

Equalities, Human Rights and Civil Justice Committee
Thursday 24 September 2026
4th Meeting, 2026 (Session 7)

Note by the Clerk on negative instruments

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instruments (SSIs), which are subject to the negative procedure. The Committee is invited to consider the instruments and decide what, if any, recommendations to make.
2. Further information about each instrument is provided in the annexes to this paper as follows:
 - Annexe A – [Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) 2026](#) (SSI 2026/208)
 - Annexe B – [Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) \(Amendment\) 2026](#) (SSI 2026/252)
3. The Committee agreed at its previous meeting to take oral evidence on the instruments and to continue consideration of them at its next meeting. At the time of writing, no member has lodged a motion recommending annulment of either instrument.

Procedure

4. 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.
5. 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.
6. 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).
7. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Clerks to the Committee
September 2026

Annexe A: Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers) 2026 (SSI 2026/208)

Title of instrument: [Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) 2026](#) (SSI 2026/208)

Laid under: [Courts Reform \(Scotland\) Act 2014](#)¹

Laid on: 18 June 2026

Procedure: Negative

Deadline for committee consideration: 30 September 2026

Deadline for Chamber consideration: 30 September 2026

Commencement: 25 September 2026

Delegated Powers and Law Reform Committee consideration

1. The DPLR Committee considered the instrument on 1 September and reported on it in its [2nd report, 2026](#). The DPLR Committee drew the instrument to the attention of the Parliament on reporting ground (i) (that its drafting appears to be defective) “in respect that the instrument fails to deliver the intended policy on surcharging because it fails to allow for messengers-at-arms to charge a surcharge for out-of-hours, remote or high value work.” The DPLR Committee also drew the instrument to the attention of the Parliament “on the general reporting ground in respect of the points raised in questions 1, 2, 3, 5, 8, and 9” (as set out in the DPLR Committee’s report).
2. However, having considered a [written response from the Lord President’s Private Office](#) (LPPO), the DPLR Committee welcomed “that the Lord President’s Private Office intends, subject to the Court’s approval, to bring forward an amending instrument with a view to addressing all the acknowledged points before the present instrument comes into force.”
3. The amending instrument ([Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) \(Amendment\) 2026 \(SSI 2026/252\)](#)) was laid on 4 September and will also be considered at this meeting (see Annexe B).

Purpose of the instrument

4. This instrument revokes and consolidates two separate statutory instruments in order to introduce a simpler approach and transparency in the fees charged by

¹ Members should note that this instrument was laid by the Court of Session rather than by Scottish Ministers. In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(a), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council. The instrument states that this Act of Sederunt was made “under the powers conferred by sections 103(1), 104(1), 105(1) and 106(1) of the Courts Reform (Scotland) Act 2014(b) and all other powers enabling it to do so.”

Messengers-at-Arms and Sheriff Officers. It revokes the Act of Sederunt (Fees of Messengers-at Arms) (No. 2) 2002, the Act of Sederunt (Fees of Sheriff Officers) (No. 2) 2002 and the Acts of Sederunt which have amended these previous instruments.

5. This Act of Sederunt introduces a new charging model in which fees by officers of court (Sheriff Officers and Messengers-at-Arms) are charged in units. It establishes the value of a single unit. This value has been adjusted for inflation and will increase by 2% up to and including financial year 2028/29.
6. This Act of Sederunt also changes how work carried out by officers of court, which is calculated on a time basis, will be charged. Fees for certain types of work which take an officer of court more than one hour to complete will be charged in 6-minute intervals. This charge only applies to the portion of that work which exceeds one hour until it is complete. It also makes changes to the reductions which can be made to the fees of Sheriff Officers and sets out what surcharges apply to fees for officers of court
7. The Policy Note accompanying the instrument is attached at Annexe A.1. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. No impact assessments were carried out in respect of this legislation.
8. Further information on the policy context of the instrument can be found in a note prepared by SPICe which is attached at Annexe A.2.

Annexe A.1: Policy Note

The regulatory framework

This statutory instrument represents a coercive enforcement function that is delivered on behalf of the state, by messengers-at-arms and sheriff officers who are licenced to operate within this regulated market.

Within the regulatory framework established by the courts for that regulated market:

- Each specialist provider is licenced under the commission issued by the courts. They are required to deliver their services under judicial supervision, and their duty of care is primarily to the court (rather than the consumer).
- Under section 2(1)(c)(ia) of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013, the Council holds the power to regulate the level of fees that can be charged in that market by these specialist providers. The Council does so by proposing draft fees rules to the Court of Session for its consideration, approval, and enactment.

The pricing methodology

Until now, there have been two separate statutory instruments: one which set the fees that could be charged by messengers-at-arms and the other which set the fees that could be charged by sheriff officers. Under the Council's previous pricing model, the monetary value of fees was amended on a regular basis to uplift these in line with inflation. That approach resulted in users perceiving those instruments as overly complex and far from easy to use, and a framework which was difficult for the Council to update.

During 2025 the Council ran a public consultation exercise on implementing unit-based charging as its preferred pricing methodology for regulating the fees that could be charged by messengers-at-arms and sheriff officers with all future charges underpinned by fixed baseline units of work (per 6-minutes or part thereof). In line with the positive feedback received from respondents, the Council is now adopting that new approach through the enactment of this statutory instrument.

That simplified approach, combined with the use of ad hoc inflation adjustments, will deliver more transparent pricing for consumers and a more efficient method for the Council to use in regulating this market.

Secretariat to the Scottish Civil Justice Council
June 2026

Annexe A.2: Policy context for the Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers) 2026



Scottish Parliament
Information Centre
Ionad Fiosrachaidh
Pàrlamaid na h-Alba

Purpose of this paper

The purpose of this paper is to provide background information about the above statutory instrument.

Parliamentary consideration of Acts of Sederunt

Acts of Sederunt are a type of subordinate legislation which set court rules. Most Acts of Sederunt rely on the authority of the Court of Session and do not require parliamentary approval. However, some require consideration under negative procedure, as is the case here. This is usually because they do something particularly relevant to the public interest, such as setting fees.

Policy context

Sheriff officers and Messengers-at-Arms are officers of the court, responsible for things like delivery of court documents, debt enforcement action (like seizing money or goods) and eviction. They charge a fee for their work to the person instructing them, and those fees are set in subordinate legislation. Fees can be recovered from the losing party to the court action.

Fees are updated fairly regularly – with the last update being in 2024. This Act of Sederunt would change the way fees are calculated, replacing a set fee with an agreed number of units. This means that, in the future, fees can be uprated simply by changing the unit value, rather than updating each fee. To that extent, this Act of Sederunt simplifies current processes.

However, members should be aware of the following changes:

The fees which would be charged under the new structure are between 12% and 15% higher than the equivalent fees charged at the moment

For example, the sheriff officer fee for postal diligence (such as bank arrestment) would increase by 14%, as would the fee for service of documents in person.² This is on top of a 2% per year fee increase up to 2008/29 built into the instrument.

² Postal diligence: current fee £48.02, proposed fee £54.90; service of documents in person: current fee £96.27, proposed fee £109.80.

The reduction applied to fees for lower value court work appears to be smaller under the proposed arrangements than it is at present

People instructing officers of the court for lower value court work – broadly, court claims with a monetary value of £1,500 or less – are entitled to be charged a lower fee. Under the proposed fee arrangements, the reduction would be a flat 20%.

Under current arrangements, there are two separate fee lists for lower and higher value work, so direct comparisons are difficult. For example, some fees are the same across both types of court action. However, on the items checked, the differential between the fees currently charged for work relating to higher and lower value court cases was between 12% and 39%. On significant areas of work for sheriff officers, such as postal diligence and personal service of documents, the existing reductions for work relating to lower value court cases are 39% and 36% respectively.³

The £1,500 threshold used to define lower value court work is not being increased by the current instrument and has not been increased since 2008.

Under the proposed arrangements, officers of the court would be entitled to charge 33% more for personal service of documents in remote rural areas

This reflects existing provision, although the current uplift is 30%.⁴ A higher fee for serving documents in remote rural areas may reflect the additional costs involved for officers of the court, but it also means that the costs of the action (normally paid by the losing party) are likely to be higher than they would be in a case where all the parties live in urban areas.

SPICe Briefing

Date: September 2026

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot

³ Postal diligence: higher value fee £48,02, lower value fee £29.27; personal service of documents: higher value fee £96.27, lower value fee £61.70.

⁴ Paragraph 3 of Schedule 1 to the Act of Sederunt (Fees of Sheriff Officers) (No. 2) 2002.

Annexe B: Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers) (Amendment) 2026 (SSI 2026/252)

Title of instrument: [Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) \(Amendment\) 2026](#) (SSI 2026/252)

Laid under: [Courts Reform \(Scotland\) Act 2014](#)⁵

Laid on: 4 September 2026

Procedure: Negative

Deadline for committee consideration: 26 October 2026

Deadline for Chamber consideration: 29 October 2026

Commencement: 25 September 2026

Delegated Powers and Law Reform Committee consideration

1. The DPLR Committee considered the instrument on 15 September and reported on it in its [4th Report, 2026](#). The DPLR Committee drew the instrument to the attention of the Parliament under reporting ground (j) “for a failure to lay the instrument in accordance with the laying requirements in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010” (i.e. that it breached the 28-day laying requirement). However, the DPLR Committee was content with the reasons provided for the failure to comply with the laying requirements.”
2. The DPLR Committee also welcomed “that this instrument fulfils a commitment by the LPPO to address points raised by the Committee on the Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers) 2026 (SSI 2026/208) before that instrument comes into force.”

Purpose of the instrument

3. This instrument amends the [Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) 2026](#) (SSI 2026/208) as noted in Annexe A above and as detailed in article 2 of the instrument itself.

⁵ Members should note that this instrument was laid by the Court of Session rather than by Scottish Ministers. In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(a), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council. The instrument states that this Act of Sederunt was made “under the powers conferred by sections 103(1), 104(1), 105(1) and 106(1) of the Courts Reform (Scotland) Act 2014(b) and all other powers enabling it to do so.”

Explanation to the Presiding Officer

4. Under section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, SSIs are required to be laid at least 28 days before the instrument comes into force. As required by Standing Orders, the Lord President wrote to the Presiding Officer on 4 September to explain why this requirement had not been complied with on this occasion. The letter is attached as Annexe B.1.
5. The letter explains that the DPLR Committee identified and reported one error in the SSI which this instrument amends. The letter further explains that “the nature of the drafting error is that, were it left uncorrected, it would remove messengers-at-arms’ existing ability to charge fees for out of hours work, remote rural area work or actions with a value of over £100,000.”
6. The letter further explains that “to avoid that outcome, the error requires to be corrected for 25 September 2026, the date on which SSI 2026/208 will come into force. The instant amending instrument being laid today therefore cannot be laid for 28 days before it comes into force and accordingly its laying period does not comply with section 28(2) of the 2010 Act.”
7. The letter also notes that as an immediate amendment instrument has been necessary on this occasion, “the opportunity has been taken to address some of the other minor drafting points reported by the Delegated Powers and Law Reform Committee which would otherwise have been amended in much slower time.”

Policy Note

8. No policy note was published alongside the instrument although the explanatory notes confirm that “this Act of Sederunt amends the Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers) 2026 to correct drafting errors in that instrument.”

Annexe B.1: Letter from Lord President to Presiding Officer, 4 September 2026

Dear Presiding Officer,

ACT OF SEDERUNT (FEES OF MESSENGERS-AT-ARMS AND SHERIFF OFFICERS) (AMENDMENT) 2026 (SSI 2026/252)

I refer to the above instrument which is laid before the Scottish Parliament today, 4 September 2026, under section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. It exercises powers which, were it not for section 33(4) of that Act, would be subject to both negative procedure and no parliamentary procedure.

Section 28(2) of that Act sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and, further to section 31(3) of that Act, I write to explain why.

At its meeting earlier this week, the Delegated Powers and Law Reform Committee identified one error in the drafting of Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers) 2026 (SSI 2026/208) and reported it. I am very grateful to the Committee for its scrutiny of that instrument.

The nature of the drafting error is that, were it left uncorrected, it would remove messengers-at-arms' existing ability to charge fees for out of hours work, remote rural area work or actions with a value of over £100,000. It would therefore have had a small financial impact on messengers-at-arms.

To avoid that outcome, the error requires to be corrected for 25 September 2026, the date on which SSI 2026/208 will come into force. The instant amending instrument being laid today therefore cannot be laid for 28 days before it comes into force and accordingly its laying period does not comply with section 28(2) of the 2010 Act.

The Court prides itself on correcting legal errors promptly and on this occasion my officials have moved swiftly to address the error identified just a few days ago.

Further, as an immediate instrument has been necessary on this occasion, the opportunity has been taken to address some of the other minor drafting points reported by the Delegated Powers and Law Reform Committee which would otherwise have been amended in much slower time. I am pleased that the Committee acknowledged the positive relationship between the Court and Parliament by welcoming the intention to bring forward an amending instrument expeditiously.

May I take the opportunity again to thank the Committee for its work. A copy of this letter goes to the Convenors of the Delegated Powers and Law Reform Committee and the Equalities, Human Rights and Civil Justice Committee.

Yours sincerely, Paul B Cullen