

- (c) A solicitor may submit the file to an auditor of court or a law accountant for charging, but it is stressed that a unilateral reference of this kind does *not* constitute a taxation. Such an assessment of a fee must never be represented as a taxation or as having any official status. The fee for such a reference is not chargeable to the party paying. If such a note of fee is disputed, the solicitor must advise of the right to taxation as above. An auditor of court who has advised a solicitor on his account in this way, may decline to act in any subsequent taxation of that file.

2. Taxation

(a) Remit

The essence of taxation is that it proceeds upon either a remit by the court or a joint reference by both the solicitor and the party paying, including non-contentious cases in (c) below. The auditor provides the best guarantee of the fair and reasonable determination required by the profession and by the client.

(b) Disputed accounts

When the party paying, whether client or third party, requires that the solicitor's account be taxed, the solicitor cannot refuse to concur in the reference unless the solicitor and client have entered into a written fee charging agreement. The solicitor must forthwith submit the file and all relevant information including a note of fee or detailed account to the auditor. It is for the auditor to determine the procedure to be followed. In normal cases this will be a diet of taxation which should be intimated to the client by the solicitor. Evidence of such intimation, which may be by ordinary first class post, may be required if the client does not appear at the diet. If either of the parties wishes to make written submissions, the auditor will ensure that each party is fully aware of the other's representations.

(c) Non-contentious cases

Taxation is necessary by law and in practice in certain circumstances. The accounts of a solicitor acting for:

- an administrator of a company under the Insolvency Acts;
- a liquidator appointed by the court;
- a creditor's voluntary liquidator;
- a trustee in bankruptcy;
- a judicial factor;
- curators of all kinds;
- guardians

must be taxed.

A solicitor who acts:

- as an administrator of a client's funds under a power of attorney;
- in a representative capacity, e.g. a sole executor

may well consider that taxation of the account affords protection and reassurance to those now interested in the estate. A certificate by an auditor is appropriate in these cases.

A solicitor who is a co-executor with an unqualified person must not make a unilateral reference to the auditor for taxation. Such a reference needs the concurrence of the other executor. The auditor may require intimation of the taxation to any other party with an interest in the residue of the estate.

(d) Style of remit

A formal remit may be in the following form:

"(place) (date). I, AB as Executor of the late CD and we, Messrs E & F, Solicitors to the Executor, hereby request the Auditor of the (Sheriff Court of . . . /Court of Session) to tax the remuneration due and payable to the Solicitors for their whole work and responsibility in connection with (matter).

Signed: AB E & F"

This, however, is not essential; all that the auditor requires is to be satisfied that the client is concurring in the request for taxation and accepting that it will be binding. It is often in practice a matter of agreement reached at an early meeting between solicitor and client. Any reasonable record of such an agreement having been reached will be sufficient for the auditor.

3. Written fee charging agreements

Where in terms of section 61A of the Solicitors (Scotland) Act 1980 solicitor and client have reached an agreement in writing as to the solicitor's fees in respect of any work done or to be done for the client, the solicitor is not obliged to concur in any request by the client for taxation.

4. Expenses of taxation

The auditor will usually charge a fee for the taxation. It may be 3% or 4% of the amount of the account after taxation and may attract VAT. Any award of expenses of the taxation — not only the auditor's fee but also the time and expenses of parties attending — is wholly within the discretion of the auditor. If the matter is settled within the seven days preceding the diet of taxation the auditor may still charge a proportion of his fee, not exceeding 50%, at his discretion.

CHAPTER 3

DETAILED CHARGES EXPRESSED IN UNITS

Value of the unit as from:

See p 18.

1.4.75	£1.50	1.1.84	£4.00	1.1.91	£6.80	1.1.98	£8.60
1.1.76	£1.80	1.1.85	£4.25	1.1.92	£7.50	1.1.99	£8.85
1.1.79	£2.50	1.1.86	£4.50	1.1.93	£8.00	1.1.00	£9.15
1.1.80	£3.00	1.1.87	£4.85	1.1.94	£8.00	1.1.01	£9.40
1.1.81	£3.35	1.1.88	£5.25	1.1.95	£8.10	1.1.02	£9.85
1.1.82	£3.50	1.1.89	£5.55	1.1.96	£8.60	1.1.03	£11.00
1.1.83	£3.80	1.1.90	£6.20	1.1.97	£8.60	1.1.04	£11.30

A DOCUMENTS AND PAPERS

1. Drawing (to include engrossing)

Rate per
hr/sht/page Charge

- (i) Deeds; documents intended to have contractual effect; court writs (other than simple debt recovery); court pleadings; affidavits; motions of substance; financial statements and accounts except solicitors' business accounts; inventories (other than inventories of writs) and relative schedules; memorials for opinion

5 U

Note: Where a pro forma document has been used and variables simply inserted or standard clauses inserted the rate for that part of the document will be

3 U

- (ii) Other papers to include transfers; minutes of meetings; statements; routine or straightforward motions; simple debt recovery court writs Intimations and certificates thereof

3 U

1.25 U

Note: (a) Length of sheet — 250 words. Part of a sheet is charged as one sheet. A sum or quantity of one denomination stated in figures (e.g. "£25,564") is counted as one word; "£25,564.75" is counted as two words; "254 feet 11 inches" is counted as four words.

2. Copying — by any means

No charge up to 50 pages copied in the whole matter.

Over 50 pages (whether 50 copies of 1 page or 1 copy of 50 pages or whatever)

0.02 U

B TIME

Time spent conducting a trial, proof or formal debate hearing before a Court including a Tribunal, Enquiry, Licensing Board or Arbiter

12 U

For all time spent, where not otherwise provided

10 U

Note: Time occupied in travelling or waiting to be included where appropriate.

C CORRESPONDENCE

1. **Letters (except as aftermentioned), faxes, e-mails (only one charge if going to several people), letters with cheques**
Each page of 125 words or part thereof 1.25 U
2. (a) **Formal letters (i.e. acknowledgements/confirmatory letters) and circulars** 0.5 U
(b) **letters of a similar nature (i.e. the same letter going to several people) for the second and subsequent letter irrespective of length** 0.5 U
3. **Telephone calls**
First 6 minutes (or part thereof) 1 U
Over 6 minutes 10 U
Formal phone calls (acknowledging/confirming) 0.5 U

D SPECIFIC ITEMS

1. **Registration of writs**
Recording writs, including warrant of registration, certificate of value/exemption clause where necessary, presentation of writ, receiving writ or an extract or extracts 3.25 U
Note: If the deed is recorded for preservation and execution at the same time, no additional charge is allowed.
2. **Quick copies and extracts** 2.25 U
Where ordered after date of recording
Note: Where extracts of several deeds are ordered at the same time, charge 2.25 U for the first and 1 U each for the others.
3. **Lending/delivering titles and other papers** 2.25 U
Each lending 1 U
Inventory (including copy). Each sheet
Notes:
(i) to cover receipt and delivery;
(ii) inventory to be charged only if more than three writs are lent or delivered;
(iii) no charge should be made for delivering papers, titles, etc., direct to client or former client. However where they are delivered by one solicitor to another solicitor in accordance with a mandate or other written instructions, a fee may be charged.
4. **Acting as notary.** 3 U
(a) **Notarial certificates and attestations and similar acts, where not specially provided for by statute or statutory instrument to include notarising Court affidavits — each**
Note: This fee does not include the drawing or revising of the document to be notarised — see Para A(ii).
(b) **Notarial copies. Each sheet** 1 U
(c) **Maritime protests:**
(i) **Noting protests (a) against wind and weather; (b) in cases of collision, (c) with reference to claims for demurrage and damages, and (d) in special cases requiring detail of circumstances** 10 U
(ii) **Drawing instrument and necessary documents** 5 U
(iii) **Attendance at execution of protest** 3 U
5. **Redemption of feuduty (compulsory or voluntary)** 3.25 U
Issuing redemption notice or receipt, or duplicate of original receipt

CHAPTER 4

WRITS RELATING TO HERITABLE PROPERTY

All fees shall be charged in accordance with the General Regulations. The following will apply unless otherwise agreed by the parties.

A FEUDAL GRANTS

- In feudal transactions the deed will be drawn by the solicitor for the superior and revised by the solicitors for the other parties.
- Each party will pay his own solicitor's expenses; the superior will pay the expenses of the plan and searches or appropriate Land Register reports including Form P16 and the purchaser will pay the whole stamp duty land tax and the recording or registration dues.
- Missives for the granting of a feu deed will be charged separately.
- Consideration to be given in assessing the fee to the number, nature and complexity of the burdens, etc. However care should be taken to ensure that this is not charged in respect of both the missives and the feu deed.

B CONVEYANCES

- Missives to be charged in accordance with Chapter 3A1(i).
- Stamp duty land tax and registration or recording dues to be paid by the purchaser. The seller should pay for the search or appropriate Land Register reports, Property Certificates and the like and a plan in so far as it is necessary to show a good title. Each party will pay his own solicitor's expenses.
- Where in the examination of a title the solicitor for the purchaser requires to examine a quick copy or extract of a writ in order to establish a marketable title, the cost of the quick copy or extract will be paid by the seller.
- Contracts of excambion: "value" to be ascertained under General Regulation 8. Each party to pay his own solicitor's fees. Stamp duty land tax, surveyor's charges, expenses of plan, if any, dues of registration for publication and preservation and the expenses of two extracts to be borne by the parties as may be agreed.
- Transactions with acquiring authorities:

	Charge	Minimum Fee
(a) Statutory conveyance (Schedule A Lands Clauses Consolidation (Scotland) Act 1845)	1%	27.5 U
(b) Compulsory purchase + general vesting declaration where no completion of title — but title is produced, investigations carried out or search produced	0.5%	13.25 U
(c) Receipt and undertaking	0.25%	5.5 U
(d) Where missives are concluded and conveyance completed — per Chapter 3		
(e) Notice of payment of compensation with no other work	5 U	
- Registration of Title.** In cases inducing a first registration in terms of the Land Registration (Scotland) Act 1979 some additional weighting will normally be appropriate in respect of the length, number and importance of the documents prepared or perused, but for dealings in a registered interest a negative weighting will be appropriate.

C STANDARD SECURITIES, ETC

- Paragraph 12 of Schedule 3 to the Conveyancing (Scotland) Act 1970 provides that the debtor shall be responsible for the expenses of the deeds relating to the creation, discharge, etc., of a standard security.
- Where the loan transaction involves some ancillary matter, such as an assignation of a life policy, an extra charge may be made.
- Generally the responsibility of the solicitor acting for the borrower is rather less than that of the solicitor acting for the lender.
- In the case of standard securities by companies the solicitor shall be entitled to charge for all additional work involved in complying with relevant statutory requirements.
- Where the standard security does not specify the amount of the loan, the value will be the amount which the lender is expecting the security to cover regardless of the value of the security subjects.
- Ancillary matters such as calling up standard securities, etc., unless otherwise agreed, to be charged in accordance with Chapter 3.