

EM

LAW SOCIETY OF SCOTLAND

SUMMARY CAUSE EXPENSES AS BETWEEN  
AGENT AND CLIENT - FORD PAYING

The case submitted to the Auditor was a Summary Cause in which the Pursuer was legally assisted. The Account of Expenses lodged for payment was made up of a detailed account and the Law Society have refused payment on the grounds that there was no provision in the general regulations which gave them authority to pay detailed accounts in Summary Causes. They further submitted that there was no provision for detailed accounts under the Summary Cause Chapter IV of the Sheriff Court Table.

The Auditor has had two hearings when the Law Society and Solicitor gave their views in great detail.

The General Regulations contained in the Sheriff Court Table prior to 1st September 1976 provided that in Small Debt causes the Solicitors have the option of charging Chapter IV or Chapter III fees. This paragraph 4 ceases to have effect on the said date so that now the option is not available under Chapter IV as it was. The option has not been re-instated in any other Regulation.

Regulation 9 provides options to solicitors to charge either on the basis of Chapters I and II or Chapter III but not under the Chapter dealing with Summary Causes. That Chapter does not so provide so that the introductory phrase of Rule 9 "have as otherwise provided" has no relevance. Furthermore in the Action of Debt which provides /

providen for the Summary Causes para. 88 providen that the fees of Solicitors shall be fixed in accordance with the statutory table of fees appropriate to the Summary Cause which now is not Chapter 11.

The Auditor is therefore of the view that the option to charge detailed charges is not open to Solicitors.

July 1980.