line with the changes under proposal 2 and proposal 3; and
- Revoke the 2 regulations made in 2002 as well as the 32 subsequent amending orders made.

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***Proposal 2 – was to simplify the layout and content of that new consolidated instrument by adopting the use of ‘unit based charging’; as well as amending the general regulations to reflect that change.***

*Adopting ‘unit based charging’:*

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<sup>3</sup> Under section 220 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 the Scottish Ministers have held the power to make regulations regarding who is eligible to seek such orders since April 2008; and the Scottish Government did consult on extending the use of those orders in 2024.



53. As 24 respondents were in favour of making this change, with only 1 taking an opposing view, the Council should adopt a '*unit based charging*' methodology. The proposed *drafting instructions* would be:
- The '*unit of work*' – should be defined as 6 minutes;
  - The initial "*monetary amount*" - should be defined as the initial baseline figure of £5.40 uprated by the latest published inflation indices at the time the consolidating instrument is made; and
  - The table of fees – should be recast so that it specifies the agreed "*units of work*" for each line item.

Amending the 'general regulations':

54. As 25 respondents were in favour of adopting the 1 set of generic regulations the Council should instruct the preparation of a 'generic' version. The proposed *drafting instructions* would be:
- Reorder the regulations under logical headings and renumber;
  - Reword the content to provide generic regulations equally applicable to both messengers at arms and sheriff officers; and
  - Add the definitions for a "*unit*", the "*monetary value*" of a unit, and "*units of work*".

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**Proposal 3 – To provide a framework whereby future inflation uplifts can be estimated in advance.**

55. As 23 respondents were in favour of adjusting for inflation in advance; with only 2 favouring the status quo, the Council should issue *drafting instructions* for the new consolidated instrument to provide for inflation forecasts:
- *To give operational effect to that change* - a 3 yearly Fees Review Process should be developed and implemented by the secretariat in order to secure appropriate input when setting future fees; and
  - *To give legal effect to that change* – this consolidating instrument, and all subsequent amending instruments, should specify the revised *monetary amount* applicable across each year of the next 3 yearly cycle:
    - Year 1 – the monetary value is fixed at £X.XX from DD MMM YY;
    - Year 2 - that monetary value changes to £Y.YY from DD MMM YY; and
    - Year 3 – that monetary value changes to £Z.ZZ from DD MMM YY.

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**SECTION 4 – NEXT STEPS**

56. Following consideration of the content of this report the next steps will be:

- *Publish the Consultation Response* - the Council will consider the content of this analysis and then approve online publication of a *Consultation Response Report* to convey the final policy decisions taken;

- *Prepare the Draft Rules* – the Council will issue drafting instructions for the preparation of draft rules to put those agreed policy changes into effect;
- *Finalise the draft rules* – once it becomes available from the drafters, that draft Act of Sederunt will be tabled for consideration by the Council;
- *Propose the rules* – once those draft rules have been approved the final inflation adjusted *monetary amount* would be fixed and the Council will propose that finalised Act of Sederunt for consideration and approval by the Court of Session;
- *Publish the rules* – assuming the changes are approved by the Court of Session, that consolidating Act of Sederunt would be laid with the Scottish Parliament and published via [legislation.gov.uk](https://legislation.gov.uk); and
- *Commence the rules* – the updated fees will come into effect on the commencement date specified within that Act of Sederunt.

**Secretariat to the Scottish Civil Justice Council**  
**September 2025**

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+ Business and Regulatory Impact Assessment (BRIA)

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Debtors (Scotland) Act 1987

PART VI– Messengers at arms and sheriff officers (s75 to s86A)

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Bankruptcy and Diligence etc. (Scotland) Act 2007

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s26 – Service of Documents

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Bankruptcy and Diligence (Scotland) Act 2024

Section 14 - Service of documents and arrestee’s duty of disclosure:

Section 16 - Service of documents and employers’ etc. duty of disclosure

<https://www.legislation.gov.uk/asp/2024/9/contents>

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### **Existing Rules – on fees:**

Act of Sederunt (Fees of Messengers-at-Arms) (No. 2) 2002

(13 pages)

<https://www.legislation.gov.uk/ssi/2002/566/contents/made>

Act of Sederunt (Fees of Sheriff Officers) (No. 2) 2002

(15 pages)

<https://www.legislation.gov.uk/ssi/2002/567/contents/made>

The last “amending order” enacted was the:

- Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers) (Amendment) 2024

(10 pages)

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