

POLICY NOTE

THE SCOTTISH CIVIL JUSTICE COUNCIL AND CRIMINAL LEGAL ASSISTANCE ACT 2013 (COMMENCEMENT NO. 1, TRANSITIONAL AND TRANSITORY PROVISIONS) ORDER 2013

SSI 2013/124 (C. 9)

1. This instrument was made in exercise of the powers conferred by section 25 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (“the 2013 Act”). The instrument is not subject to parliamentary procedure.

Commencement

2. Part 3 of the 2013 Act came into force on the day following Royal Assent (6 March 2013), by virtue of section 25(1). This Order brings Part 1 of the 2013 Act into force on 28 May 2013, establishing the SCJC and dissolving the Sheriff Court Rules Council and the Court of Session Rules Council.

Policy Objectives of the transitional and transitory provisions

3. Section 5(2) of the 2013 Act requires the SCJC to produce a report on its activities during each annual period from 1 April in one calendar year until 31 March in the next. Article 3(1) of the Order requires the SCJC’s first report on its activities to cover only the period from 28 May 2013 until 31 March 2014. This is required because the report can only cover the work carried out from date of establishment of the SCJC.

4. Currently the Court of Session is under a statutory obligation to consult with the relevant rules council in terms of section 32(3) of the Sheriff Courts (Scotland) Act 1971 (c.58) and section 38(3) of the Legal Aid (Scotland) Act 1986 (c.47). Article 3(2) and (3) of this Order provide that if the court has already consulted on a particular act of sederunt prior to 28 May, then that consultation will be taken to have fulfilled its new obligation to consult the SCJC under the 2013 Act. This prevents the Court of Session from having to duplicate its consultation where the making of an act of sederunt spans both the old and new rules council regimes.

Consultation, Impact Assessments and Financial Effects

5. A full consultation, equality impact assessment and business and regulatory impact assessment were completed in respect of the 2013 Act in October 2012, before its enactment and details are available on the Scottish Government website. The transitory and transitional provisions do not alter the assessed impact or effect.

Scottish Government
Justice Directorate
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