

EXECUTIVE NOTE

THE JUSTICE OF THE PEACE COURT (SHERIFFDOM OF GLASGOW AND STRATHKELVIN) ORDER 2008 SSI/2008/328

1. The above Order was made in exercise of the powers conferred by sections 59(2), 64(1) and (4), 65(1), 81(2) and 82(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”). The instrument is subject to negative resolution procedure.

2. This Order provides for a justice of the peace court (“JP court”) in the Sheriffdom of Glasgow and Strathkelvin. Certain transitional provisions in the Order will enter into force on 10 November 2008 while the remainder of the Order comes into force on 8 December 2008. The Order makes provision in relation to:

- the establishment of a JP court in Glasgow and Strathkelvin;
- the disestablishment of the Glasgow district court;
- the transfer of staff of the district court to the employment of the Scottish Ministers;
- certain fixed penalties and conditional offers of penalties that will be dealt with by the clerk to the JP court;
- citation of accused persons and witnesses to the JP court prior to its establishment;
- the fixing of diets in the JP court prior to its establishment, and applications for the alteration of such diets;
- the transfer of certain proceedings, fixed penalties and conditional offers of penalties that are dealt with in the District Court of East Dunbartonshire at Kirkintilloch and South Lanarkshire at Rutherglen; and
- the repeal of certain sections of the District Courts (Scotland) Act 1975 (“the 1975 Act”), for the purposes of unification in Glasgow and Strathkelvin.

Policy Objectives

3. The 2007 Act makes provision for the unification of Scotland’s 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 (SCS). The Sheriffdom of Lothian and Borders unified on 10 March 2008, followed by Grampian, Highland and Islands on 2 June 2008. A fifth commencement order for the 2007 Act will bring into force a number of provisions for this third phase of unification on 8 December 2008.

4. 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 SCS, which will provide:

- 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
- improved collection and enforcement of all fines and financial penalties.

Article 3 – Disestablishment of Glasgow District Court

5. There is only one district court established for each of the local authority areas in Scotland. The district courts sit at different locations within the local authority areas, but there is, for example, only one South Lanarkshire District Court. The Sheriffdom of Glasgow and Strathkelvin encompasses all of the territory of Glasgow City Council and some areas within East Dunbartonshire and South Lanarkshire.

6. Article 3 of the Order provides for the disestablishment of Glasgow District Court. This Order does not disestablish the district courts in the commission areas of East Dunbartonshire and South Lanarkshire, but the regular sittings of these courts at Kirkintilloch (East Dunbartonshire) and Rutherglen (South Lanarkshire), fall within the Sheriffdom of Glasgow and Strathkelvin. Although it is not possible to specifically disestablish only those sittings at Kirkintilloch and Rutherglen, those two courts will be permanently closed on 8 December 2008, with their cases and recent records transferred to the JP court for Glasgow and Strathkelvin under Article 7 of the Order.

7. The repeal of section 6(1) of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) for the Sheriffdom of Glasgow and Strathkelvin means that the respective local authorities cannot set down sittings of those courts in the Sheriffdom of Glasgow and Strathkelvin. The effect of this repeal will be that there will no longer be sittings of those district courts within the Sheriffdom of Glasgow and Strathkelvin. Section 6(1) of the 1995 Act is repealed by paragraph 9(1)(a) of the Schedule to the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”) which is to be brought into force for Glasgow and Strathkelvin on the 8th December 2008 by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Commencement No. 5) Order 2008.

Article 4 – Transfer of staff

8. Article 4 requires the creation of a scheme to identify those local authority staff who will transfer to the Scottish Administration. SCS and CoSLA have agreed that local authority staff whose normal work involves 50% or more of their time being engaged on activities associated with the business of the district court will meet the criterion for transfer.

Article 5 – Incidental, consequential and transitional provisions in relation to certain fixed penalties and conditional offers

9. Article 5 makes provision in relation to certain fixed penalties and conditional offers of penalties. These provisions allow the clerk to the JP court to deal with matters relating to penalties and offers previously dealt with by the clerk to the disestablished district court, (and, by virtue of Article 7(7) and (8)) the District Court of East Dunbartonshire sitting at Kirkintilloch and the District Court of South Lanarkshire sitting at Rutherglen).

Article 6 – Transitional provisions relating to JP court

10. Section 66 of the 2007 Act makes provision for the transition of proceedings from disestablished district courts to JP courts upon unification. Article 6 (in conjunction with Article 7(9) and (10)) allows each of the district courts sitting in the Sheriffdom of Glasgow and Strathkelvin to fix diets for, and cite accused persons and witnesses to, the JP court before it is established. This will be particularly useful where the JP court to which

proceedings will transfer is established at a different location from the current district court. Article 6 and article 7(9) and (10) will have effect from 10 November 2008.

Article 7 – Supplemental and transitional provisions in relation to certain sittings of the East Dunbartonshire and South Lanarkshire District Courts

11. Article 7 makes further transitional provision for the transfer to the JP court in Glasgow of cases and court records from the district court of East Dunbartonshire at Kirkintilloch and the district court of South Lanarkshire at Rutherglen, reflecting the fact that there will be no further sittings of those courts in those locations after unification in the Sheriffdom of Glasgow and Strathkelvin.

Article 8 – Partial repeal of the 1975 Act

12. Article 8 repeals certain provisions of the 1975 Act for the Sheriffdom of Glasgow and Strathkelvin on 8 December 2008 as a consequence of unification in that area. Many of the 1975 Act provisions relate to local authorities' responsibilities for the maintenance of district courts and as such, are superseded by sections 59-66 of the 2007 Act. The provisions of the 1975 Act repealed are sections 1A, 5, 7, 8, 17, 18, 20 and 23, relating respectively to: the establishment and disestablishment of district courts; the appointment of stipendiary magistrates; the appointment of district court clerks; the provision of premises; the payment of JP allowances; the appointment of clerks of the peace; the custody of records; and district court and JP expenses and destination of fines.

Consultation

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

13. Many of the provisions of the 2007 Act are based on the recommendations of the 'McInnes Committee' and subsequent consultation during 2004. The then 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.

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14. Plans for unification of the summary courts under the SCS were outlined in the *Next Steps* paper. In 2008, the SCS conducted a consultation exercise after publishing plans for the establishment of JP Courts, the consequent disestablishment of district courts, and arrangements for the delivery of court-related services in the Sheriffdom of Glasgow and Strathkelvin.³ Accordingly, the Scottish Ministers have consulted with the Sheriff Principal

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 Scottish Court Service consultation paper *Delivering a Unified Courts Administration: Sheriffdom of Glasgow and Strathkelvin*: is available at: http://www.scotcourts.gov.uk/court_unification/publications/glasgow_and_strathkelvin/Master_Draft_Consultation_GS.pdf

The subsequent report on that consultation will be published at: http://www.scotcourts.gov.uk/court_unification/publications.asp

for the Sheriffdom of Glasgow and Strathkelvin, East Dunbartonshire Council and Glasgow City Council under sections 59(7) and 64(3) of the 2007 Act.

Financial Effects

15. 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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