

EXECUTIVE NOTE TO

THE LYON COURT AND OFFICE FEES (VARIATION)(No.2) ORDER 2008 SSI 2008/168

1. This Order is being made in exercise of the powers conferred by section 5 of, as read with paragraph 3 of Schedule 3 to, the Public Expenditure and Receipts Act 1968 and is subject to negative resolution procedure.

Policy Objectives and Background

2. Schedule B of the Lyon King of Arms Act 1867 sets out fees payable by those who make an application to the Lord Lyon or otherwise have business with the Lyon Court and Office. These fees were last revised in 1996 and require to be up-rated and modernised to reflect developments and changes. Overall fees have been up-rated by an average of 40%.

3. This Order varies the fees payable in respect of devolved functions of the Lyon Court and Office. The Lyon Court and Office Fees (Variation) Order 2008 will vary the fees payable in respect of reserved functions (Part 1 of Schedule 5 to the Scotland Act 1998 reserves certain functions of the Lord Lyon - principally the granting of arms). The latter will be laid at Westminster and will come into force first. This order will come into force immediately after the Westminster Order.

4. The main changes introduced by the Orders are:-

- The petition fee has been varied to provide that part of the fee is payable at the beginning of the process when the petition is lodged (number 3 in the Schedule to this Order and number 5 in Schedule 2 to the Westminster Order). The reason for this is that under the present arrangements where a petition is withdrawn there is no basis on which to charge for what might be a significant amount of preliminary work.
- The extracting fees have been varied to allow for a charge for a reprographic extract from a register maintained in digital form (number 12 in the Schedule to this Order and number 6 in schedule 2 to the Westminster Order).
- The structure of searching fees is being varied to provide a modest fee for searches through the internet (number 8 in the Schedule to this Order).
- Certain fees relating to messenger-at-arms have been removed, as the functions to which the fees related have passed to the Court of Session.

Consultation

5. We consulted with various organisations and individuals with an interest in heraldry and genealogy, including officers of Arms, the Law Society of Scotland, the Faculty of Advocates, the Society of Messengers-at-Arms and a number of representative bodies. Those who responded were broadly in agreement with the new fees structure.

Financial Effects

6. Up-rating and modernising the level of fees for the services provided by the Lyon Court to take account of inflation and changes over the last 12 years will ensure appropriate cost recovery for these public services.

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Courts Directorate
April 2008