SCOTTISH STATUTORY INSTRUMENTS

2007 No. 480

The District Courts and Justices of the Peace (Scotland) Order 2007

PART 3

JUSTICES OF THE PEACE

Termination of appointments of justices of the peace under the 1975 Act

5. The specified day for the purpose of section 67(7) of the 2007 Act is 10th December 2007.

Removal of JPs: Recommendation to sheriff principal by a JAC for an investigation

6.—(1) Any JAC is authorised to make a recommendation to a sheriff principal that an investigation be carried out in relation to a JP who is appointed for that sheriff principal's sheriffdom.

(2) When making a recommendation, the JAC must provide the sheriff principal with information about the JP's performance of his or her functions.

Commencement of investigation

7. Prior to an investigation by the tribunal commencing, the sheriff principal shall give the JP written notice of the investigation and of the reasons for requesting the investigation.

Payments to Members

8. The Scottish Ministers may pay to a member of the tribunal such sums as they consider appropriate in respect of the performance of that person's duties as a member.

Change in membership of tribunal

9.—(1) This article shall apply where, after commencement of an investigation, any member of the tribunal–

(a) dies;

(b) resigns; or

(c) is, in the opinion of the Lord President, unable to act.

(2) The Lord President–

(a) if the member is the chairing member of the tribunal, must appoint a new chairing member,

(b) in any other case_

(i) if requested by the JP, must appoint a new member,

(ii) otherwise, may appoint a new member.

(3) On a new member being appointed under paragraph (2), the tribunal may begin the investigation of new.

Procedure – general

10. Other than as specified in this Order, the procedure to be followed by and before the tribunal shall be that determined by the tribunal.

Procedure – further provisions

11.—(1) The tribunal may receive oral or written evidence from such persons as it thinks fit.

(2) The tribunal shall give the JP the opportunity to make written and oral representations regarding the matters which are the subject of the investigation.

(3) Representations under paragraph (2) may be made by the JP personally or by anyone acting on his or her behalf.

(4) The tribunal shall sit in private.

(5) No member of the tribunal shall disclose information received in the course of an investigation other than for the purposes of the exercise of the tribunal's functions under the 2007 Act and this Order.

Suspension

12.—(1) At any time during an investigation, the tribunal may suspend the JP from office or from acting as a JP so far as relating to the exercise of judicial functions.

(2) A suspension imposed under paragraph (1) shall terminate–

(a) on the tribunal deciding not to order the removal of the JP from office; or

(b) before then, on the tribunal deciding to bring the suspension to an end.

Draft findings to be sent to JP

13.—(1) The tribunal shall send to the JP a draft of its findings on the investigation and shall give the JP an opportunity to make comments on the draft by such a date as the tribunal may specify.

(2) The tribunal shall have regard to any comments made under paragraph (1) but need not give the JP an opportunity to comment on any alterations made to the draft prior to submission of the final report under article 14.

Reports and Decisions

14.—(1) On completion of its investigation, the tribunal shall submit a written report to the sheriff principal specifying–

(a) its findings on the investigation;

(b) its decision on whether to order removal of the JP from office; and

(c) where appropriate, the date of removal from office.

(2) At the same time as submitting its report under sub-paragraph (1), the tribunal shall_

(a) send a copy of the report to the JP; and

(b) intimate its decision on whether to order the removal of the JP from office to the Scottish Ministers.