POLICY NOTE

THE SCOTTISH ADMINISTRATION (OFFICES) ORDER 2015

SI 2015/xxx

The above instrument is to be made in exercise of the powers conferred by section 126(8)(b) of the Scotland Act 1998. The instrument is subject to annulment in pursuance of a resolution of either House of Parliament, or of the Scottish Parliament.

Background

The Courts Reform (Scotland) Act 2014 ("the 2014 Act") implements the majority of the recommendations of the Scottish Civil Courts Review 2009, which was an independent review chaired by Lord Gill, the current Lord President. The 2014 Act is intended to make the civil justice system in Scotland more efficient, with most of that Act focusing on a restructure of the civil courts system in Scotland and additional provisions relating to criminal matters.

Chapter 1 of Part 2 of the 2014 Act establishes a court of law in Scotland to be known as the Sheriff Appeal Court. The court consists of judges each of whom is to be known as an Appeal Sheriff. Chapter 4 of Part 2 of the 2014 Act makes provision for the administration of the new Sheriff Appeal Court. Section 59 of the 2014 Act provides for the new office of Clerk of the Sheriff Appeal Court whilst section 60 provides for the new office of Deputy Clerk of the Sheriff Appeal Court. Section 61 makes additional provision in relation to these new offices, including provision that the Clerk and Deputy Clerks of the Sheriff Appeal Court are also members of staff of the Scottish Courts and Tribunals Service (which is created in Chapter 10 of the 2014 Act).

This Order is to be made in exercise of the power conferred by section 126(8)(b) of the Scotland Act 1998. Section 126(8)(b) of that Act enables Her Majesty by Order in Council to specify offices in the Scottish Administration which are not ministerial offices in addition to those specified in section 126(8)(a) of that Act.

Policy objectives

Whilst section 59 requires a sheriff clerk to hold the office of Clerk of the Sheriff Appeal Court and 60(4) of the 2014 Act allows sheriff clerks and their deputes to hold the office of Deputy Clerk of the Sheriff Appeal Court, the offices of Clerk and Deputy Clerk of the Sheriff Appeal Court are new offices.

The policy objective of this instrument is to ensure that both the Clerk of the Sheriff Appeal Court and Deputy Clerks of the Sheriff Appeal Court will be office holders in the Scottish Administration in the same way that sheriff clerks and their deputes are at present.

Consultation

Although there has been no public consultation specific to the provisions of this Order, the UK Government departments with responsibility for the legislation which this Order affects have been consulted during the drafting of this Order. There is no requirement in the

Scotland Act 1998 to consult on this matter. The Scottish Ministers have the agreement of the Parliamentary Under Secretary of State for Scotland to this Order and the Minister for the Cabinet Office and Paymaster General.

With regard to wider consultation, the Scottish Government ran its *'Making Justice Work: Courts Reform (Scotland) Bill - A consultation paper'* from 27th February 2013 – 24th May 2013. That consultation sought views on proposals to restructure the way civil cases and summary criminal cases are dealt with by the courts in Scotland. On 13th September 2013, the Scottish Government published its analysis of the 115 responses to that consultation. That analysis showed there to be a very clear majority support for almost all proposals and concepts detailed in the consultation. The *'Courts Reform (Scotland) Bill - analysis of consultation responses'* can be viewed at: www.scotland.gov.uk/Publications/2013/09/8038.

Impact Assessments

There are no equality impact issues.

Financial Effects

The Cabinet Secretary for Justice confirms that no Business & Regulatory Impact Assessment is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Justice Directorate

February 2015