

STATUTORY INSTRUMENT

S.I. No. 644 of 2005

Sheriff's Fees and Expenses Order, 2005

PUBLISHED BY THE STATIONERY OFFICE, DUBLIN
to be purchased directly from the
GOVERNMENT PUBLICATIONS SALES OFFICE,
SUN ALLIANCE HOUSE,
MOLESWORTH STREET,
DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
51 ST. STEPHEN'S GREEN, DUBLIN 2,
(Tel 01 6476834/35/36/37; Fax: 01 647 6843)
or through any other bookseller.

(PRN No. A5/1713)

Price: € 2.54

I, Michael McDowell, T.D., Minister for Justice, Equality and Law Reform, in exercise of the powers conferred on me by section 14 of the Enforcement of Court Orders Act 1926 (No. 18 of 1926) (as adapted by the Justice (Alteration of Name of Department and Title of Minister) Order 1997 (S.I. No. 298 of 1997)), and with the consent of the Minister for Finance, hereby order as follows:

1. (1) This Order may be cited as the Sheriffs' Fees and Expenses Order 2005.

(2) This Order comes into operation on 01 November, 2005.

2. This Order applies to execution orders lodged with the sheriff for execution on or after the commencement of this Order.

3. (1) In this Order, except where the context otherwise requires -

“court messenger” includes bailiff;

“executing party” means, in relation to an execution order, the party entitled to or requiring the execution of the execution order;

“other party” means, in relation to an execution order, the party against whom the execution order is directed;

“sheriff” includes county registrar.

(2) In this Order -

(a) a reference to the Schedule is a reference to the Schedule to this Order,
and

(b) a reference to any reference number is a reference to that reference
number in column (1) of the Schedule.

4. The Interpretation Act 1937 (No. 38 of 1937), applies to this Order.

5. (1) Subject to this Order, the fees and expenses specified in column (3) of the
Schedule at any reference number shall be charged by and paid to the sheriff in respect of the
item specified in column (2) of the Schedule at that reference number.

(2) The fee specified in column (3) of the Schedule at reference number 1 shall be
reduced by 50 per cent in respect of an order relating to a small claim within the meaning of
the District Court (Small Claims Procedure) Rules 1993 (S.I. No. 356 of 1993).

6. (1) Subject to the provisions of this Order -

- (a) the fees specified in column (3) of the Schedule at reference numbers 1, 3 and 5 shall be paid in the first instance by the executing party, but shall be paid by, and may be levied by the sheriff from, the other party and repaid to the executing party by the sheriff on recovery thereof by him or her from the other party,
- (b) the fees and expenses specified at reference numbers 2, 4, 6, 7, 8, 9 and 10 shall be paid by the other party and may be levied by the sheriff from that party,
- (c) the fee specified in column (3) of the Schedule at reference number 11 shall be paid by the person requesting the service specified in column (2) of the Schedule at that reference number.

(2) In the case of an execution order putting a person into possession of land or premises or an execution order for the seizure of specific property, the fees and expenses specified in column (3) of the Schedule at reference numbers 6 and 7 shall, if payable, be paid in the first instance by the executing party at the time of the lodgment of the execution order with the sheriff but shall be paid by, and may be levied by the sheriff from, the other party and repaid to the executing party by the sheriff on recovery thereof by him or her from the other party.

7. (1) Where -

- (a) the sheriff or court messenger seizes specific property pursuant to an execution order, and
- (b) before its removal, there is tendered to the sheriff or the court messenger by or on behalf of the other party, the amount due on foot of the execution order together with the fees and expenses specified in column (3) of the Schedule at reference numbers 1, 4, 6 and 7, as may be appropriate, payable in respect of such seizure,

the other party shall, in addition to the fees and expenses so tendered, forthwith pay the fee specified in the said column (3) at reference number 2 on the amount due on foot of the execution order to the sheriff or the court messenger together with the expenses reasonably and necessarily incurred for the purpose of the proposed removal of the specific property and, in default of payment, the sheriff or the court messenger shall be entitled to refuse the amount tendered and to proceed to remove the specific property.

(2) Where -

- (a) the sheriff or court messenger has seized and removed specific property pursuant to an execution order, and

- (b) before its sale, there is tendered to the sheriff or the court messenger by or on behalf of the other party, the amount due on foot of the execution order together with such fees and expenses specified in column 3 of the Schedule at reference numbers 1, 4, 6, 7, 8, 9 and 10, as may be appropriate,

the other party shall, in addition to the fees and expenses so tendered, forthwith pay the fee specified in the said column (3) at reference number 2 on the amount due on foot of the execution order to the sheriff or the court messenger and, in default of payment, the sheriff or the court messenger shall be entitled to refuse the amount tendered and to proceed to sell the specific property.

8. (1) Where -

- (a) the sheriff or court messenger seizes specific property pursuant to an execution order,
- (b) before its removal, an undertaking is given by or on behalf of the other party to the sheriff or the court messenger to pay the amount due on foot of the execution order, whether by instalments or otherwise, together with the fees and expenses specified in column (3) of the Schedule at reference numbers 1, 4, 6 and 7, as may be appropriate, and

- (c) the sheriff or the court messenger, with the consent of the executing party, accepts the undertaking (upon the condition that the other party complies with this Article) and does not remove the specific property,

the other party shall forthwith pay the fee specified in column (3) of the Schedule at reference number 2 on the amount of the payment or, where there is more than one payment, on the amount of each payment, due on foot of the execution order to the sheriff or the court messenger together with the expenses reasonably and necessarily incurred for the purpose of the proposed removal of the specific property, but where the other party breaches the said undertaking the sheriff or the court messenger shall remove the specific property.

(2) Where -

- (a) the sheriff or court messenger has seized and removed specific property pursuant to an execution order,
- (b) before its sale, an undertaking is given by or on behalf of the other party to the sheriff or the court messenger to pay the amount due on foot of the execution order, whether by instalments or otherwise, together with the fees and expenses specified in column (3) of the Schedule at reference numbers 1, 4, 6, 7, 8, 9 and 10, as may be appropriate, and

- (c) the sheriff or the court messenger, with the consent of the executing party, accepts the undertaking (upon condition that the other party complies with this Article), and does not sell the specific property,

the other party shall forthwith pay the fee specified in column (3) of the Schedule at reference number 2 on the amount of the payment or, where there is more than one payment, on the amount of each payment due on foot of the execution order to the sheriff or the court messenger but where the other party breaches the said undertaking the sheriff or the court messenger shall sell the specific property.

9. If an execution order authorising the putting of a person into possession of land or premises is, upon the application of the executing party, stayed or withdrawn after it is lodged with the sheriff and before it is executed, the executing party shall, in addition to the fees and expenses specified in column (3) of the Schedule at reference numbers 3, 4, 6 and 7, as may be appropriate, paid at the time of its being so lodged, pay to the sheriff any other expenses properly incurred by him or her for the purpose of executing the execution order (provided that the aggregate of all such fees and expenses shall not exceed the amount of the fees and expenses that would have been payable if the execution order had been executed).

10. (1) Where, before the sheriff or the court messenger has seized the specific property concerned, or before the executing party has taken possession of the land or premises concerned, as the case may be, an execution order lodged with the sheriff is withdrawn -

- (a) pursuant to an order of a court adjudicating the other party bankrupt or, where the other party is a company, providing for its winding up or the appointment of an examiner, receiver or liquidator,
- (b) upon the application of the executing party, for a reason other than default on the part of the sheriff or the court messenger, or
- (c) by reason of the settlement of the proceedings to which the execution order relates,

the sheriff shall, in addition to the fees specified in column (3) of the Schedule at reference numbers 1, 3 and 5, as may be appropriate, paid at the time of the order being so lodged, be paid by the executing party the fees and expenses specified in the said column (3) at reference numbers 4, 6 and 7, as may be appropriate, and any other expenses properly incurred by him or her for the purpose of executing the execution order (provided that the aggregate of all such fees and expenses shall not exceed the amount of the fees and expenses that would have been payable if the execution order had been executed).

(2) Where the sheriff or the court messenger has seized the specific property concerned or the land or premises concerned and the execution order lodged with the sheriff is withdrawn -

- (a) pursuant to an order of a court adjudicating the other party bankrupt or, where the other party is a company, providing for its winding up or the appointment of an examiner, receiver or liquidator, or
- (b) upon the application of the executing party, for a reason other than default on the part of the sheriff or the court messenger,

the sheriff shall, in addition to the fees specified in column (3) of the Schedule at reference numbers 1, 3 and 5, as may be appropriate, paid at the time of the order being so lodged, be paid by the executing party the fees and expenses specified in the said column (3) at reference numbers 4, 6, 7, 8, 9 and 10, as may be appropriate, and any other expenses properly incurred by him or her for the purpose of executing the execution order (provided that the aggregate of all such fees and expenses shall not exceed the amount of the fees and expenses that would have been payable if the order had been executed), together with the fee specified in the said column (3) at reference number 2 on the amount due on foot of the execution order.

- (3) (a) Where the sheriff or the court messenger has seized the specific property concerned or the land or premises concerned and the proceedings to which the execution order relates are settled, the sheriff shall, in addition to the fees specified in column (3) of the Schedule at reference numbers 1, 3 and 5, as may be appropriate, paid at the time of the lodgment of the execution order with the sheriff, be paid by the executing party the fees and expenses specified in the said column (3) at reference numbers 4, 6, 7, 8, 9 and 10, as may be appropriate, and any other expenses properly incurred by him or her for the purpose of

executing the execution order (provided that the aggregate of all such fees and expenses shall not exceed the amount of the fees and expenses that would have been payable if the order had been executed), together with the fee specified in the said column (3) at reference number 2 on the amount or value of the settlement, subject to the limitation that that fee shall not exceed the fee that, but for the settlement, would be payable on the amount due on foot of the execution order concerned.

- (b) For the purposes of subparagraph (a) of this paragraph, it shall be presumed, unless the contrary is shown by or on behalf of the executing party, that the amount or value of the settlement concerned is equal to the amount due on foot of the execution order concerned.

(4) Where the sheriff or the court messenger has seized the specific property concerned and, before the sale thereof, a receiver of the specific property is appointed, the sheriff shall, in addition to the fees specified in column (3) of the Schedule at reference numbers 1, 3 and 5, as may be appropriate, be paid by the receiver out of the proceeds of any sale by the receiver of the specific property the fees and expenses specified in the said column (3) at reference numbers 4, 6, 7, 8, 9 and 10, as may be appropriate, and any other expenses properly incurred by him or her for the purpose of executing the execution order (provided that the aggregate of all such fees and expenses shall not exceed the amount of the fees and expenses that would have been payable if the execution order had been executed) together with the fee specified in the said column (3) at reference number 2 on the amount due on foot of the execution order.

SCHEDULE

Article 4

Reference Number (1)	Item (2)	Fees and Expenses (3)
1.	Fee to be paid at the time of lodgment with the sheriff of an execution order directing or authorising the execution of an order of a court by the seizure and sale of a person's property.	€19.00
2.	<p>Poundage fee for executing an execution order directing or authorising the execution of an order of a court by the seizure and sale of a person's property -</p> <p style="padding-left: 40px;">(a) if the entire amount stated in the order to be due for debt, costs and interest is levied,</p> <p style="padding-left: 40px;">(b) if the entire amount aforesaid is not levied.</p>	<p>5 per cent of the first €5,500.00, and 2.5 per cent of the balance, of that amount.</p> <p>5 per cent of the first €5,500.00, and 2.5 per cent of the balance, of the amount actually levied.</p>
3.	Fee to be paid at the time of lodgment with the sheriff of an execution order directing or authorising the execution of an order of a court by putting a person into possession of land or premises.	€175.00

Reference Number (1)	Item (2)	Amount (3)
4.	For expenses incurred in gaining access to land or premises.	The actual and necessary expenses of gaining such access.
5.	Fee to be paid at the time of lodgment with the sheriff of an execution order directing or authorising the execution of an order of a court by delivering specific property to a person.	€56.00
6.	For executing an execution order by court messenger.	€40.00 and, if assisted by one or more bailiffs, €40.00 in respect of each such bailiff.
7.	<p>Travelling expenses in respect of the distance travelled for the purpose of the execution of -</p> <p>(a) an execution order, or</p> <p>(b) a certificate issued under section 962 of the Taxes Consolidation Act 1997 (No. 39 of 1997).</p>	<p>At the appropriate civil service mileage rate for the time being.</p> <p>€32.00</p>

Reference Number (1)	Item (2)	Amount (3)
8.	<p>For the removal -</p> <p>(a) of goods seized to a place of safe keeping, or</p> <p>(b) for the removal of goods or animals from land or premises to facilitate an ejection from the premises.</p>	The actual and necessary expenses of such removal.
9.	For the sustenance and safe keeping of cattle or other animals while under seizure under an execution order and the storage and safe keeping of all other goods pending the sale thereof.	The expenses reasonably and necessarily incurred.
10.	For the sale of property seized under an execution order or the preparations for such a sale, whether or not the sale takes place.	The expenses reasonably and necessarily incurred.
11.	For search for orders and certificate of search.	€21.00

LS

GIVEN under my Official Seal,
04th October 2005.
Michael McDowell,
Minister for Justice, Equality
and Law Reform.

The Minister for Finance consents to the making of the foregoing Order.

LS

GIVEN under the Official Seal
of the Minister for Finance,
11th October, 2005.
Brian Cowen,
Minister for Finance.

EXPLANATORY NOTE

(This does not form part of the instrument and does not purport to be a legal interpretation)

In accordance with the Enforcement of Court Orders Act, 1926, this order increases the fees charged by Sheriffs and County Registrars in the execution of Court Orders. The Order comes into operation on 01 November, 2005.