

## APPROVING A SIMPLIFIED TABLE OF FEES

### Purpose

1. To seek approval of the attached *draft fees rules (Flag A)* that will implement the simplified table of fees as consulted on for ‘*officers of court*’.

### Timing

2. The 2025-26 Work Programme – gave a priority to adopting “*unit-based charging*” as the pricing methodology for regulating the fees charged
3. A target implementation of 1 April 2026 was used during that consultation. That target date can no longer be achieved as the consolidation exercise raised more legal questions than expected. To comply with parliamentary procedure, implementation is deferred until the new government takes office following the Scottish Elections.

### Virie’s

4. Under section 2 (1) (c) (ia) of the *Scottish Civil Justice Council and Criminal Legal Assistance Act 2013* the SCJC (as regulator) holds the statutory function for proposing draft fees rules for consideration and approval by the Court of Session.
5. Under subsection 105 (1) (b) (*for Messengers at Arms*) and subsection 106 (1) (b) (*for Sheriff Officers*) of the [Courts Reform \(Scotland\) Act 2014](#) the Court of Session holds the statutory power to enact these draft fees rules.

### Background

6. To simplify the procedure for the recovery of expenses on a ‘*party & party paying*’ basis the Council, on the recommendation of the Cost and Funding Committee, adopted *unit-based charging* as its preferred pricing methodology for use within the [Taxation of Judicial Expenses Rules 2019](#).
7. As that change has delivered its intended aims, this rules instrument replicates *unit-based charging* for use when regulating the fees an officer of court can charge on a ‘*provider & client paying*’ basis. The policy decisions taken to date have included:
  - Approving the Public Consultation exercise being run on replicating *unit-based charging* for use when fixing the fees of officers of court.
  - Assessing the positive user feedback and agreeing the policy positions.
  - Approving publication of the Consultation Response document, with Annex I summarising the policy decisions already taken.

8. The content of the draft rules (**Flag A**) fully meets those drafting instructions, and its approval enables this change to be brought into effect.

### Adopting “unit-based charging”

9. From a financial perspective this change in pricing methodology is cost neutral, as an instructing party or end user is charged the same inflation adjusted amount under the *unit-based charging* methodology as they would be previously.

### Responding to inflation

10. The previous inflationary adjustment ([SSI 2024/21](#)) took effect from March 2024, to cover the evaluation period up to September 2022. This instrument covers the subsequent 35-month evaluation period to August 2025 and over that period the inflation indices were:

| Year       | Month | CPI INDEX | CPIH INDEX |
|------------|-------|-----------|------------|
| 2022       | Sep   | 123.8     | 122.3      |
| 2025       | Aug   | 139.3     | 138.9      |
| Multiplier |       | 1.125     | 1.135      |
| % change   |       | 12.5%     | 13.5%      |

### Public Participation

11. To provide the public with an opportunity to participate in these decisions the Costs and Funding Committee issued a [Public Consultation](#) (May 2025, SCJC), published the feedback received in the [Consultation Analysis](#) (Sep 2025, SCJC) and communicated the final policy decisions taken within the [Consultation Response](#) (Nov 2025, SCJC). The feedback from respondents was supportive of making the change to unit-based charging.

### Impact Assessment

12. The attached *Business and Regulatory Impact Assessment (BRIA)* (**Paper 3.1C**) conveys the ‘powers’ held by this Council to regulate the fees a provider can charge within this small niche market. As regulator, the SCJC holds the relevant power to cap these fees on behalf of the state. The processes used fully comply with competition law, as the clear purpose in fixing these fees is to protect the interests of consumers (*rather than the interests of any service providers*).

### Compatibility with the Guiding Principles

13. This table provides a check on how the attached *draft fees rules* align with the ‘guiding principles’ of the Council:

| GUIDING PRINCIPLE                                                                                           | IMPROVEMENTS MADE WITHIN THESE ‘FEE RULES’                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>The civil justice system should be fair, accessible and efficient</i>                                    | <p><b>ACCESSIBILITY</b> - is improved by removing duplicated information. The future volume of information a user may need to read is reduced to 1 x 13-page consolidated instrument (<i>in comparison to the current rules where some users may need to have read 266 pages of regulations and amending orders to find what they were looking for</i>).</p> <p><b>EFFICIENCY</b> – is improved as the information provided within this consolidated SSI will largely remain ‘static’ over time which:</p> <ul style="list-style-type: none"> <li>• Supports future inflation uplifts being made via a 1-page SSI using a single sentence to amend the “monetary charge” (<i>rather than needing to prepare the multi-page SSIs drafted previously</i>).</li> <li>• Reduces the legal resources required to draft future amending orders</li> </ul> |
| <i>Rules relating to practice and procedure should be as clear and easy to understand as possible</i>       | <p><b>TRANSPARENCY</b> – is improved as the absolute numbers fixed for the “units of work” for each line item makes it easier for consumers to:</p> <ul style="list-style-type: none"> <li>• Check what a provider can legally charge for.</li> <li>• Check whether similar charges are being made for directly comparable services.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <i>Practice and procedure should, where appropriate, be similar in all civil courts</i>                     | <p><b>CONSISTENCY</b> – is improved by consolidating the wording onto ‘generic regulations’ that are equally applicable to all ‘officers of court’ (<i>rather than duplicating those regulations to cover messengers at arms &amp; sheriff officers separately</i>).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <i>Methods of resolving disputes which do not involve the courts should, where appropriate, be promoted</i> | <p><b>NOT APPLICABLE</b> – as the services provided are specific to enforcing the decisions already taken by the courts.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

## Recommendations

14. It is recommended that the Council

- Notes the dates within this instrument will be fixed as the earliest practicable date following the new government being formed.
- Considers and agrees the content of the draft rules (*Flag A*).
- Considers and agrees the content of the Policy Note (*Flag B*).
- Considers and agrees the content of the BRIA (*Flag C*).
- Agrees to propose these draft rules to the Court of Session for consideration and approval, subject to any stylistic or typographical changes.

Secretariat to the Scottish Civil Justice Council  
March 2026

**BIBLIOGRAPHY****Legislation – for regulating the market:**

Debtors (Scotland) Act 1987

PART VI– Messengers at arms and sheriff officers (s75 to s86A)

<https://www.legislation.gov.uk/ukpga/1987/18/contents>

Bankruptcy and Diligence etc. (Scotland) Act 2007

PART 3 – Officers of Court (s50–s78)

<https://www.legislation.gov.uk/asp/2007/3/contents>**Legislation – for regulating the profession**

Public Services Reform (Scotland) Act 2010

Schedule 4 – Regulation of Officers of Court – Modification of enactments

<https://www.legislation.gov.uk/asp/2010/8/contents>Existing rules regarding the profession:

Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) 1991 (23 pages)

<https://www.legislation.gov.uk/uksi/1991/1397/contents/made>

The last “amending order” enacted reduced the training periods required for qualification:

- Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) (Amendment) 2024 (3 pages)  
<https://www.legislation.gov.uk/ssi/2024/157/contents/made>

Officers of Court’s Professional Association (Scotland) Regulations 2011 (5 pages)

<https://www.legislation.gov.uk/ssi/2011/90/contents/made>**Legislation – for regulating fees**

Courts Reform (Scotland) Act 2014

Sections 105-106 – regulation of fees

<https://www.legislation.gov.uk/asp/2014/18/contents>Existing Fees Rules:

Act of Sederunt (Fees of Messengers-at-Arms) (No. 2) 2002 (13 pages)

<https://www.legislation.gov.uk/ssi/2002/566/contents/made>

Act of Sederunt (Fees of Sheriff Officers) (No. 2) 2002 (15 pages)

<https://www.legislation.gov.uk/ssi/2002/567/contents/made>

The last “amending order” enacted was the:

- Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers) (Amendment) 2024 (10 pages)  
<https://www.legislation.gov.uk/ssi/2024/41/contents/made>

**BIBLIOGRAPHY...continued**

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**Consultations – on regulating fees:**

Public Consultation: on a simplified Table of Fees (May 2025, SCJC)

+ *Business and Regulatory Impact Assessment (BRIA)*

+ *Equality Impact Assessment (EQIA)*

<https://www.scottishciviljusticecouncil.gov.uk/consultations/scjc-consultations/simplified-table-of-fees>

Consultation Analysis: regarding a simplified Table of Fees (Sep 2025, SCJC)

[https://www.scottishciviljusticecouncil.gov.uk/docs/librariesprovider4/consultations/scjc-consultations/simplified-table-of-fees/consultation-analysis---simplified-fees.pdf?sfvrsn=6126154a\\_1](https://www.scottishciviljusticecouncil.gov.uk/docs/librariesprovider4/consultations/scjc-consultations/simplified-table-of-fees/consultation-analysis---simplified-fees.pdf?sfvrsn=6126154a_1)

Consultation Response: on implementing a simplified Table of Fees  
(Nov 2025, SCJC)

[https://www.scottishciviljusticecouncil.gov.uk/docs/librariesprovider4/consultations/scjc-consultations/extending-the-availability-of-peos/consultation-response---simplified-fees.pdf?sfvrsn=944f3f9b\\_1](https://www.scottishciviljusticecouncil.gov.uk/docs/librariesprovider4/consultations/scjc-consultations/extending-the-availability-of-peos/consultation-response---simplified-fees.pdf?sfvrsn=944f3f9b_1)

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**ANNEX 1 – EXTRACT – OF THE DRAFTING INSTRUCTIONS ISSUED**

The instructions given to the drafting lawyer for preparation of these draft rules mirrored the commentary provided at paragraph 9 of the [Consultation Response](#) report:

**CONSOLIDATION** – the 1 new consolidating instrument headed “*Fees of Messengers at Arms and Sheriff Officers*” should revoke the 2 existing sets of regulations from 2002 along with the 32 subsequent amending orders made.

**ESTABLISHING THE REGULATORY FRAMEWORK** – a generic set of *general regulations* should replace the 2 existing sets of *general regulations*. Each new *general regulation* should be worded so that:

- The content is generic and equally applicable to both messengers at arms and sheriff officers (*where practicable*).
- The regulations are reorganised and renumbered under logical headings.
- Reference is made to the existing and new % *surcharges* & rates thereof as set out in the Consultation Response.
- Reference is made to the existing and new % *reductions* & rates thereof as set out in the Consultation Response.
- Regulation 9 - is amended to reflect time being charged in 6-minute *units* and the status quo remaining for the 1-hour threshold.
- Regulation 15 - is amended to reaffirm the exclusion of local authority *summary warrants* from *reductions*.
- Legal definitions<sup>1</sup> are inserted to cover the key elements of the new charging model.

**ESTABLISHING THE CHARGING MODEL** – the consolidating instrument will reflect the use of *unit-based charging* within the sections used, the generic regulations and the schedule for the fee table. In that regard:

- For comparability with taxation rules the definition of a *unit* is to read:
  - “References to a “unit” are to a measure of monetary charge with a value of £6.10<sup>2</sup>”
- The previous fee amounts for each existing line item within the 1 column that remains are to be replaced by the baseline values for the *units of work*.
- The baseline for all % *reductions* are to be fixed in line with paragraphs 10 to 13 of the Consultation Response.
- The baseline for all % *surcharges* are to be fixed in line with paragraph 14 of the Consultation Response.

**INFLATION ADJUSTMENTS** – the consolidating instrument will include an inflation uplift of 13.0% to cover the evaluation period from September 2022 to August 2025 and in addition the inflation forecasts for the subsequent two years at the Bank of England’s target rate of 2% per annum. To deliver that change the relevant paragraph within the *draft rules* will fix the following *monetary values* from these dates:

- Year 1 - £6.10 with effect from 01 April 2026;
- Year 2 - £6.22 with effect from 01 April 2027; and
- Year 3 - £6.35 with effect from 01 April 2028.

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<sup>1</sup> In a manner comparable to the *Taxation of Judicial Expenses Rules 2019*.

<sup>2</sup> The September 2022 baseline ‘monetary value’ of £5.40 (as consulted on) with a 13.0% uplift for inflation (which reflects the CPI and CPIH indices as listed within annex 5 of this paper)

**ANNEX 2 – WORKING WITHIN THE WIDER “REGULATORY FRAMEWORK”**

The regulation of fees by the SCJC provides one element of a wider “regulatory framework” that has evolved over several centuries:

| REGULATING THE MARKET                                                      |              |                                                                                                              |
|----------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------------------------------|
| Deliverable                                                                | Organisation | What is the scope of their role?                                                                             |
| MARKET OVERSIGHT                                                           | SCJC         | Role is to:<br>- regulate the fees charged<br>(Refer - s105 (1) & 106 (1) of the Courts Reform (S) Act 2014) |
| <u>Notes:</u><br>1 - SCJC - Acronym for the Scottish Civil Justice Council |              |                                                                                                              |

| REGULATING SERVICE DELIVERY                                                                                                                                   |                    |                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Deliverable                                                                                                                                                   | Organisation       | What is the scope of their role?                                                                                                                                                                                         |
| JUDICIAL OVERSIGHT                                                                                                                                            | ACMASO             | Role is to:<br>- Regulate organisation<br>- Regulate procedure<br>- Regulate conduct & discipline<br>- Regulate appointments, training & qualifications<br>- Keep under review all matters relating to officers of court |
|                                                                                                                                                               | Sheriffs Principal | Role is to grant commissions – sufficient to cover the demand for civil enforcement across the sheriff courts<br>(Refer - s75 (1) (g) of the Debtors (S) Act 1987 & s8 of the 1991 Rules)                                |
|                                                                                                                                                               | Lord Lyon          | Role is to grant commissions – sufficient to cover the demand for civil enforcement in the Court of Session<br>(Refer - s77 of the Debtors (S) Act 1987 & s7 of the 1991 Rules)                                          |
| Complaints & Discipline                                                                                                                                       | Sheriffs Principal | Role is to:<br>- hear disciplinary appeals<br>- withdraw a commission ( <i>as the ultimate sanction</i> )                                                                                                                |
| Official Statistics                                                                                                                                           | AiB                | Role is to:<br>- receive data returns from commission holders<br>- compile and publish the Scottish Diligence Statistics                                                                                                 |
| <u>Notes:</u><br>1 - ACMASO - Acronym for the Advisory Council of Messengers-at-Arms & Sheriff Officers<br>2 - AiB - Acronym for the Accountant in Bankruptcy |                    |                                                                                                                                                                                                                          |

| REGULATING THE PROFESSION                                                                     |              |                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Deliverable                                                                                   | Organisation | What is the scope of their role?                                                                                                                                                                                                                                                                                                                                                                              |
| OVERSIGHT<br>(of the profession)                                                              | SMASO        | Provide a representative professional body, with membership having been mandatory for all commission holders since 2011. It has responsibility for<br>- Setting performance standards through a Code of Practice<br>- Managing qualifications, training and CPD<br>- Maintaining an ‘online register’ of all officers of court<br>(Refer - Officers of Court’s Professional Association (S) Regulations 2011) |
| PROCEDURES<br>(of the profession)                                                             | SMASO        | Role is to:<br>- Provide procedures for the profession ( <i>the 1991 rules</i> )<br>(Refer - Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) 1991)                                                                                                                                                                                                                                            |
| Complaints & Discipline                                                                       | SMASO        | Role is to:<br>- provide a complaints procedure<br>- undertake the initial investigation of complaints<br>- provide a disciplinary procedure<br>- undertake disciplinary actions                                                                                                                                                                                                                              |
| <u>Notes:</u><br>1 - SMASO - Acronym for the Society of Messengers-at-Arms & Sheriff Officers |              |                                                                                                                                                                                                                                                                                                                                                                                                               |