

EXECUTIVE NOTE

THE JUSTICE OF THE PEACE COURTS (SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS) ORDER 2008 SSI/2008/93

1. The above order was made in exercise of the powers conferred by sections 59(2), 64(1), 64(4) and 81(2) 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 justice of the peace courts in the Sheriffdom of Grampian, Highland and Islands. Certain transitional provisions in the order will enter into force on 31 March 2008 while the remainder of the order comes into force on 2 June 2008. The order makes provision in relation to:

- the establishment of 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 (“the 1975 Act”), for the purposes of court unification in Grampian, Highlands and Islands.

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. This instrument follows the Justice of the Peace Courts (Sheriffdom of Lothian and Borders) etc. Order (SSI 2008/31) which made similar provision for the establishment of JP courts in the first phase of unification in the Sheriffdom of Lothian and Borders. A fourth commencement order will bring into force a number of provisions of the 2007 Act for the second phase of unification on 2 June 2008 in the Sheriffdom of Grampian, Highland and Islands.

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 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 - Establishment of justice of the peace courts

5. Article 2 specifies the justice of the peace courts that are established in Grampian, Highland and Islands on 2 June 2008 with reference to the particular sheriff court district and location in which they are established. Thirteen JP courts are established, these being Aberdeen, Banff, Dingwall, Dornoch, Elgin, Fort William, Inverness, Peterhead, Portree, Stonehaven, Stornoway, Tain, and Wick.

Article 3 – Disestablishment of district courts

6. Article 3 provides for the disestablishment of those district courts which fall within the Sheriffdom of Grampian, Highland and Islands, being the district courts in the commission areas of Aberdeen City Council, Aberdeenshire Council, Highland Council, Comhairle nan Eilean Siar and Moray Council.

Article 4 – Incidental, consequential and transitional provisions in relation to certain fixed penalties and conditional offers

7. Article 4 makes incidental, consequential and transitional provision in relation to certain fixed penalties and conditional offers of penalties. These provisions will allow the clerks to the justice of the peace courts to deal with matters relating to those penalties and offers which are outstanding when the JP courts are established and which were previously dealt with by the clerk to the disestablished district courts.

Article 5 – Transitional provisions relating to fixing of diets and citation in JP courts prior to establishment

8. Article 5 makes provision for the fixing of diets and the citation of accused persons and witnesses to JP courts in Grampian, Highland and Islands prior to their establishment. Section 66 of the 2007 Act provides for the transition of proceedings from district courts to JP courts upon unification. This provision will allow the district court to fix diets in, and accused persons and witnesses to be cited to the JP court. 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.

9. Article 5 will have effect from 31 March 2008. From that date, district courts in Grampian, Highland and Islands will be able to fix diets to take place in a JP court from 2 June 2008, and accused persons and witnesses may be cited to a JP court, although it is not yet established. In addition, transitional provision is made allowing district courts to re-fix diets and deal with applications for the alteration of diets, and fix earlier or later diets to take place in the district court or JP court.

Article 6 – Partial repeal of the 1975 Act

10. Article 6 repeals certain provisions of the 1975 Act for the Sheriffdom of Grampian, Highland and Islands on 2 June 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 cease to have effect for that area 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 justice of the peace expenses and destination of fines.

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’ 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

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11. 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

12. 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.

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>

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