

EXECUTIVE NOTE

THE JUSTICE OF THE PEACE COURTS (SHERIFFDOM OF SOUTH STRATHCLYDE, DUMFRIES AND GALLOWAY) ETC. AMENDMENT ORDER 2010 SSI/2010/15

1. The above Order was made in exercise of the powers conferred by sections 64(1), 65(5) 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 makes provision for the transfer of property from North Lanarkshire Council and South Lanarkshire Council to the Scottish Ministers, in the Sheriffdom of South Strathclyde, Dumfries and Galloway.

3. This Order inserts new article 8 and new Schedule 3 into **the Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) etc. Order 2009 (S.S.I 2009/332)**. That Order was made on 28 September 2009 and made provision in relation to:

- the establishment of justice of the peace courts (“JP courts”) in the Sheriffdom of South Strathclyde, Dumfries and Galloway; and
- the disestablishment of the district courts in the Sheriffdom of South Strathclyde, Dumfries and Galloway;

4. 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 from the local authority to the Scottish Ministers. As this transfer of property must be carried out in the same order, amendment of the Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) etc. Order 2009 is required. While it would have been possible to have made transfer provisions in the Order as originally submitted to Parliament, such an approach would have reduced the amount of time in which the transitional provisions could have been used. This is because any such order would have had to await the conclusion of the arrangements relating to the property transfer and making arrangements for the transfer of property necessarily takes time. An amendment order permits preparatory work such as the citing of witnesses and the transfer of cases to proceed whilst the final details regarding transfer of property are concluded. This approach has been adopted for unification in each of the other sheriffdoms.

Policy Objectives

5. 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 (SCS). The following Sheriffdoms have now unified:

- Lothian & Borders - on 10 March 2008
- Grampian, Highland and Islands – on 2 June 2008
- Glasgow and Strathkelvin – on 8 December 2008
- Tayside, Central and Fife – on 23 February 2009; and
- North Strathclyde – on 14 December 2009.

6. The final phase of unification will take place in the Sheriffdom of South Strathclyde, Dumfries and Galloway when the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Commencement No. 8) Order 2009 brings into force a number of provisions of the 2007 Act on 22 February 2010.

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 SCS, which will provide:

- support to the Judiciary in Sheriff and JP summary criminal courts;
- court services in all summary criminal courts, and management and provision of 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 2 of the Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) Amendment Order 2010

Transfer of property

8. Article 2 amends the principal Order by inserting new article 8 and new Schedule 3 which make provision for the transfer of two properties to the Scottish Ministers. The property to be transferred from North Lanarkshire Council is a building in which the Cumbernauld JP court will sit from 22 February 2010 onwards, and is the building in which Cumbernauld District Court currently sits. The property to be transferred from South Lanarkshire Council is a building in which the Hamilton JP court will sit from 22 February 2010 onwards and is the building in which the Hamilton District Court currently sits.

9. By virtue of article 8(1), all the rights and liabilities of the aforementioned properties also transfer to the Scottish Ministers. Articles 8(2)-(4) contain transitional and savings provisions in relation to the transfer. These are the only properties in the Sheriffdom where transfer under the Order is required.

Consultation

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

10. 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 website³.

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:

The Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) etc. Order 2009

11. Plans for unification of the summary courts under SCS were outlined in the *Next Steps* paper. In November 2008, SCS conducted a consultation exercise in the Sheriffdom of South Strathclyde, Dumfries and Galloway.⁴ Accordingly, the Scottish Ministers consulted with the Sheriff Principal for the Sheriffdom of South Strathclyde, Dumfries and Galloway, Dumfries and Galloway Council, East Ayrshire Council, North Lanarkshire Council, South Ayrshire Council and South Lanarkshire 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.

Gerard Bonnar
Criminal Procedure Division
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<http://www.scotland.gov.uk/Topics/Justice/criminal/criminalprocedure/19008>

⁴ The Scottish Court Service consultation paper *Delivering a Unified Courts Administration in South Strathclyde Dumfries and Galloway*, and the report on responses to that consultation are available at:

http://www.scotcourts.gov.uk/court_unification/publications.asp