**POLICY NOTE**

**THE COURTS REFORM (SCOTLAND) ACT 2014 (CONSEQUENTIAL AND SUPPLEMENTAL PROVISIONS) ORDER 2018**

**SSI 2018/xxx**

1. The above instrument was made in exercise of the powers conferred by section 137 of the Courts Reform (Scotland) Act 2014 ("the Act"). The instrument is subject to the affirmative procedure.

## Policy Objectives - Consequential provisions

2. Section 130 the Court Reform (Scotland) Act 2014 provided for the Scottish Tribunals Service to join the Scottish Court Service to become the Scottish Courts and Tribunals Service (SCTS), as a consequence to this transfer the following amendments are necessary to make the payment of fees and expenses the responsibility of SCTS.

3. The Mental Health (Care and Treatment) (Scotland) Act 2003 make it the responsibility of the Scottish Ministers to pay members of the Mental Health Tribunal for Scotland (MHTS) fees and expenses. Article 2 of this Order amends the Mental Health (Care and Treatment) (Scotland) Act 2003 and transfers responsibility for the payment of remuneration etc. to members of the MHTS from the Scottish Ministers to the SCTS.

4. Article 3 of this Order amends the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 transferring responsibility for the payment of allowances to JPs from Scottish Ministers to the SCTS, in accordance with a scheme devised by it and after consultation with the Scottish Ministers.

5. Article 4 of this Order amends the Tribunals (Scotland) Act 2014 transferring responsibility to make payments to members of the Scottish Tribunals from the Scottish Government to the SCTS.

6. Paragraph 13(2)(a) of schedule 7 to the Tribunals (Scotland) Act 2014 provides that the Scottish Ministers may determine the terms and conditions on which tribunal members hold their position including remuneration, allowances and expenses. The statute is silent on who is to make these payments. Whilst Scottish Ministers will continue to determine the rate at which tribunal members are paid it is appropriate for the responsibility for paying members to transfer to the SCTS.

## Policy Objectives - Supplemental provision

7. Paragraph 16(7)(a) of the Courts Reform (Scotland) Act 2014 provides a list of fee paid judicial officers for payment of remuneration as the Scottish Ministers may determine. Article 5 of this Order amends the list to also include a temporary sheriff principal.

**Commencement**

8. The Order is scheduled to come into force on 1 April 2018.

**Consultation**

9. Discussion has taken place between the Scottish Government and the Scottish Courts and Tribunals Service. No formal consultation has taken place on the Order as it is being made as a consequence of the Act which has already been the subject of separate consultation exercise. The Scottish Government consulted on the Bill in early 2013. The consultations can be viewed on the Scottish Government website at www.scotland.gov.uk/Publications/2013/02/5302

10. An Equality Impact Assessment was completed for the Tribunals (Scotland) Bill – see http://www.scotland.gov.uk/Resource/0042/00421637.pdf

**Impact Assessments and Financial Effects**

11. The changes made in this order are technical amendments and we do not consider there is a requirement for any impact assessments on this occasion.

12. A Business and Regulatory Impact Assessment is not required as the instrument has no substantial financial effects on the Scottish Government, local government or on business.

Scottish Government
Civil Law and Legal System Division
Justice Directorate
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