



The Scottish Parliament
Pàrlamaid na h-Alba

To—

- All local authorities in Scotland
- Association of British Insurers
- Association of Personal Injury Lawyers
- Consumer Futures Scotland
- COSLA
- Crown Office and Procurator Fiscal Service
- Faculty of Advocates
- Forum of Scottish Claims Managers
- Judicial Appointments Board Scotland
- Law Society of Scotland
- Scottish Civil Justice Council
- Scottish Court Service
- Scottish Legal Aid Board
- Scottish Trades Unions Congress
- Scottish Tribunals Service
- Sheriffs' Association
- Society of Solicitor Advocates

19 February 2014

Dear Sir/Madam,

[COURTS REFORM \(SCOTLAND\) BILL](#)

The [Courts Reform \(Scotland\) Bill](#) (the Bill) was introduced in the Scottish Parliament by the Scottish Government (“the Government”) on 6 February 2014.

The estimated financial implications of the Bill’s provisions are set out in the Financial Memorandum (FM) accompanying the Bill (page 51 of the [Explanatory Notes](#)).

According to the FM, “the Bill takes forward many of the recommendations of Lord Gill’s Scottish Civil Courts Review”. The FM explains that the Bill represents an enabling framework and many of the detailed changes will be delivered through court rules.

The Financial Memorandum

The FM states that the Bill is “expected to make the civil justice system in Scotland more efficient by ensuring that cases are heard at the appropriate level in the system and at a proportionate cost to the state and to individuals.” (para 9)

To that end, the Bill increases the privative jurisdiction (to be retitled the exclusive competence) of the sheriff court from £5,000 to £150,000 “as a pragmatic driver to shift business from the Court of Session to the sheriff courts” (paragraph 66)

The FM states that—

“The financial implications of the Bill will primarily affect the Scottish Court Service (SCS) as the body responsible for the administration of the courts, and the Scottish Civil Justice Council (SCJC), as the body responsible for developing civil court rules. There will also be an impact on the Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Legal Aid Board (SLAB). There will also be an effect on the Scottish Government in respect of judicial salaries and related expenses (eg pensions).”

Tables setting out the estimated one-off costs and recurring costs and savings for each of these bodies are provided after paragraph 13 of the FM.

The FM states that “the main reforms are being taken forward through projects under the Making Justice Work Programme.” It provides detailed descriptions of the basis for its estimates of the Bill’s financial impacts with regard to each of these reforms as follows—

Judicial Structures (paragraphs 33-61)

The Bill establishes a new judicial office, that of summary sheriff. The [Policy Memorandum](#) (PM) explains that summary sheriffs “will sit in the sheriff court and will hear summary criminal business (and the initial stages of solemn cases) and civil claims of a modest value” (paragraph 39) with the intention of ensuring that cases are heard at the appropriate level.

Tables setting out the expected financial impact of the judicial structures project (both one-off costs and recurring costs and savings) are provided after paragraph 58 of the FM.

Personal Injury Court (paragraphs 62–98)

The Bill establishes the personal injury court and states that “the clear majority of cases that will be affected by the raising of the exclusive competence will be personal injury cases.” (paragraph 69)

A table setting out the expected financial impact of the judicial structures project (both one-off costs and recurring costs and savings) is provided after paragraph 97 of the FM.

Sheriff Appeal Court (paragraphs 99-155)

The Bill also establishes the sheriff appeal court which, the FM states, is intended to “reduce the number of criminal and civil appeals which require to be dealt with in the High Court and Inner House respectively.” (paragraph 100)

A table setting out the expected financial impact of the creation of sheriff appeal courts (both one-off costs and recurring costs and savings) is provided after paragraph 97 of the FM.

Rules Rewrite (paragraphs 156-169)

As implementation of the Bill’s provisions will require changes to existing rules and procedures, the FM explains that a drafting team is expected to be established to take forward this project. The FM estimates that this team is likely to result in costs of £427,000 in both 2014/15 and 2015/16.

The Scottish Courts and Tribunals Service (paragraphs 170-187)

The FM also states that another key aim of the Bill is to provide for the merger of the SCS and the Scottish Tribunals Service (STS) to create the Scottish Courts and Tribunals Service (SCTS). It explains that “merging the STS with the SCS would create a joint independent administration for both courts and tribunals with one board chaired by the Lord President as head of the judiciary for both courts and tribunals.” (paragraph 170)

The FM estimates the total cost of merging the STS with the SCS to be between £700,000 and £1,200,000 spread over two years. It also acknowledges that, whilst the merger “has been primarily driven by a desire for operational independence” and is not cost-driven, there may be scope for the delivery of some future efficiencies.

Summary of Estimated Financial Implications

Costs on the Scottish administration (paragraphs 14-15)

The FM predicts that the Scottish administration will incur one-off costs of between £700,000 and £1,200,000 in 2013/14 to 2014/15. Cumulative costs totalling £1,434,000 are predicted for the SCS over the three years from 2013/14 to 2015/16. The Judicial Appointments Board Scotland (JABS) is expected to incur minor costs of £4,000 in 2014/15.

The FM estimates that the Bill will result in potential savings of up to £2,168,000 per annum for the Government’s judicial salaries budget. SLAB is expected to make potential savings of £1,320,000 per annum whilst the SCS and COPFS are expected to make annual savings of £26,000 and £29,000 respectively.

Costs on local authorities (paragraph 16)

The FM does not expect local authorities to incur any costs, suggesting instead that they might make some savings as a result of the Bill.

Costs on wider court users (paragraphs 17-18)

The FM predicts that the Bill will have a positive impact on court users. It does note, however, that certain law firms are likely to be negatively affected as a result of the lower fees they will be able to charge. It further notes that the Faculty of Advocates has expressed concerns relating to the Bill’s impact on its members.

Purpose

For information, the Justice Committee is expected to be designated lead committee and intends to take oral evidence on the Bill during March and April 2014.

To facilitate the parliamentary timetabling of the Bill, the Finance Committee invites you to respond to the attached questions by **Wednesday 19 March**. All responses should be sent electronically (in MS Word - no confirmatory hard copy required) to finance.committee@scottish.parliament.uk. Written responses will be handled in accordance with the Parliament's [policy for handling written evidence received in response to calls for evidence](#).

Please do not hesitate to contact me should you have any questions regarding this letter.

Yours faithfully,

Alan Hunter
Assistant Clerk to the Committee
Tel: 0131 3485451

Finance committee questionnaire

This questionnaire is being sent to those organisations that have an interest in, or which may be affected by, the [Courts Reform \(Scotland\) Bill's Financial Memorandum](#) (FM) (page 51 of the *Explanatory Notes*).

In addition to the questions below, please add any other comments you may have which would assist the Finance Committee's scrutiny of the FM.

Consultation

1. Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?
2. Do you believe your comments on the financial assumptions have been accurately reflected in the FM?
3. Did you have sufficient time to contribute to the consultation exercise?

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
6. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?
7. Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Wider Issues

8. Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?
9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?