

Scottish Court Fees 2024-2025

**Court of Session
High Court of Justiciary
Sheriff Appeal Court
Sheriff Courts
(including Sheriff Personal Injury Court)
Justice of the Peace Courts
Office of the Public Guardian**

A consultation

Acronyms and abbreviations

CPI	Consumer Price Index
MPC	The Bank of England Monetary Policy Committee
OBR	Office for Budget Responsibility
RPI	Retail Price Index
SCTS	The Scottish Courts and Tribunals Service
2018 Act	Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018

Section 1: Background and proposals

Background to this consultation

1. The Scottish Government, in consultation with the Scottish Courts and Tribunals Service (SCTS), usually undertakes a review of the court fees raised in the majority of Scotland's courts every 3 years and, as a result, new court fees are set for the following 3 years. The courts involved in such reviews are the High Court of Justiciary, the Court of Session, the Sheriff Appeal Court, the Sheriff Court including the Sheriff Personal Injury Court, the Justice of the Peace Court and the Office of the Public Guardian.
2. Following the review in October 2017, when new court fees were set for the period 2018 - 2021, there should have been a fee review in 2020. This was postponed owing to the pandemic. The last consultation therefore took place in 2021.
3. Following the consultation, the Scottish Government adopted a general rise of 2% to court fees with effect from 1 July 2022. This was to be followed by further increases in 2023 and 2024.
4. The rationale for setting the increases at 2% was to keep it in line with inflation. At the time of the previous increases, the Office for Budget Responsibility (OBR) inflation forecast for 2021 (CPI) was 1.5% rising to 2% in 2025 with intervening years just below 2%.
5. Since then, inflation has risen to a peak of 10.7% in 2022, with current rates at 2.9%.
6. In light of the significant, largely unforeseen rise in inflation, budget constraints and the significantly increased costs of operating the courts system, the Scottish Government considers that now is an appropriate time to look again at court fees.
7. In line with the current fee order that is in place, court fees are due to rise by 2% in April 2024. This consultation seeks views on a proposal to increase court fees to reflect the rise in inflation since the previous fees order. We would propose to set this at 10% across all court fees. We would also propose to implement selective targeted increases on certain fees in the sheriff court.
8. The Scottish Government considers that consultation on the proposed changes to court fees and the level of fees set is important. We will take consultation responses into consideration when drawing up the Scottish Statutory Instruments that will provide for court fees in the financial years from 2024 to 2025. A further consultation next year will look at fees to come into effect from 1 April 2026. That consultation will look at a wider range of structural issues effecting the fees system.

9. The Scottish Government is committed to ensuring that the Scottish courts are funded to deliver a justice system that is affordable and which provides a high-quality service to those who have cause to use the court system.
10. It is also committed to continuing to ensure that access to justice is protected through a well-funded system of exemptions from the requirement to pay court fees and the provision of legal aid.
11. Despite significant financial pressures, the legal aid system in Scotland maintains a wide scope of access to legal aid for both criminal and civil cases. Legal aid in Scotland is a demand-led system and all those who are entitled will receive it.
12. The Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 (“the 2018 Act”) increases access to justice by making the costs of civil action more predictable and by increasing the funding options for pursuers of civil actions. Part 1 of the 2018 Act imposes caps on the amount service providers can charge in success fee agreements. Further, the provisions also provide greater availability of “no win, no fee” success fee agreements as solicitors are now able to enter into damages based agreements.
13. The 2018 Act also protects pursuers from the risk of having to pay their opponents’ costs in personal injury cases if the case is lost, provided they have acted properly.
14. Beyond this overriding objective of ensuring access to justice, the Scottish Government believes that those who make use of the services of the courts should meet, or contribute towards, the associated cost to the public purse where they can afford so to do, thus reducing the burden upon the taxpayer.
15. The responsibility for setting court fees is a matter that lies with the Scottish Ministers and is put into effect by statutory instruments laid before the Scottish Parliament. As these instruments establish statutory fee-charging regimes, which the Scottish Courts and Tribunals Service (SCTS) administer, the Scottish Government works closely with SCTS on its fees policy. The current statutory instruments (to be referred to collectively as “the court fee Orders”) are as follows:
 - The Court of Session etc. Fees Order 2022
 - The High Court of Justiciary Fees Order 2022
 - The Sheriff Appeal Court Fees Order 2022
 - The Sheriff Court Fees Order 2022 (as amended)
 - The Justice of the Peace Court Fees (Scotland) Order 2022
 - The Adults with Incapacity (Public Guardian’s Fees) (Scotland) Regulations 2022

Overview of the consultation proposals

16. The purpose of this consultation is to seek views on proposals to revise court fees in Scotland so that the fees raised in our courts continue to contribute appropriately to the cost of the business undertaken in those courts. We are seeking views on the following potential changes to Scottish court fees:
- A 10% increase to all court fees to commence in November 2024;
 - A targeted further 10% increase on a limited number of court fees;
 - Some further minor technical and remedial amendments to the current court fees orders.
17. The Scottish Government considers it vital that the extensive system of exemptions is maintained and that special consideration is given to the parts of the court system that might give rise to particular concerns about access to justice for vulnerable people. It is acknowledged that the courts are disproportionately accessed by those who are considered vulnerable or to have a disability. The Scottish Government is committed to ensuring that those court users are not prejudiced by the systems and processes that exist in the judicial environment, and is keen to hear from those who have views on how the system can be improved.

Section 2: Consultation – substantive proposals

18. In this section, we discuss increases which the Scottish Government considers should be applied to court fees and the reasons why it considers these increases to be appropriate.

Increase in Court Fees - Adjusting for inflation

19. Court fees in Scotland have generally been reviewed by Scottish Ministers every three years. The last full round was implemented in 2021.

20. The Office for Budget Responsibility (OBR) inflation forecasts for 2023-2026 are set out in the following table. It also shows the OBR Retail Price Index (RPI) and Consumer Price Index (CPI) forecasts as at October 2023.

	2023	2024	2025	2026
RPI	8.1	1.2	1.0	1.9
CPI	5.4	0.6	0.0	0.7

21. The OBR states that “following the Russian invasion of Ukraine, we expect CPI inflation to have peaked in the fourth quarter of 2022 at its highest rate in around 40 years. The increase was driven primarily by higher gas prices feeding into sharp rises in domestic energy bills, alongside higher fuel prices and global goods inflation. Inflation is expected to fall rapidly – reaching and then oscillating around 0 per cent from mid-2024 to mid-2026 – as energy bills fall back and some global supply pressures reverse. We expect inflation to then return to the 2 per cent target by the end of the forecast as the large swings in energy prices fall out of the annual CPI calculation and output is broadly in line with the economy’s productive potential.”

22. Although it is anticipated that inflation will eventually return to around 2%, the sharp, unprecedented increase has necessarily had a bearing on SCTS finances which were already under significant pressure from the pandemic.

23. Having considered these factors, the Scottish Government proposes that there should be a 10% increase in court fee levels to reflect inflationary pressures as well as the financial pressures on SCTS in operating the courts during the COVID-19 pandemic and beyond. Subject to the results of the consultation and parliamentary approval the Scottish Government would hope to have changes into effect this summer.

24. The Scottish Government also proposes that there should be a further 10% increase on certain targeted fees in the Sheriff Court. The small number of fees chosen for a further increase will ensure that access to justice is preserved whilst recognising the impact of the current economic climate. The

targeted increases would affect the following fees, currently found in schedule 2 of the current fees order:

- In commissary proceedings, receiving and examining inventory of estate. There will continue to be no fee for estates under £50,000.
- Lodging an initial writ.
- Caveats.
- Lodging of a certified copy record under the Ordinary Cause Rules.
- Lodging of a certified copy closed record under additional procedure of the Ordinary Cause Rules.
- Lodging a written motion or minute.
- Lodging an account for taxation.

Question 1

Do you agree that court fees should rise by 10% commencing 1 November 2024?

Question 2

Do you agree that there should be a further targeted 10% increase on the specified limited number of civil court fees?

Court fees – remedial amendments to the Sheriff Court Fees Order 2022

It has come to our attention that there may be an error in the Schedules to the Sheriff Court Fees Order 2022 (as amended).

Schedule 1 Paragraph 13 was inserted into Schedule 1 of the 2022 Order to bring the fees in the sheriff court into line with the Court of Session to provide for a fee where certain insolvency applications were made “out of court”. The intention was that the fee to be charged should be the same as an initial writ under para 5 of the Schedules.

However, a fee of £132 was inserted into the first column of Schedule 1 which was the previous year’s fee for an initial writ, rather than the fee of £135 (effective from 1 July 2022). This means that the fees in paras 5 and 13 are in effect out of kilter – the intention being they should be the same.

Question 3

Do you agree that the fees applicable to sheriff court insolvency applications under schedule 1 paragraph 13 should be brought in line with those charged by the Court of Session?

Fees charged under the Proceeds of Crime Act 2002

There are currently no fees charged by the accountant of court for costs incurred for the administration of accounts under the Proceeds of Crime Act 2002. There is no specific provision for such fees to be payable in the current fees order and the Scottish Government considers that it would be helpful if this were to be included. The proposed fee scale is below:

1. Registering case and receiving and delivering up bond of caution.	£23
2. Examining Administrator's inventory – 0.333% of the value of the estate as disclosed: (a) minimum fee payable;	£33
(b) maximum fee payable.	£768
3. Auditing each 6 monthly account, based on estate value—	
(a) £0 - £30,000;	£60
(b) £30,001 - £75,000;	£120
(c) £75,001 - £100,000;	£150
(d) £101,001 - £150,000;	£200
(f) £150,001 – £250,000;	£400
(g) £250,001 and above	£550
4. Reporting with regard to discharge, or any other (special) matter not provided for in paragraphs 1 to 3 above”	£59

Question 4

Do you agree with the proposal to introduce fees for the accountant of court in respect of administration of accounts under the Proceeds of Crime Act 2002?

Consultation questions

1. Do you agree that court fees should rise by 10% commencing 1 November 2024?

Yes

No

Please give reasons for your answer

2. Do you agree that there should be a further targeted 10% increase on a limited number of civil court fees?

Yes

No

Please give reasons for your answer

3. Do you agree that the fees applicable to sheriff court insolvency applications under schedule 1 paragraph 13 should be brought in line with those charged by the Court of Session?

Yes

No

Please give reasons for your answer

4. Do you agree with the proposal to introduce fees for the accountant of court in respect of administration of accounts under the Proceeds of Crime Act 2002?

Yes

No

Please give reasons for your answer

5. Do you have any other comments on the subject of this consultation paper or on the future direction of policy considerations for court fees in Scotland?

6. Do you consider that any of the proposals in this consultation paper are likely to have a disproportionate effect on people or communities who face discrimination or social exclusion owing to race, age, gender, disability, sexual orientation, or any other factor? If so, please specify your views on the possible impact.

Consultation on Scottish Court Fees



Respondent information form

Please note: this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

Section 3: How to respond

Where to send your response

The closing date for comments is 10th June 2024. Please email your response to CourtFeeConsultation2024@gov.scot

Responding to this Consultation

We are inviting responses to this consultation by 10th June 2024.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/justice/scottishcourtfees20242025>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 10th June 2024.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Courts and Tribunals Team
Scottish Government
Area GW 15
St Andrews House
Edinburgh
EH13DG

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at stephanie.smith2@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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