

POLICY NOTE

THE SHERIFF APPEAL COURT FEES ORDER 2015

SSI 2015/379

The above instrument is made in exercise of the powers conferred by section 107(1) and (2) of the Courts Reform (Scotland) Act 2014. The instrument is subject to the negative procedure.

Policy

Court fees and fees for services offered by the Sheriff Appeal Court (Civil) ensure that those who make use of the court meet or contribute towards the associated costs to the public purse where they can afford so to do.

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 order sets out those persons who are exempted from paying fees. It also sets out legislation-specific fees exemptions relating to particular proceedings. These exemptions are drawn from the Sheriff Court Fees Order 2015 to reflect that appeal proceedings will generally not be held in the sheriff court from 1 January 2016.

The Sheriff Appeal Court (Civil) is a new feature of the civil justice landscape and, as such, it requires its own tables of fees. The workload of this court that relates to fees, is primarily the civil appeals that were formerly marked to the sheriffs principal and the approach being taken is to broadly replicate the comparable fees that would have been charged within the sheriff court under the Sheriff Court Fees Order 2015. Fee provision is being made for lodging appeals from a summary cause and from any other cause. These rates are being maintained at the same rates for the same appeals from the Sheriff Court Fees Order 2015. A new fee point is being added for a Hearing Fee (bench of 3) in anticipation of those civil appeals where a quorum of three may be warranted by the complexity of an appeal. That type of fee does not currently exist within sheriff court practice and is being set at 2½ times the standard sheriff court hearing fee. Provision is made for the first 30 minutes of a hearing to be exempt from court fees, regardless of the size of the quorum. Provision is also made for lodging applications under section 69 or 71 of the Courts Reform (Scotland) Act 2014. Fees for the taxation of accounts and copying fees have been replicated from the Sheriff Court Fees Order 2015.

This Order implements a drafting commitment made by the Scottish Government in the context of the earlier Sheriff Court Fees Order 2015 and other fees instruments laid in June 2015¹. The reference to "civil partnership" in article 3(2) of this Order is not specifically defined, meaning that the definition in schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010 takes effect.

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http://www.scottish.parliament.uk/S4_SubordinateLegislationCommittee/Meeting%20Papers/20150901Papers-WEB.pdf

Consultation

A public consultation on court fees including fee proposals for the Sheriff Appeal Court (Civil) took place from February to May 2015 and can be found at <http://www.gov.scot/Publications/2015/02/2080> More detailed information is given in the associated Business and Regulatory Impact Assessment.

Financial effects

This fee instrument makes provision for inflation increases of 2% per year on based on the current sheriff court fees prior to 22 September 2015. This accounts for the increases on 1 April 2016 and 1 April 2017. The consumer price index (CPI) has been used to calculate the inflation increase. The court fees in the sheriff court and the Court of Session were also raised on 22 September 2015 by a small initial increase of 2%. 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.

Business and Regulatory Impact Assessment

A Business and Regulatory Impact Assessment for this instrument has been prepared and will be published shortly. The Business and Regulatory Impact Assessment for the other court fees instruments laid in 2015 including those for the sheriff court and Court of Session can be found at <http://www.legislation.gov.uk/ssi/2015/264/resources>

Equalities Impact Assessment & Child Rights and Wellbeing Impact Assessment

An equalities impact assessment for the instrument has been prepared and will be published shortly. Screening for a Child Rights and Wellbeing Impact Assessment resulted in the decision not to undertake such an assessment, however impacts on children were considered within the equalities impact assessment. The equalities impact assessment for the other court fees instruments laid in 2015 including those for the sheriff court and Court of Session can be found at <http://www.legislation.gov.uk/ssi/2015/264/resources>

Courts Reform Team
Civil Law & Legal System
Justice Directorate
Scottish Government
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