



The Scottish Parliament
Pàrlamaid na h-Alba

Published 10th November 2016

SP Paper 32

4th Report, 2016 (Session 5)

Web

Justice Committee

Subordinate Legislation



Published in Scotland by the Scottish Parliamentary Corporate Body.

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Justice Committee

Remit: To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



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Scottish Conservative
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Douglas Ross
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Stewart Stevenson
Scottish National Party

Introduction

1. At its meeting on 1 November 2016¹ the Committee considered the following instruments—

Sheriff Court Simple Procedure (Limits on Award of Expenses) Order 2016 [draft]

Courts Reform (Scotland) Act 2014 (Relevant Officer and Consequential Provisions) Order 2016 [draft]

2. The instruments were referred to the Justice Committee as lead committee and were subject to affirmative procedure. The Minister for Community Safety and Legal Affairs, Annabelle Ewing, attended the meeting to give evidence on the instruments and also to move the relevant motions recommending approval of the instruments

Sheriff Court Simple Procedure (Limits on Award of Expenses) Order 2016 [draft]

3. This instrument is made under section 81 of the Courts Reform (Scotland) Act 2014. The Order supports the introduction of the new simple procedure on 28 November 2016. Simple procedure is a new form of sheriff court procedure established by Chapter 1 of Part 3 of the Courts Reform (Scotland) Act 2014 and will replace the existing small claims and summary cause procedures. The Minister explained that the Order ensures that the current policy restricting the recoverability of expenses in small claims is maintained in the new simple procedure, which is to replace the small claims procedure on 28 November 2016.

Courts Reform (Scotland) Act 2014 (Relevant Officer and Consequential Provisions) Order 2016 [draft]

4. This instrument is made under sections 107(4) and 137 of the Courts Reform (Scotland) Act 2014. The Order specifies the auditor of the Sheriff Appeal Court as a “relevant officer” and sets out a number of consequential provisions. The Minister explained that the consequential amendments are as a result of the recent court reforms, and include those related to the introduction of simple procedure. In addition, following the appointment of the first auditor of the sheriff appeal court this year, the Order adds that post to the list of relevant officers in section 107 of the 2014 act with regard to the imposition of fees.

Scrutiny by the Delegated Powers and Law Reform Committee

5. The Delegated Powers and Law Reform Committee considered the draft instruments at its meeting on 27 September 2016 and agreed that it did not need to draw them to the attention of the Parliament on any grounds within its remit.

Justice Committee consideration

6. The Justice Committee considered the draft instruments at its meeting on 1 November 2016, when Annabelle Ewing, Minister for Community Safety and Legal Affairs, attended to give evidence on the instruments.
7. Ms Ewing explained that the instruments continue the Scottish Government's work to implement the reforms set out in the Courts Reform Act (Scotland) 2014.
8. There being no questions for the Minister from members, Ms Ewing moved the motions lodged in her name—

S5M-01714—That the Justice Committee recommends that the Sheriff Court Simple Procedure (Limits on Award of Expenses) Order 2016 [draft] be approved.

S5M-02128—That the Justice Committee recommends that the Courts Reform (Scotland) Act 2014 (Relevant Officer and Consequential Provisions) Order 2016 [draft] be approved.

9. The motions were agreed to.

Recommendation

The Justice Committee recommends to the Parliament that it approve the draft instruments.

¹ Scottish Parliament Justice Committee. *Official Report 1 November 2016* Cols 1-3. Available at: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10594&mode=pdf>

