

EXECUTIVE NOTE TO
THE JUSTICE OF THE PEACE COURTS (SHERIFFDOM OF GRAMPIAN,
HIGHLAND AND ISLANDS) AMENDMENT ORDER 2008
SSI/2008 No. 179

1. The above order was made in exercise of the powers conferred by sections 64(1), 65(1) and 65(5) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”). The instrument is subject to negative resolution procedure.

2. This order makes provision for the transfer of property to the Scottish Ministers, and the transfer of employment of district court staff to the employment of the Scottish Administration, in the Sheriffdom of Grampian, Highland and Islands.

3. This order inserts new articles 7 and 8 and new Schedule 4 into the Justice of the Peace Courts (Sheriffdom Of Grampian, Highlands and Islands) Order 2008 (S.S.I 2008/93) (“the 2008 Order”) that was made on 5 March 2008. The 2008 Order made provision in relation to:

- the establishment of Justice of the Peace (JP) courts in Grampian, Highland and Islands;
- the disestablishment of district courts in Grampian, Highland and Islands;
- certain fixed penalties and conditional offers of penalties that will be dealt with by clerks to justice of the peace courts;
- citation of accused persons and witnesses to JP courts in Grampian, Highland and Islands prior to their establishment;
- the fixing of diets in JP courts prior to their establishment, and applications for the alteration of such diets; and
- the repeal of certain sections of the District Courts (Scotland) Act 1975 for the purposes of unification in Grampian, Highlands and Islands.

4. The provisions enabling citation of accused persons and witnesses to JP courts took effect from 31 March 2008 allowing court business to be arranged in those courts ahead of unification.

5. Section 65 of the 2007 Act specifies that an order providing for the disestablishment of a district court may also include provision for the transfer of property to the Scottish Ministers, and reference a scheme for the transfer of employment of district court staff to the employment of the Scottish Administration. Amendment of the Justice of the Peace Courts (Sheriffdom of Grampian, Highlands and Islands) Order 2008 is therefore required to provide for the transfer of staff and property.

Policy Objectives

6. The 2007 Act makes provision for the unification of the administration of Scotland’s summary courts to allow for the more efficient, effective and consistent handling of criminal cases through the summary courts. District courts are run by local authorities, and upon unification in each sheriffdom, will be replaced by JP Courts run by the Scottish Court Service. A fourth Commencement Order will bring into force a number of provisions of the

2007 Act for the second phase of court unification on 2 June 2008 in the Sheriffdom of Grampian, Highland and Islands.

7. Court unification is a key element of the Scottish Government's reform of summary justice. It will bring all court services in Scotland under the responsibility of the Scottish Court Service, providing

- support to the Judiciary in Sheriff and Justice of the Peace summary criminal courts;
- court services in all summary criminal courts, and managing and providing legal and administrative staff;
- one national IT system for all summary criminal cases; and
- collection and enforcement of all fines and financial penalties.

Article 2 – Amendments to the Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008

Transfer of staff

8. New article 7 specifies that the scheme made (or to be made) by the Scottish Ministers will identify those local authority staff engaged in work in the district court that will transfer to the employment of the Scottish Administration upon unification in the Sheriffdom of Grampian, Highland and Islands.

Transfer of property

9. New article 8 and Schedule 4 provide for the transfer of the property from Aberdeen City Council to the Scottish Ministers in which the Aberdeen JP court (formerly Aberdeen District Court) will sit from 2 June onwards. By virtue of article 8(1), all the rights and liabilities of that property also transfer to the Scottish Ministers. Articles 8(2)-(4) contain transitional and savings provisions in relation to the transfer. This is the only property in the Sheriffdom where a transfer under the Order is required.

Consultation

General – The Criminal Proceedings etc. (Reform) (Scotland) Act 2007

12. Many of the provisions of the 2007 Act are based on the recommendations of the 'McInnes Committee' report and subsequent consultation during 2004. The Scottish Executive published *Smarter Justice, Safer Communities – Summary Justice Reform Next Steps*¹, in March 2005 following extensive consultation on the recommendations of the report² of the Committee chaired by Sheriff Principal John McInnes. Details of the history of the Act, including the McInnes report, and the *Smarter Justice* paper are all available through the Scottish Government's summary justice reform website.³

¹ Scottish Executive, *Smarter Justice, Safer Communities: Summary Justice Reform - Next Steps*, available at: <http://www.scotland.gov.uk/Publications/2005/03/20888/55016>

² Scottish Executive, *Report of the Summary Justice Review Committee*, available at: <http://www.scotland.gov.uk/Publications/2004/03/19042/34176>

³ The summary justice reform website can be found at: <http://www.scotland.gov.uk/Topics/Justice/criminal/criminalprocedure/19008>

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10. Plans for unification of the summary courts under the Scottish Court Service were outlined in the *Next Steps* paper. In 2007, the Scottish Court Service conducted a consultation exercise after publishing plans for the establishment of Justice of the Peace Courts, the consequent disestablishment of district courts, and arrangements for the delivery of court-related services in the Sheriffdom of Grampian, Highland and Islands.⁴ Accordingly, the Scottish Ministers have consulted with the Sheriff Principal for the Sheriffdom of Grampian, Highland and Islands, Aberdeen City Council, Aberdeenshire Council, Highland Council, Comhairle nan Eilean Siar and Moray Council under sections 59(7) and 64(3) of the 2007 Act.

Financial Effects

11. The Order is made in accordance with the original policy intention of the relevant provisions of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. It therefore has no financial effects beyond those which were set out in the Financial Memorandum to the Act.

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May 2008

⁴ The Scottish Court Service consultation paper *Sheriffdom of Grampian, Highland and Islands: Delivering a Unified Sheriff and Justice of the Peace Courts Administration* is available at:

http://www.scotcourts.gov.uk/court_unification/publications/grampian_highland_and_islands/GHI_Consultation_report.doc

The subsequent report on that consultation is available at:

http://www.scotcourts.gov.uk/court_unification/publications/grampian_highland_and_islands/Grampian_Highland_Islands_Consultation_Analysis_23%20Nov%202007.pdf