

**2013 No. 153**

**JUSTICE OF THE PEACE COURTS**

**The Justice of the Peace Courts (Scotland) Amendment Order  
2013**

<i>Made</i> - - - -	<i>16th May 2013</i>
<i>Laid before the Scottish Parliament</i>	<i>20th May 2013</i>
<i>Coming into force</i> - -	<i>29th June 2013</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 59(6) and 81(2) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007(a) and all other powers enabling them to do so.

In accordance with section 59(4)(b) of that Act, the Lord President of the Court of Session has determined that a JP court is not necessary in the sheriff court districts of Portree, Stornoway and Wick.

In accordance with section 59(7)(c) of that Act, the Lord President of the Court of Session and the Scottish Court Service have given consent to the making of this Order.

In accordance with section 59(7A)(a) of that Act, the Lord President of the Court of Session consulted the relevant Sheriffs Principal before giving his consent.

In accordance with section 59(7A)(b) of that Act the Scottish Court Service consulted such persons as it considered appropriate before giving its consent.

**Citation and commencement**

1. This Order may be cited as the Justice of the Peace Courts (Scotland) Amendment Order 2013 and comes into force on 29th June 2013.

**Disestablishment of JP courts**

2. The JP courts in the locations listed in column 1 of the Schedule to this Order, which are established by reference to the sheriff court districts specified in column 2 of that Schedule, are disestablished on the dates specified in column 3 of that Schedule.

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(a) 2007 asp 6; (the “2007 Act”), section 81(2) was amended by the Judiciary and Courts (Scotland) Act 2008 (asp 6), (the “2008 Act”), schedule 5, paragraph 5.  
(b) Section 59(4) was amended by the 2008 Act, section 57(2).  
(c) Subsections (7) and (7A) of section 59 were substituted for subsection (7) of section 59 by the 2008 Act, section 57(2).

## **Amendment of the Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008 and application of transitional provisions**

**3.**—(1) The Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008<sup>(a)</sup> is amended in accordance with articles 4 to 9 on the relevant appointed dates specified in those articles.

(2) Paragraph (2) of each of those articles defines relevant terms with regard to the application of articles 24 and 25 (transitional provisions) to the relevant court.

### **JP court at Dingwall**

**4.**—(1) In Schedule 1 omit “Dingwall” where it each occurs.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 31st January 2015;
- (b) “the closing court” means the JP court at Dingwall; and
- (c) “the receiving court” means the JP court at Inverness.

### **JP court at Dornoch**

**5.**—(1) In Schedule 1 omit “Dornoch” where it each occurs.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 30th November 2013;
- (b) “the closing court” means the JP court at Dornoch; and
- (c) “the receiving court” means the JP court at Tain.

### **JP court at Portree**

**6.**—(1) In Schedule 1 omit “Portree” where it each occurs.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 30th November 2013;
- (b) “the closing court” means the JP court at Portree; and
- (c) “the receiving court” means the sheriff court held at Portree.

### **JP court at Stonehaven**

**7.**—(1) In Schedule 1 omit “Stonehaven” where it each occurs.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 31st May 2014;
- (b) “the closing court” means the JP court at Stonehaven; and
- (c) “the receiving court” means the JP court at Aberdeen.

### **JP court at Stornoway**

**8.**—(1) In Schedule 1 omit “Stornoway” where it each occurs.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 30th November 2013;
- (b) “the closing court” means the JP court at Stornoway; and
- (c) “the receiving court” means the sheriff court held at Stornoway.

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(a) S.S.I. 2008/93, amended by S.S.I. 2008/179.

### **JP court at Wick**

- 9.—(1) In Schedule 1 omit “Wick” where it each occurs.
- (2) In the application of articles 24 and 25 of this Order—
- (a) “the appointed date” means 30th November 2013;
  - (b) “the closing court” means the JP court at Wick; and
  - (c) “the receiving court” means the sheriff court held at Wick.

### **Amendment of the Justice of the Peace Courts (Sheriffdom of Lothian and Borders) etc. Order 2008 and application of transitional provisions**

10.—(1) The Justice of the Peace Courts (Sheriffdom of Lothian and Borders) etc. Order 2008(a) is amended in accordance with articles 11 to 13 on the relevant appointed dates specified in those articles.

(2) Paragraph (2) of each of those articles defines relevant terms with regard to the application of articles 24 and 25 (transitional provisions) to the relevant court.

### **JP court at Duns**

- 11.—(1) In Schedule 1 omit “Duns” where it each occurs.
- (2) In the application of articles 24 and 25 of this Order—
- (a) “the appointed date” means 31st January 2015;
  - (b) “the closing court” means the JP court at Duns; and
  - (c) “the receiving court” means the JP court at Jedburgh.

### **JP court at Haddington**

- 12.—(1) In Schedule 1 omit “Haddington” where it each occurs.
- (2) In the application of articles 24 and 25 of this Order—
- (a) “the appointed date” means 31st January 2015;
  - (b) “the closing court” means the JP court at Haddington; and
  - (c) “the receiving court” means the JP court at Edinburgh.

### **JP court at Peebles**

- 13.—(1) In Schedule 1 omit “Peebles” where it each occurs.
- (2) In the application of articles 24 and 25 of this Order—
- (a) “the appointed date” means 31st January 2015;
  - (b) “the closing court” means the JP court at Peebles; and
  - (c) “the receiving court” means the JP court at Selkirk.

### **Amendment of the Justice of the Peace Courts (Sheriffdom of Tayside, Central and Fife) Order 2008 and application of transitional provisions**

14.—(1) The Justice of the Peace Courts (Sheriffdom of Tayside, Central and Fife) Order 2008(b) is amended in accordance with articles 15 and 16 on the relevant appointed dates specified in those articles.

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(a) S.S.I. 2008/31.

(b) S.S.I. 2008/363, amended by S.S.I. 2009/20.

(2) Paragraph (2) of each of those articles defines relevant terms with regard to the application of articles 24 and 25 (transitional provisions) to the relevant court.

#### **JP court at Arbroath**

**15.**—(1) In Schedule 1 omit “Arbroath” where it each occurs.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 31st May 2014;
- (b) “the closing court” means the JP court at Arbroath; and
- (c) “the receiving court” means the JP court at Forfar.

#### **JP court at Cupar**

**16.**—(1) In Schedule 1 omit “Cupar” where it each occurs.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 31st May 2014;
- (b) “the closing court” means the JP court at Cupar; and
- (c) “the receiving court” means the JP court at Dundee.

#### **Amendment of the Justice of the Peace Courts (Sheriffdom of North Strathclyde) etc. Order 2009 and application of transitional provisions**

**17.**—(1) The Justice of the Peace Courts (Sheriffdom of North Strathclyde) etc. Order 2009(a) is amended in accordance with article 18 on the appointed date specified in that article.

(2) Paragraph (2) of that article defines relevant terms with regard to the application of articles 24 and 25 (transitional provisions) to the relevant court.

#### **JP court at Irvine**

**18.**—(1) In Schedule 1 omit—

- (a) “Kilmarnock” where it second occurs in column 1; and
- (b) “Irvine”.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 30th November 2013;
- (b) “the closing court” means the JP court at Irvine; and
- (c) “the receiving court” means the JP court at Kilmarnock.

#### **Amendment of the Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) etc. Order 2009 and application of transitional provisions**

**19.**—(1) The Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) etc. Order 2009(b) is amended in accordance with articles 20 to 23 on the relevant appointed dates specified in those articles.

(2) Paragraph (2) of each of those articles defines relevant terms with regard to the application of articles 24 and 25 (transitional provisions) to the relevant court.

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(a) S.S.I. 2009/331, amended by S.S.I. 2009/409.

(b) S.S.I. 2009/332, amended by S.S.I. 2010/15.

### **JP court at Annan**

20.—(1) In Schedule 1 omit—

- (a) “Dumfries” where it first occurs in column 1; and
- (b) “Annan”.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 30th November 2013;
- (b) “the closing court” means the JP court at Annan; and
- (c) “the receiving court” means the JP court at Dumfries.

### **JP court at Cumbernauld**

21.—(1) In Schedule 1 omit—

- (a) “Airdrie” where it second occurs in column 1; and
- (b) “Cumbernauld”.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 30th November 2013;
- (b) “the closing court” means the JP court at Cumbernauld; and
- (c) “the receiving court” means the JP court at Coatbridge.

### **JP court at Kirkcudbright**

22.—(1) In Schedule 1 omit “Kirkcudbright” where it each occurs.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 30th November 2013;
- (b) “the closing court” means the JP court at Kirkcudbright; and
- (c) “the receiving court” means the JP court at Dumfries.

### **JP court at Motherwell**

23.—(1) In Schedule 1 omit—

- (a) “Hamilton” where it second occurs in column 1; and
- (b) “Motherwell”.

(2) In the application of articles 24 and 25 of this Order—

- (a) “the appointed date” means 30th November 2013;
- (b) “the closing court” means the JP court at Motherwell; and
- (c) “the receiving court” means the JP court at Hamilton.

### **Transitional provisions**

24.—(1) Anything which prior to the appointed date would be dealt with by reference to the closing court may—

- (a) in respect of any period on or after the appointed date; and
- (b) in the interests of ensuring continuity on or after the appointed date,

be dealt with prior to the appointed date, by reference to the receiving court.

(2) Without prejudice to the generality and conditions of paragraph (1), any function may be exercised in terms of that paragraph by reference to the receiving court, or as the case may be, the sheriff court district in which the receiving court is, or is to be located, despite the fact that the

closing court has not yet been closed, or as the case may be, the sheriff court district in which the closing court is located has not yet been abolished<sup>(a)</sup>.

(3) For the purposes of this article and without prejudice to the generality of paragraphs (1) and (2) “function” includes—

- (a) the fixing, adjournment, postponement, discharge, continuation, or deferral of any sentence, diet, calling, sitting, hearing or other court process and the extending of any period;
- (b) the citation of any witness or accused person;
- (c) ordering the production of documents;
- (d) the administration and management of any case, proceedings or matter.

(4) The operation of this article does not—

- (a) affect the competence of any person to continue to exercise any function by reference to the closing court or the sheriff court district in which the closing court is located until the appointed date;
- (b) prevent, where it would be otherwise competent to do so, the overturning or variation of any action taken under this article prior to the appointed date;
- (c) permit anything to be done in the receiving court which would not have been permitted in the closing court had the closing court continued to operate on or after the appointed date;
- (d) affect any power any person has apart from this article, to provide for the receiving court to deal with any matter prior to the appointed date;
- (e) limit the operation of article 25.

**25.—**(1) With effect from the appointed date—

- (a) anything done in the closing court under article 24 has effect as if done in or in relation to the receiving court;
- (b) any cases, proceedings or matters instituted in the closing court, but which have not yet been completed, are to continue in the receiving court as if instituted there;
- (c) ongoing cases, proceedings or matters at the closing court are to be heard and disposed of at the receiving court as if the receiving court always had jurisdiction for such cases, proceedings or matters;
- (d) any—
  - (i) verdict, sentence (deferred or otherwise), order or other determination (interim or otherwise);
  - (ii) document, (including any complaint, citation, warrant or notice);

which makes reference (in whatever terms) to the closing court, the judge of the closing court, the clerk of the closing court or the sheriff court district where the closing court is situated has effect as though that reference is a reference to the receiving court, the judge of the receiving court, the clerk of the receiving court or where different, the sheriff court district where the receiving court is situated (whichever is applicable);

- (e) any sentence, order, fine, penalty, conditional offer, compensation offer or other alternative to prosecution that was enforceable in the sheriff court district where the closing court is situated is to continue to be enforceable in the sheriff court district where the receiving court is situated;
- (f) all documents held by the closing court are to be treated as held by the receiving court.

(2) The operation of this article does not affect the power or jurisdiction of the receiving court, apart from this article, to deal with any matter prior to, or with effect from, the appointed date.

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<sup>(a)</sup> Certain sheriff court districts are abolished on the appointed dates by S.S.I. 2013/152.

(3) Despite the operation of this article, any document which makes reference to the closing court, may be treated as referring to the closing court, where—

- (a) it is in the interests of justice; or
- (b) the context otherwise requires.

(4) In this article—

“1988 Act” means the Road Traffic Offenders Act 1988(a);

“clerk” means, as the context requires—

- (a) the clerk of a JP court in terms of section 63(3) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007(b);
- (b) the sheriff clerk;

“conditional offer” means, as the case may be, a conditional offer within the meaning of—

- (a) section 302(c) (fixed penalty: conditional offer by procurator fiscal) of the 1995 Act; or
- (b) section 75(5) (issue of conditional offer) of the 1988 Act;

“compensation offer” means a compensation offer within the meaning of section 302A(d) (compensation offer) of the 1995 Act;

“fixed penalty” means, as the case may be, a fixed penalty within the meaning of Part III (fixed penalties) of the 1988 Act, or Part 11 (fixed penalties) of the Antisocial Behaviour etc. (Scotland) Act 2004(e);

“judge” means, as the context requires—

- (a) a JP;
- (b) a sheriff or sheriff principal;

“order” includes an order for payment (including pecuniary forfeiture or compensation), imprisonment in default of payment of any sum of money or contempt of court;

“penalty” includes a fixed penalty;

“sheriff” includes a part-time sheriff and an honorary sheriff;

“sheriff clerk” includes sheriff clerk depute;

“sheriff principal” includes a temporary sheriff principal.

*KENNY MACASKILL*

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
16th May 2013

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(a) 1988 c.53; to which there are amendments not relevant to this Order.  
(b) There are amendments to section 63 not relevant to this Order.  
(c) There are amendments to section 302 not relevant to this Order.  
(d) Section 302A was added by the 2007 Act, section 50(2), there are amendments to section 302A which are not relevant to this Order.  
(e) 2004 asp 8.

## SCHEDULE

Article 2

<i>Column 1</i> <i>Location of JP court</i>	<i>Column 2</i> <i>Sheriff court district</i>	<i>Column 3</i> <i>Date of disestablishment</i>
Dingwall	Dingwall	31st January 2015
Dornoch	Dornoch	30th November 2013
Portree	Portree	30th November 2013
Stonehaven	Stonehaven	31st May 2014
Stornoway	Stornoway	30th November 2013
Wick	Wick	30th November 2013
Duns	Duns	31st January 2015
Haddington	Haddington	31st January 2015
Peebles	Peebles	31st January 2015
Arbroath	Arbroath	31st May 2014
Cupar	Cupar	31st May 2014
Irvine	Kilmarnock	30th November 2013
Annan	Dumfries	30th November 2013
Cumbernauld	Airdrie	30th November 2013
Kirkcudbright	Kirkcudbright	30th November 2013
Motherwell	Hamilton	30th November 2013



## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes provision for the disestablishment of certain Justice of the Peace (“JP”) courts.

Article 2 and the Schedule to the Order identify each court being disestablished and specify the date of its disestablishment.

Articles 3 to 9 make amendments to the Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008, in consequence of the disestablishment of certain JP courts in the sheriffdom of Grampian, Highland and Islands, and define relevant terms with regard to the application of transitional provisions to the disestablishment of each court.

Articles 10 to 13 make amendments to the Justice of the Peace Courts (Sheriffdom of Lothian and Borders) etc. Order 2008, in consequence of the disestablishment of certain JP courts in the sheriffdom of Lothian and Borders, and define relevant terms with regard to the application of transitional provisions to the disestablishment of each court.

Articles 14 to 16 make amendments to the Justice of the Peace Courts (Sheriffdom of Tayside, Central and Fife) Order 2008, in consequence of the disestablishment of certain JP courts in the sheriffdom of Tayside, Central and Fife, and define relevant terms with regard to the application of transitional provisions to the disestablishment of each court.

Articles 17 and 18 make amendments to the Justice of the Peace Courts (Sheriffdom of North Strathclyde) etc. Order 2009, in consequence of the disestablishment of the JP court at Irvine, and define relevant terms with regard to the application of transitional provisions to the disestablishment of that court.

Articles 19 to 23 make amendments to the Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) etc. Order 2009, in consequence of the disestablishment of certain JP courts in the sheriffdom of South Strathclyde, Dumfries and Galloway and define relevant terms with regard to the application of transitional provisions to the disestablishment of each court.

Articles 24 and 25 make transitional provisions relating to the transfer of court business from the disestablished court to the court to which that business will transfer.

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