

# **JUDICIAL FACTORS (SCOTLAND) BILL**

## **[AS AMENDED AT STAGE 2]**

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### **SUPPLEMENTARY FINANCIAL MEMORANDUM**

#### **INTRODUCTION**

1. As required under Rule 9.7.8B of the Parliament's Standing Orders, this Supplementary Financial Memorandum is published to accompany the Judicial Factors (Scotland) Bill (introduced in the Scottish Parliament on 5 December 2023) as amended at Stage 2.
2. The Memorandum has been prepared by the Scottish Government. It does not form part of the Bill and has not been endorsed by the Parliament. It should be read in conjunction with the original Financial Memorandum published to accompany the Bill as introduced.
3. The purpose of this Supplementary Financial Memorandum is to set out the expected costs associated with the new and amended provisions included in the Bill following the amendments made at Stage 2. This document addresses those amendments with anticipated or potential cost implications. Amendments agreed at Stage 2 which are not covered in this Supplementary Financial Memorandum are considered not to significantly or materially affect the assumptions in the original Financial Memorandum.

#### **COSTS ON THE SCOTTISH ADMINISTRATION**

##### **Registration in the Register of Inhibitions**

4. An amendment was made to the Bill at Stage 2 which imposes a requirement on the Scottish Ministers to periodically carry out a review as to whether appointments of judicial factors should continue to be registered in the Register of Inhibitions. The timescale or frequency of such reviews is not prescribed. The amendment also allows the Scottish Ministers to specify, in regulations, that registration is to be effected in either a different existing register or a new register, which any such regulations would be required to establish, instead of the Register of Inhibitions.
5. Undertaking a review will require the use of future resources, which will have cost implications for the Scottish Government both in terms of staff time and publishing costs. The estimated costs of a review are based on 1 member of staff devoting 3 months' concentrated effort on the review. This estimate is based on experience of preparing previous reviews and consultations, which includes such things as the time needed to speak with relevant parties to gather initial thoughts, to prepare and publish any public consultation, to gather and analyse any responses received, and preparing a response. It may, of course, require more or less time. The costings below are based on 2024-25 average staff costs for a B3 graded member of staff and estimated fees for publishing the review.

<b>Description</b>	<b>Estimated Cost</b>
Scottish Government staff time estimated at 0.25 of a year and on 2024-25 average staffing costs	£13,325
Publication costs	£2,500
<b>TOTAL</b>	<b>£15,825</b>

6. In a letter provided to the Delegated Powers and Law Reform Committee during Stage 1,<sup>1</sup> the Scottish Courts and Tribunals Service estimated costs for the development and deployment of a new Online Public Register for Judicial Factory cases. These costs were estimated to be in the region of £350,000 to £380,000, noting that the costs of resourcing such a project can fluctuate depending on the market conditions at the time. Fees for registration might be used to cover the cost of operation of a new Register but given the low volume of annual applications for registration this may not be feasible. Currently, the fee for registration in the Register of Inhibitions is £25 and there is an annual average of 7 applications for appointment of a judicial factor.

7. The amendment provides for the possibility of using a different already existing register, however the Scottish Government's position is that the most appropriate already existing register is the Register of Inhibitions.

8. It is not possible to predict with any certainty when the costs of any review (estimated to be £15,825) and the costs of a new register (estimated to be in the range of £350,000 to £380,000) may occur. It is considered unlikely that the costs of any review and associated costs of establishing a new or alternative register would arise in the same year. If they were to so arise, however, then the estimated total cost in any one year would range from £365,825 to £395,825. Given that the policy intention behind registration is publicity of appointment of a judicial factor, and given the low volume of annual applications for appointment, the Scottish Government does not expect ongoing maintenance costs to be significant.

### **Guidance in relation to missing persons**

9. An amendment was made to the Bill at Stage 2 imposing a duty on the Scottish Ministers to issue guidance about the appointment of judicial factors to the estates of missing persons under the Bill, including provision for subsequent reviews and revisions to that guidance. Issuing guidance will inevitably require the use of future resources, which has cost implications for the Scottish Government both in terms of staff time and publishing costs.

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<sup>1</sup> [Letter sent on 8 May 2024 to the Convener of the DPLR Committee from the Scottish Courts and Tribunal Service on the Judicial Factors \(Scotland\) Bill](https://www.parliament.scot/-/media/files/committees/delegated-powers-and-law-reform-committee/response-from-the-scottish-courts-and-tribunal-service.pdf) (https://www.parliament.scot/-/media/files/committees/delegated-powers-and-law-reform-committee/response-from-the-scottish-courts-and-tribunal-service.pdf)

*This document relates to the Judicial Factors (Scotland) Bill (SP Bill 40A) as amended at Stage 2*

10. Estimated costs for the issuing of guidance is provided in the table below and is based on 2 members of staff devoting 3 months' concentrated effort on the guidance given the work likely to be covered, including several issues already identified during stage 1 evidence but also court processes, although this may require more or less time. The costings are based on 2024-25 average staff costs for 2 C1 graded members of staff and estimated fees for publishing the guidance on the Scottish Government's webpages.

<b>Description</b>	<b>Estimated Cost</b>
Scottish Government staff time estimated at 0.25 of a year and on 2024-25 average staffing costs	£35,500
Publication costs	£2,500
<b>TOTAL</b>	<b>£38,000</b>

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