

## **POLICY NOTE**

### **THE LITIGANTS IN PERSON (COSTS AND EXPENSES) (SHERIFF APPEAL COURT) ORDER 2015**

**SSI 2015/398**

1. The above instrument is made in exercise of the powers conferred by section 1(2)(c) of the Litigants in Person (Costs and Expenses) Act 1975 (“the 1975 Act”). The instrument is subject to the negative procedure.

#### **Background**

2. The 1975 Act allows a party litigant in civil proceedings in whose favour an order for expenses has been made to recover sums in respect of work done by the party litigant in connection with the proceedings, and expenses and losses incurred. These are the same items as a represented litigant can claim. The 1975 Act has applied from the outset to the sheriff court, the Scottish Land Court and the Court of Session and it was applied to the UK Supreme Court on its creation in 2009. Prior to the 1975 Act, the position was that a party litigant was not entitled to recover expenses.

#### **Policy objectives**

3. Article 2 of the Order extends the scope of the 1975 Act to the Sheriff Appeal Court (Civil). Therefore the Order ensures consistency across all courts by extending the 1975 Act to allow a party litigant in civil proceedings in the Sheriff Appeal Court (Civil) in whose favour an order for expenses has been made to recover sums in respect of work done by the party litigant in connection with the proceedings, and expenses and losses incurred.

#### **Consultation**

4. Technical engagement on the drafting of the Order has been had with the Lord President’s Private Office given interactions with the package of acts of sederunt that the Scottish Civil Justice Council is preparing. No formal consultation has taken place on the Order as it is being made as a consequence of the Courts Reform (Scotland) Act 2014, which has already been the subject of separate consultation exercises.

#### **Impact Assessments**

5. No impact assessments are required in consequence of this Order.

Scottish Government  
Justice Directorate

19 November 2015