EXPLANATORY MEMORANDUM TO

The Lyon Court and Office Fees (Variation) Order 2008

2008 No. 1166

1. This explanatory memorandum has been prepared by the Scotland Office and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This Order varies the fees payable in respect of the reserved functions of the Lyon Court and Office.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 This Order is being made in exercise of the powers conferred by section 5 of, as read with paragraph 3 of Schedule 3 to, the Public Expenditure and Receipts Act 1968 ("the 1968 Act) and is subject to negative procedure in both Houses of the UK Parliament.

4. Legislative Background

4.1 Part 1 of Schedule 5 to the Scotland Act 1998 reserves certain functions of the Lord Lyon to the United Kingdom Parliament - principally the granting of arms. Other functions performed by the Lyon Court, which are not listed as reserved matters in the Scotland Act 1998, fall within the legislative competence of the Scottish Parliament. The Scottish Executive will take forward The Lyon Court and Office Fees (Variation)(No.2) Order in the Scottish Parliament to vary the fees payable in respect of devolved functions of the Lyon Court and Office.

4.2 Schedule B of the Lyon King of Arms Act 1867 sets out fees payable by those who make an application to the Lord Lyon or otherwise have business with the Lyon Court and Office. This Order is made under the 1968 Act which allows for the variation of fees charged by public bodies.

5. Extent

5.1 This instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister of State at the Scotland Office has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

> In my view the provisions of The Lyon Court and Office Fees (Variation) Order 2008 are compatible with the Convention rights

7. Policy background

7.1 The Court of the Lord Lyon is the heraldic authority for Scotland and the sole authority for granting arms. The Lyon Court deals with matters relating to Scottish heraldry and coats of arms and maintains the Scottish Public Registers of Arms and Genealogies. The Lord Lyon is head of the Heraldic Executive and the Judge of the Court of the Lord Lyon which has jurisdiction over all heraldic business in Scotland.

7.2. He is assisted by Her Majesty's Officers of Arms, all of whom are members of the Royal Household. There are three senior Officers of Arms (Albany Herald, Rothesay Herald and Ross Herald) and three junior Officers of Arms (Unicorn Pursuivant, Carrick Pursuivant and Bute Pursuivant). The Lord Lyon is also responsible for State Ceremonial in Scotland.

7.3. This Order varies the fees payable in respect of the reserved functions of the Lyon Court and Office. These fees were last revised in 1996 and need to be up-rated to take into account inflation and also reflect changes in technology. The Order taken forward in the Scottish Parliament in respect of devolved functions will come into force immediately after this Order is commenced, which will ensure that the fees for devolved and reserved functions are varied consistently.

7.4 Various organisations and individuals with an interest in heraldry and genealogy were consulted on the new fees rates. Those whose views were sought included officers of Arms, the Law Society of Scotland, the Faculty of Advocates, the Society of Messengers-at-Arms and a number of representative bodies. Those who responded were broadly in agreement with the new fees structure.

8. Impact

8.1 Up-rating and modernising the level of fees for the services provided by the Lyon Court to take account of inflation and changes over the last 12 years will ensure appropriate cost recovery for these public services.

9. Contact

Adam Pile at the Scotland Office (e-mail adam.pile@scotland.gsi.gov.uk) can answer any queries regarding the instrument.

Scotland Office
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