

Equalities, Human Rights and Civil Justice Committee
Tuesday 8 October 2024
21st Meeting, 2024 (Session 6)

Negative subordinate legislation consideration

Overview

1. At this meeting, the Committee will consider the following suite of six negative Scottish Statutory Instruments (SSIs), which are all subject to annulment by resolution of the Parliament until 3 November 2024 respectively. The Committee took evidence on civil court fees at its [meeting on 24 September 2024](#) and agreed to [write to the Scottish Government on issues raised](#). The Committee [received a response from the Minister for Victims and Community Safety](#) on 1 October 2024.

The instruments are as follows:

- [2024/235 The Sheriff Court Fees Order 2024](#) – the Policy Note is provided at [Annexe A](#).
- [2024/236 The Sheriff Appeal Court Fees Order 2024](#) – the Policy Note is provided at [Annexe B](#).
- [2024/237 The High Court of Justiciary Fees Order 2024](#) – the Policy Note is provided at [Annexe C](#).
- [2024/238 The Court of Session etc. Fees Order 2024](#) – the Policy Note is provided at [Annexe D](#).
- [2024/239 The Justice of the Peace Court Fees \(Scotland\) Order 2024](#) – the Policy Note is provided at [Annexe E](#).
- [2024/240 The Adults with Incapacity \(Public Guardian's Fees\) \(Scotland\) Regulations 2024](#) – the Policy Note is provided at [Annexe F](#).

It is expected that the fees will be introduced on 1 November 2024. A further, more comprehensive review of court fees will be undertaken in 2025 with a view to changes from 1 April 2026.

The Committee are invited to consider the instruments and decide what, if any, recommendations to make.

2. More information about the instruments are summarised below:

Instruments 2024/235 to 2024/239 are laid under [the Courts Reform \(Scotland\) Act 2014](#)

Instrument 2024/240 is laid under [the Adults with Incapacity \(Scotland\) Act 2000](#).

All instruments were laid on: 9 September 2024

Procedure: Negative

Deadline for committee consideration: 28 October 2024

Deadline for Chamber consideration: 3 November 2024

Commencement: 1 November 2024

Revocation: Each instrument in the suite of SSIs revokes the equivalent Court Fees Order made in 2022 which precedes it.

3. The following impact assessments have been prepared for the suite of instruments and are linked below:

- [Business and Regulatory Impact Assessment \(BRIA\)](#)
- [Equality Impact Assessment \(EQIA\)](#)
- [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)

4. Details of each of the six instruments follow below.

The Sheriff Court Fees Order 2024 (SSI 2024/235)

5. This instrument raises the current court fees payable in the Sheriff Court by around 10% or 20% with effect from 1 November 2024.

6. The gross annual income threshold below which people on low incomes are exempt from the requirement to pay fees is £20,592. Additional exemptions for people in receipt of certain social security benefits are provided for in this instrument.

The Sheriff Appeal Court Fees Order 2024 (SSI 2024/236)

7. This instrument raises the current court fees payable in the Sheriff Appeal Court by 10% with effect from 1 November 2024.

8. The gross annual income threshold below which people on low incomes are exempt from the requirement to pay fees is £20,592. Additional exemptions for people in receipt of certain social security benefits are provided for in this instrument.

The High Court of Justiciary Fees Order 2024 (SSI 2024/237)

9. This instrument raises the current court fees payable in the High Court of Justiciary to the Principal Clerk of Justiciary or any other officer acting for the Principal Clerk by 10% with effect from 1 November 2024.

10. The gross annual income threshold below which people on low incomes are exempt from the requirement to pay fees is £20,592. Additional exemptions for people in receipt of certain social security benefits are provided for in this instrument.

The Court of Session etc. Fees Order 2024 (SSI 2024/238)

11. This instrument raises the current court fees payable in the Court of Session to the Principal Clerk of Session, the Accountant of Court, the Auditor of the Court of Session or any other officer acting for one of those officers by 10% with effect from 1 November 2024.
12. The gross annual income threshold below which people on low incomes are exempt from the requirement to pay fees is £20,592. Additional exemptions for people in receipt of certain social security benefits are provided for in this instrument.
13. This particular instrument also provides for exemptions from payment of fees in certain types of environmental court cases. Court fees continue to be disapplied in applications for specified protective interdicts and exclusion orders in relation to domestic abuse. No court fees are payable by the Crown in relation to enforcement of the criminal law.

The Justice of the Peace Court Fees (Scotland) Order 2024 (SSI 2024/239)

14. This instrument raises the current court fees payable in the Justice of the Peace courts in Scotland to the clerk of the Justice of the Peace Court by 10% with effect from 1 November 2024.
15. The gross annual income threshold below which people on low incomes are exempt from the requirement to pay fees is £20,592. Additional exemptions for people in receipt of certain social security benefits are provided for in this instrument.

The Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2024 (SSI 2024/240)

16. This instrument raises the current fees payable to the OPG in Adults with Incapacity proceedings in Scotland by 10% with effect from 1 November 2024. Adults with incapacity includes those who lack capacity due to mental illness, learning disability, dementia or a related condition, or an inability to communicate. The OPG may charge fees in relation to powers of attorney and guardianship orders.
17. The gross annual income threshold below which people on low incomes are exempt from the requirement to pay fees is £20,592. Additional exemptions for people in receipt of certain social security benefits are provided for in this instrument.

Delegated Powers and Law Reform Committee consideration

18. The Delegated Powers and Law Reform Committee (DPLR) considered, and reported on, instruments 2024/236 to 2024/240 in its [53rd Report, 2024](#). The DPLR Committee delayed consideration of instrument 2024/235, The Sheriff Court Fees Order 2024, in order to write to the Scottish Government with issues raised by their legal advisers. This correspondence is included in full as part of [Annexe A](#). The DPLR Committee subsequently considered and reported on instrument 2024/235 in its [56th Report, 2024](#).

19. The DPLR Committee made no recommendations in relation to any of the suite of six instruments but agreed to highlight to the Equalities, Human Rights and Civil Justice Committee the correspondence with the Scottish Government and the level of the fee uplift in relation to SSI 2024/235 of around 10% or 20%.

Procedure

20. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.

21. Once laid, the instrument is referred to:

- the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
- a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

22. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

23. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

24. Members will want to note though that, in advance of this meeting, Maggie Chapman has lodged the following motions to annul all of the above instruments:

- [S6M-14789](#): That the Equalities, Human Rights and Civil Justice Committee recommends that the Sheriff Court Fees Order 2024 (2024/235) be annulled.
- [S6M-14790](#): That the Equalities, Human Rights and Civil Justice Committee recommends that the Sheriff Appeal Court Fees Order 2024 (SSI 2024/236) be annulled.
- [S6M-14791](#): That the Equalities, Human Rights and Civil Justice Committee recommends that the High Court of Justiciary Fees Order 2024 (SSI 2024/237) be annulled.
- [S6M-14792](#): That the Equalities, Human Rights and Civil Justice Committee recommends that the Court of Session etc. Fees Order 2024 (SSI 2024/238) be annulled.
- [S6M-14793](#): That the Equalities, Human Rights and Civil Justice Committee recommends that the Justice of the Peace Court Fees (Scotland) Order 2024 (SSI 2024/239) be annulled.
- [S6M-14794](#): That the Equalities, Human Rights and Civil Justice Committee recommends that the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2024 (SSI 2024/240) be annulled.

25. These motions will be considered at today's meeting according to the procedure set out below.

Committee consideration

26. Members will commence proceedings by taking evidence from Siobhian Brown MSP, Minister for Victims and Community Safety, and officials on all of the SSIs. This is the opportunity to ask any questions they have about the contents and effects of any of the six SSIs.

27. Maggie Chapman MSP will be able to lead on questions as well as other Committee members as a result of her lodging the motions to annul. Other Members may ask questions of the Minister and her officials if they wish about any of the SSIs.

28. Once questioning is complete, there will be a single, short debate on the SSIs and, at its conclusion, Maggie Chapman MSP will be asked if she wishes to press or withdraw her motions. If she chooses to press, the motions will be taken individually in turn as per the agenda. The Convener will ask Committee members if they agree that the relevant motion to annul be agreed to. If there is disagreement, the Convener will put each question to a vote.

29. As indicated above, if any motion to annul is agreed to, the Parliamentary Bureau must then lodge a further motion to annul the instrument(s) to be considered by the Parliament as a whole. If that motion is also agreed to in the Chamber, the Scottish Ministers must revoke the instrument(s).

**Clerks to the Committee
October 2024**

Annexe A: The Sheriff Court Fees Order 2024 (SSI 2024/235) – Policy Note

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.

Purpose of the instrument

An instrument to increase fees for court users in the Sheriff Courts.

Policy objectives

Court fees and fees for services offered by the High Court of Justiciary, the Court of Session, Sheriff Appeal Court, sheriff courts including the Sheriff Personal Injury Court, Justice of the Peace Courts and the Office of the Public Guardian (OPG) ensure that those who make use of the courts or the OPG meet or contribute towards the associated costs to the public purse where they can afford so to do.

The Scottish Government has long had a policy to move toward fees which more fully reflect the cost of the processes involved, with a well-targeted system of fee exemptions to protect access to justice. This Order puts into effect that policy by raising court fees to ensure that the income raised reflects the costs incurred by the Scottish Courts and Tribunals Service (SCTS) in providing the civil court system. The specific fee rises in this Order are of 10% with effect from 1 November 2024 with an additional 10% increase being applied to a limited number of targeted fees.

These increases reflect the sharp, unprecedented rise in inflation over the past few years. These rises have negatively impacted the SCTS budget which was already under significant pressure following on from the Covid 19 pandemic.

This Order is one of a suite of 6 instruments that amend court fees across the Courts and the OPG.

The Sheriff Court Fees Order 2022 (the 2022 Order) is repealed and replaced by the Sheriff Court Fees Order 2024. In addition to the inflationary increases, certain updates to fees narratives have been made to ensure that they are as clear and consistent as possible.

Further, this Order makes other changes to the court fee charging regime. These changes are:

- A remedial amendment in relation to the fees applicable to sheriff court insolvency applications under schedule 1 paragraph 13 of the 2022 Order.
- The introduction of fees for the accountant of court in respect of administration of accounts under the Proceeds of Crime Act 2002.

The Scottish Government is committed to ensuring a well-targeted system of fee exemptions exist. This means that those who require support, and in general this means those in receipt of legal aid, will not incur any court fees.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Sheriff Court Fees Order 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

A public consultation on these proposals was launched on 18th March 2024 which concluded on 10th June 2024.

Twenty-three responses were received ([of which 19 agreed to be published](#)) and almost all stated their opposition to increasing court fees or the charging of court fees at all.

Having fully considered the views of those who responded to the consultation, the Scottish Government has decided to implement the increases to court fees proposed in the consultation to allow for the unexpected rise in inflation as well as the more minor adjustments proposed.

The policy reflects the Scottish Government's commitment to ensuring that the courts are funded to deliver a justice system that is affordable and which provides a high quality service to those who have cause to use it. It is also committed to ensuring that access to justice is protected through a well-funded system of exemptions and legal aid.

Financial effects

The impact of this policy on business is considered to be minimal. All litigants other than those exempted will bear the increase based on the type of action and the level of court which they use. Lawyers may bear the increase unless and until they are paid by clients or recover fees from the losing party.

The fee increases are expected to raise an additional £5 million in revenue for the SCTS. This will cover the significant budgetary shortfall experienced due to the unforeseen rise in inflation and will allow SCTS to continue to operate effectively during a time of significant financial pressure on public money.

It is expected that the fees will be introduced on 1 November 2024. A further, more comprehensive, review of court fees will be undertaken in 2025 with a view to changes from 1 April 2026.

Impact assessments

The impact assessments undertaken are noted below:

- [Business and Regulatory Impact Assessment \(BRIA\)](#)
- [Equality Impact Assessment \(EQIA\)](#)
- [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)

DPLR Committee correspondence with the Scottish Government

On Wednesday 11 September 2024, the Committee asked the Scottish Government:

We understand that since the laying of this instrument there has been a change in lead solicitor.

The policy note states that the policy intention of the instrument is to uplift sheriff court fees by either 10% or 20%. In the following instances, the fees provided for in part 1 of the schedule, it appears that the fees have not been uplifted in increments of 10% or 20%:

Column 1 (Matters)	Column 2 (Fee payable) £
3(a)(i): Receiving and examining inventory of estate, except where sub-paragraph (b) or (c) of this paragraph applies— where the amount of the estate vested in or belonging beneficially to the deceased, of which confirmation is required, or for which resealing under the Colonial Probates Act 1892 is required does not exceed— £250,000.	341
3(a)(ii): Receiving and examining inventory of estate, except where sub-paragraph (b) or (c) of this paragraph applies— where the amount of the estate exceeds £250,000.	684
5: Initial writ in any proceedings not being proceedings for which any other paragraph of this Table specifies a fee.	171
13: Lodging of notice of appointment or intention to appoint an administrator out of court under the Insolvency Act 1986 or filing documents with the court to obtain a moratorium under section A3 of Part A1 of that Act.	171
24: Lodging of a certified copy record under the Ordinary Cause Rules.	153
25: Lodging of a certified closed record under the additional procedure of the Ordinary Cause Rules.	153

Can you confirm whether the uplifted fees above are in line with the policy intention?

Please confirm whether any corrective action is proposed, and if so, what action and when.

On 17 September 2024, the Scottish Government responded:

The Scottish Government can confirm that the uplifted fees in the table above (i.e. those that are increased by a figure more than 10%) are in line with the policy intention although we would acknowledge that the policy note could have been more specific about this.

The consultation document [Scottish Court Fees 2024-2025: A consultation \(www.gov.scot\)](https://www.gov.scot/publications/consultations/2024/09/01/scottish-court-fees-2024-2025-a-consultation/consultation.page) set out the policy intention more fully. It is clear from paragraph 7 that in addition to a 10% increase to all court fees, a targeted further 10% increase on a limited number of court fees is proposed. It's also evident that although inflation was one of the drivers for the fee increases across the courts system as a whole, it was not the only factor. The cost of operating a courts system (which showed a rate of cost recovery of 57% on 2023/34) was also a consideration. Therefore, some fees were increased by larger amounts where that could be done without imperilling access to justice and the fees selected for the larger increases were identified with that in mind.

In addition, the policy intention was to enhance simplicity and consistency in the fee tables where that can be achieved. For example, fee 13 (lodging of appointment or intention to appoint an administrator out of court under Insolvency legislation) was brought into line with fee 5 (lodging an initial writ) in the table above (and this change featured within the consultation).

Annexe B: The Sheriff Appeal Court Fees Order 2024 (SSI 2024/236) – Policy Note

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.

Purpose of the instrument

An instrument to increase the fees for court users in the Sheriff Appeal Court.

Policy objectives

Court fees and fees for services offered by the High Court of Justiciary, the Court of Session, Sheriff Appeal Court, sheriff courts including the Sheriff Personal Injury Court, Justice of the Peace Courts and the Office of the Public Guardian (OPG) ensure that those who make use of the courts or the OPG meet or contribute towards the associated costs to the public purse where they can afford so to do.

The Scottish Government has long had a policy to move toward fees which more fully reflect the cost of the processes involved, with a well-targeted system of fee exemptions to protect access to justice. This Order puts into effect that policy by raising court fees to ensure that the income raised reflects the costs incurred by the Scottish Courts and Tribunals Service (SCTS) in providing the civil court system. The specific fee rises in this Order are of 10% with effect from 1 November 2024.

These increases reflect the sharp, unprecedented rise in inflation over the past few years. These rises have negatively impacted the SCTS budget which was already under significant pressure following on from the Covid 19 pandemic.

This Order is one of a suite of 6 instruments that amend court fees across the Courts and the OPG.

The Sheriff Appeal Court Fees Order 2022 (the 2022 Order) is repealed and replaced by the Sheriff Appeal Court Fees Order 2024.

The Scottish Government is committed to ensuring a well-targeted system of fee exemptions exist. This means that those who require support, and in general this means those in receipt of legal aid, will not incur any court fees.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Sheriff Appeal Court Fees Order 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

A public consultation on these proposals was launched on 18th March 2024 which concluded on 10th June 2024.

Twenty-three responses were received ([of which 19 agreed to be published](#)) and almost all stated their opposition to increasing court fees or the charging of court fees at all.

Having fully considered the views of those who responded to the consultation, the Scottish Government has decided to implement the increases to court fees proposed in the consultation to allow for the unexpected rise in inflation as well as the more minor adjustments proposed.

The policy reflects the Scottish Government's commitment to ensuring that the courts are funded to deliver a justice system that is affordable and which provides a high quality service to those who have cause to use it. It is also committed to ensuring that access to justice is protected through a well-funded system of exemptions and legal aid.

Financial effects

The impact of this policy on business is considered to be minimal. All litigants other than those exempted will bear the increase based on the type of action and the level of court which they use. Lawyers may bear the increase unless and until they are paid by clients or recover fees from the losing party.

The fee increases are expected to raise an additional £5 million in revenue for the SCTS. This will cover the significant budgetary shortfall experienced due to the unforeseen rise in inflation and will allow SCTS to continue to operate effectively during a time of significant financial pressure on public money.

It is expected that the fees will be introduced on 1 November 2024. A further, more comprehensive, review of court fees will be undertaken in 2025 with a view to changes from 1 April 2026.

Impact assessments

The impact assessments undertaken are noted below:

- [Business and Regulatory Impact Assessment \(BRIA\)](#)
- [Equality Impact Assessment \(EQIA\)](#)
- [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)

Annexe C: The High Court of Justiciary Fees Order 2024 (SSI 2024/237) – Policy Note

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.

Purpose of the instrument

An instrument to increase the fees for court users in the High Court of Justiciary.

Policy objectives

Court fees and fees for services offered by the High Court of Justiciary, the Court of Session, Sheriff Appeal Court, sheriff courts including the Sheriff Personal Injury Court, Justice of the Peace Courts and the Office of the Public Guardian (OPG) ensure that those who make use of the courts or the OPG meet or contribute towards the associated costs to the public purse where they can afford so to do.

The Scottish Government has long had a policy to move toward fees which more fully reflect the cost of the processes involved, with a well-targeted system of fee exemptions to protect access to justice. This Order puts into effect that policy by raising court fees to ensure that the income raised reflects the costs incurred by the Scottish Courts and Tribunals Service (SCTS) in providing the civil court system. The specific fee rises in this Order are of 10% with effect from 1 November 2024.

These increases reflect the sharp, unprecedented rise in inflation over the past few years. These rises have negatively impacted the SCTS budget which was already under significant pressure following on from the Covid 19 pandemic.

This Order is one of a suite of 6 instruments that amend court fees across the Courts and the OPG.

The High Court of Justiciary Fees Order 2022 (the 2022 Order) is repealed and replaced by the High Court of Justiciary Fees Order 2024.

The Scottish Government is committed to ensuring a well-targeted system of fee exemptions exist. This means that those who require support, and in general this means those in receipt of legal aid, will not incur any court fees.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the High Court of Justiciary Fees Order 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

A public consultation on these proposals was launched on 18th March 2024 which concluded on 10th June 2024.

Twenty-three responses were received ([of which 19 agreed to be published](#)) and almost all stated their opposition to increasing court fees or the charging of court fees at all.

Having fully considered the views of those who responded to the consultation, the Scottish Government has decided to implement the increases to court fees proposed in the consultation to allow for the unexpected rise in inflation as well as the more minor adjustments proposed.

The policy reflects the Scottish Government's commitment to ensuring that the courts are funded to deliver a justice system that is affordable and which provides a high quality service to those who have cause to use it. It is also committed to ensuring that access to justice is protected through a well-funded system of exemptions and legal aid.

Financial effects

The impact of this policy on business is considered to be minimal. All litigants other than those exempted will bear the increase based on the type of action and the level of court which they use. Lawyers may bear the increase unless and until they are paid by clients or recover fees from the losing party.

The fee increases are expected to raise an additional £5 million in revenue for the SCTS. This will cover the significant budgetary shortfall experienced due to the unforeseen rise in inflation and will allow SCTS to continue to operate effectively during a time of significant financial pressure on public money.

It is expected that the fees will be introduced on 1 November 2024. A further, more comprehensive, review of court fees will be undertaken in 2025 with a view to changes from 1 April 2026.

Impact assessments

The impact assessments undertaken are noted below:

- [Business and Regulatory Impact Assessment \(BRIA\)](#)
- [Equality Impact Assessment \(EQIA\)](#)
- [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)

Annexe D: The Court of Session etc. Fees Order 2024 (SSI 2024/238) – Policy Note

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.

Purpose of the instrument

An instrument to increase the fees for court users in the Court of Session.

Policy objectives

Court fees and fees for services offered by the High Court of Justiciary, the Court of Session, Sheriff Appeal Court, sheriff courts including the Sheriff Personal Injury Court, Justice of the Peace Courts and the Office of the Public Guardian (OPG) ensure that those who make use of the courts or the OPG meet or contribute towards the associated costs to the public purse where they can afford so to do.

The Scottish Government has long had a policy to move toward fees which more fully reflect the cost of the processes involved, with a well-targeted system of fee exemptions to protect access to justice. This Order puts into effect that policy by raising court fees to ensure that the income raised reflects the costs incurred by the Scottish Courts and Tribunals Service (SCTS) in providing the civil court system. The specific fee rises in this Order are of 10% with effect from 1 November 2024.

These increases reflect the sharp, unprecedented rise in inflation over the past few years. These rises have negatively impacted the SCTS budget which was already under significant pressure following on from the Covid 19 pandemic.

This Order is one of a suite of 6 instruments that amend court fees across the Courts and the OPG.

The Court of Session etc. Fees Order 2022 (the 2022 Order) is repealed and replaced by the Court of Session etc. Fees Order 2024.

The Scottish Government is committed to ensuring a well-targeted system of fee exemptions exist. This means that those who require support, and in general this means those in receipt of legal aid, will not incur any court fees.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Court of Session etc. Fees Order 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

A public consultation on these proposals was launched on 18th March 2024 which concluded on 10th June 2024.

Twenty-three responses were received ([of which 19 agreed to be published](#)) and almost all stated their opposition to increasing court fees or the charging of court fees at all.

Having fully considered the views of those who responded to the consultation, the Scottish Government has decided to implement the increases to court fees proposed in the consultation to allow for the unexpected rise in inflation as well as the more minor adjustments proposed.

The policy reflects the Scottish Government's commitment to ensuring that the courts are funded to deliver a justice system that is affordable and which provides a high quality service to those who have cause to use it. It is also committed to ensuring that access to justice is protected through a well-funded system of exemptions and legal aid.

Financial effects

The impact of this policy on business is considered to be minimal. All litigants other than those exempted will bear the increase based on the type of action and the level of court which they use. Lawyers may bear the increase unless and until they are paid by clients or recover fees from the losing party.

The fee increases are expected to raise an additional £5 million in revenue for the SCTS. This will cover the significant budgetary shortfall experienced due to the unforeseen rise in inflation and will allow SCTS to continue to operate effectively during a time of significant financial pressure on public money.

It is expected that the fees will be introduced on 1 November 2024. A further, more comprehensive, review of court fees will be undertaken in 2025 with a view to changes from 1 April 2026.

Impact assessments

The impact assessments undertaken are noted below:

- [Business and Regulatory Impact Assessment \(BRIA\)](#)
- [Equality Impact Assessment \(EQIA\)](#)
- [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)

Annexe E: The Justice of the Peace Court Fees (Scotland) Order 2024 (SSI 2024/239) – Policy Note

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.

Purpose of the instrument

An instrument to increase the fees for court users in the Justice of the Peace Courts.

Policy objectives

Court fees and fees for services offered by the High Court of Justiciary, the Court of Session, Sheriff Appeal Court, sheriff courts including the Sheriff Personal Injury Court, Justice of the Peace Courts and the Office of the Public Guardian (OPG) ensure that those who make use of the courts or the OPG meet or contribute towards the associated costs to the public purse where they can afford so to do.

The Scottish Government has long had a policy to move toward fees which more fully reflect the cost of the processes involved, with a well-targeted system of fee exemptions to protect access to justice. This Order puts into effect that policy by raising court fees to ensure that the income raised reflects the costs incurred by the Scottish Courts and Tribunals Service (SCTS) in providing the civil court system. The specific fee rises in this Order are of 10% with effect from 1 November 2024.

These increases reflect the sharp, unprecedented rise in inflation over the past few years. These rises have negatively impacted the SCTS budget which was already under significant pressure following on from the Covid 19 pandemic.

This Order is one of a suite of 6 instruments that amend court fees across the Courts and the OPG.

The Justice of the Peace Court Fees (Scotland) Order 2022 (the 2022 Order) is repealed and replaced by the Justice of the Peace Court Fees (Scotland) Order 2024.

The Scottish Government is committed to ensuring a well-targeted system of fee exemptions exist. This means that those who require support, and in general this means those in receipt of legal aid, will not incur any court fees.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Justice of the Peace Court Fees (Scotland) Order 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

A public consultation on these proposals was launched on 18th March 2024 which concluded on 10th June 2024.

Twenty-three responses were received ([of which 19 agreed to be published](#)) and almost all stated their opposition to increasing court fees or the charging of court fees at all.

Having fully considered the views of those who responded to the consultation, the Scottish Government has decided to implement the increases to court fees proposed in the consultation to allow for the unexpected rise in inflation as well as the more minor adjustments proposed.

The policy reflects the Scottish Government's commitment to ensuring that the courts are funded to deliver a justice system that is affordable and which provides a high quality service to those who have cause to use it. It is also committed to ensuring that access to justice is protected through a well-funded system of exemptions and legal aid.

Financial effects

The impact of this policy on business is considered to be minimal. All litigants other than those exempted will bear the increase based on the type of action and the level of court which they use. Lawyers may bear the increase unless and until they are paid by clients or recover fees from the losing party.

The fee increases are expected to raise an additional £5 million in revenue for the SCTS. This will cover the significant budgetary shortfall experienced due to the unforeseen rise in inflation and will allow SCTS to continue to operate effectively during a time of significant financial pressure on public money.

It is expected that the fees will be introduced on 1 November 2024. A further, more comprehensive, review of court fees will be undertaken in 2025 with a view to changes from 1 April 2026.

Impact assessments

The impact assessments undertaken are noted below:

- [Business and Regulatory Impact Assessment \(BRIA\)](#)
- [Equality Impact Assessment \(EQIA\)](#)
- [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)

Annexe F: The Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2024 (SSI 2024/240) – Policy Note

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.

Purpose of the instrument

An instrument to increase the fees payable to the Office of the Public Guardian.

Policy objectives

Court fees and fees for services offered by the High Court of Justiciary, the Court of Session, Sheriff Appeal Court, sheriff courts including the Sheriff Personal Injury Court, Justice of the Peace Courts and the Office of the Public Guardian (OPG) ensure that those who make use of the courts or the OPG meet or contribute towards the associated costs to the public purse where they can afford so to do.

The Scottish Government has long had a policy to move toward fees which more fully reflect the cost of the processes involved, with a well-targeted system of fee exemptions to protect access to justice. This Order puts into effect that policy by raising court fees to ensure that the income raised reflects the costs incurred by the Scottish Courts and Tribunals Service (SCTS) in providing the civil court system. The specific fee rises in this Order are of 10% with effect from 1 November 2024.

These increases reflect the sharp, unprecedented rise in inflation over the past few years. These rises have negatively impacted the SCTS budget which was already under significant pressure following on from the Covid 19 pandemic.

This Order is one of a suite of 6 instruments that amend court fees across the Courts and the OPG.

The Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2022 (the 2022 Order) is repealed and replaced by the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2024.

The Scottish Government is committed to ensuring a well-targeted system of fee exemptions exist. This means that those who require support, and in general this means those in receipt of legal aid, will not incur any court fees.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultations

A public consultation on these proposals was launched on 18th March 2024 which concluded on 10th June 2024.

Twenty-three responses were received ([of which 19 agreed to be published](#)) and almost all stated their opposition to increasing court fees or the charging of court fees at all.

Having fully considered the views of those who responded to the consultation, the Scottish Government has decided to implement the increases to court fees proposed in the consultation to allow for the unexpected rise in inflation as well as the more minor adjustments proposed.

The policy reflects the Scottish Government's commitment to ensuring that the courts are funded to deliver a justice system that is affordable and which provides a high quality service to those who have cause to use it. It is also committed to ensuring that access to justice is protected through a well-funded system of exemptions and legal aid.

Financial effects

The impact of this policy on business is considered to be minimal. All litigants other than those exempted will bear the increase based on the type of action and the level of court which they use. Lawyers may bear the increase unless and until they are paid by clients or recover fees from the losing party.

The fee increases are expected to raise an additional £5 million in revenue for the SCTS. This will cover the significant budgetary shortfall experienced due to the unforeseen rise in inflation and will allow SCTS to continue to operate effectively during a time of significant financial pressure on public money.

It is expected that the fees will be introduced on 1 November 2024. A further, more comprehensive, review of court fees will be undertaken in 2025 with a view to changes from 1 April 2026.

Impact assessments

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