

Delegated Powers and Law Reform Committee  
 Tuesday, 24<sup>th</sup> September 2024  
 26<sup>th</sup> Meeting, 2024 (Session 6)

## Instrument Responses

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

On Wednesday 11<sup>th</sup> September 2024, the Committee asked the Scottish Government:

I 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 Tuesday 17<sup>th</sup> 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).