

EXECUTIVE NOTE

THE SHERIFF COURT FEES AMENDMENT ORDER 2009

SSI 2009/89

The above instrument is being made in exercise of the powers conferred by section 2 of the Courts of Law Fees (Scotland) Act 1895 (c.14). This instrument makes amendments to the Sheriff Court Fees Order 1997 (“the 1997 Order”) and the Sheriff Court Fees Amendment Order 2008 (“the 2008 Order”). The instrument is subject to negative resolution procedure. This Order comes into effect on 1st April 2009 except for the amendment relating to the increase in working tax credit which comes into effect on 6th April 2009.

Policy

A new benefit was introduced by the Welfare Reform Act 2007. This new benefit is the income-related employment and support allowance and the provision of that Act which dealt with this new benefit was brought into force on 27th October 2008. Persons in receipt of that benefit are exempt from court fees. We have taken steps to ensure that those in receipt of this benefit would have the benefit of the fee exemption from that date prior to making the amendment by this instrument.

In addition, the income level threshold used for the working tax credit calculation has been increased from £16,017 to £16,642 from 6th April 2009. Tax credit thresholds are adjusted each year in line with inflation.

Corrections have been made to cross references between the articles in the 1997 Order and the Table of Fees in the schedule to that Order, which will be substituted by the Table of Fees in schedule 2 to the 2008 Order on 1st April 2009 and by the Table of Fees in schedule 3 to the 2008 Order on 1st April 2010. There have also been some adjustments to the text in the Table of Fees to clarifying the charging of fees.

There will no longer be a fee charged in respect of an inventory of the estate of a deceased person who is exempt from inheritance tax by virtue of section 154 of the Inheritance Tax Act 1984. It had been previously restricted to £2.

Fees are also now incorporated for applications for an European order for payment and for actions under European small claims procedure.

An amendment has also been made so that the fee for the defender’s response to an initial writ matches the fee for an initial writ. The defender’s response fee was stated as £75 (£5 below the fee for the initial writ). The policy intention has always been that the fee should be the same as that for an initial writ and, therefore, the fee in respect of the defender has been increased to £80.

Consultation

There has been no need, in view of the nature of these changes, for any external or intra-government consultation.

Financial effects

These will be minimal.

Regulatory Impact Assessment

Not required.

Equalities Impact Assessment

Not required.

Scottish Court Service
2 March 2009