

POLICY NOTE

THE COURT OF SESSION ETC. FEES AMENDMENT ORDER 2012

SSI 2012/290

The above instrument is made in exercise of the powers conferred by section 2 of the Courts of Law Fees (Scotland) Act 1895 (c. 14). The instrument is subject to negative resolution procedure.

Policy

Court fees and fees for services offered by the Court of Session ensure that those who make use of the court meet or contribute towards the associated costs to the public purse, where they can afford to do so. The Scottish Government's policy is to move toward fees which reflect the full cost of the processes involved with a well-targeted system of fee exemptions to protect access to justice.

The Scottish Government is committed to bringing forward legislative proposals to reform the civil courts in Scotland and the Scottish Civil Justice Council and Criminal Legal Assistance Bill which is currently being considered by the Scottish Parliament will establish a Scottish Civil Justice Council to undertake the necessary review of civil court rules. This was one of the recommendations contained in the *Report of the Scottish Civil Courts Review* prepared at Minister's request by the then Lord Justice Clerk, Lord Gill.

In addition to inflationary increases the further increases being made to these fees will provide funding for that civil court reform and improvement. It is anticipated that the proposed increases will bring the current level of cost recovery at the Court of Session from 66% to 78%.

Consultation

There has been a public consultation on these proposals. More detailed information is given in the associated Business and Regulatory Impact Assessment

Financial Effects

This Order makes provision for inflation increases of 5% from 10 December 2012 and 3% for both years from 1 April 2013 and 1 April 2014. The consumer price index (CPI) has been used to calculate the inflation increase. As no inflationary increase had been applied to the 2011-12 fees, the increase in December 2012 covers 2 years. A further 1% increase has also been applied to some of the fees to provide funding for initial set up costs for civil court reform.

It is anticipated that additional fee income of £200k, £1.8m and £2m will be raised in 2012-13, 2013-14 and 2014-15 respectively.

Business and Regulatory Impact Assessment

There are 5 instruments being made at the same time relative to fees. A composite business and regulatory impact assessment for the 4 fee orders relating to the Scottish courts (Sheriff Court, Justice of the Peace Court, Court of Session, High Court of Justiciary) and the 1 set of fee regulations relating to the Office of the Public Guardian has been prepared and will be published shortly at <http://www.scotland.gov.uk/Topics/Business-Industry/support/better-regulation/partial-assessments/full/2012>.

Equalities Impact Assessment

A composite equality impact assessment for the 4 fee orders relating to the Scottish courts (Sheriff Court, Justice of the Peace Court, Court of Session, High Court of Justiciary) and the 1 set of fee regulations relating to the Office of the Public Guardian has been prepared and will be published shortly at <http://www.scotland.gov.uk/Publications/2012>.

Scottish Government
October 2012