

POLICY NOTE

THE JUSTICE OF THE PEACE COURTS (SCOTLAND) AMENDMENT ORDER 2013

SSI 2013/153

Introduction

1. The above instrument was made in exercise of the powers conferred by sections 59(6) and 81(2) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The instrument is subject to negative procedure.

Policy Objectives

2. This Order disestablishes certain justice of the peace (“JP”) courts, closing that court and transferring its business to another court – the receiving court. The table below lists the closing courts, the receiving courts, and the date of each closure and transfer.

Closing JP court	Receiving court	When
Annan	Dumfries JP court	30 th November 2013
Arbroath	Forfar JP court	31 st May 2014
Cumbernauld	Coatbridge JP court	30 th November 2013
Cupar	Dundee JP court	31 st May 2014
Dingwall	Inverness JP court	31 st January 2015
Dornoch	Tain JP court	30 th November 2015
Duns	Jedburgh JP court	31 st January 2015
Haddington	Edinburgh JP court	31 st January 2015
Irvine	Kilmarnock JP court	30 th November 2013
Kirkcudbright	Dumfries JP court	30 th November 2013
Motherwell	Hamilton JP court	30 th November 2013
Peebles	Selkirk JP court	31 st January 2015
Portree	Sheriff court held at Portree	30 th November 2013
Stonehaven	Aberdeen JP court	31 st May 2014
Stornoway	Sheriff court held at Stornoway	30 th November 2013
Wick	Sheriff court held at Wick	30 th November 2013

3. The Order provides in relation to each transfer that the closing court can, prior to its closure, plan for the transfer of business to the receiving court. Further it provides that after the date of closure that all cases are transferred to the receiving court. The Order also makes consequential amendments to the following orders:

- (a) the Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008 (SSI 2008/93);
- (b) the Justice of the Peace Courts (Sheriffdom of Lothian and Borders) etc. Order 2008 (SSI 2008/31);
- (c) the Justice of the Peace Courts (Sheriffdom of Tayside, Central and Fife) Order 2008 (SSI 2008/363);
- (d) the Justice of the Peace Courts (Sheriffdom of North Strathclyde) etc. Order 2009 (SSI 2009/331); and
- (e) the Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) etc. Order 2009 (SSI 2009/332).

Consultation

4. The proposals in this Order take account of recommendations made to Scottish Ministers by the Scottish Court Service (“the SCS”). The SCS carried out a formal three month public consultation, “Shaping Scotland’s Court Services”¹, from 21 September 2012 to December 2012 and provided Ministers with their conclusions and recommendations in April 2013.

5. The Scottish Ministers have decided to accept the SCS’s recommendations: the Order will close courts with substandard or inadequate facilities which require public funds to be diverted to bring them up to modern standards; and, they will enable other savings to be made which will allow for improvements in the remaining court estate.

6. The closures can be grouped into three separate categories.

Closure of justice of the peace courts where there is no co-located sheriff court

The Scottish Government considers that the JP courts in Annan, Irvine and Motherwell should transfer their business to a JP court sitting in the sheriff courthouse for their respective districts and that the JP court at Cumbernauld transfer to the JP court in Coatbridge. There is no permanent presence by the SCS in any of these JP court locations. Moreover, there is no public counter service and the clerk of court and the administrative staff are based in the sheriff court and travel to court on the days when the court is to sit. The facilities at each court are below the standard appropriate for a modern court facility and well below the facilities that are provided in the sheriff courthouse for the district.

7. Further factors influencing this decision are:

- these courts are relatively near (between 4 and 16 miles) to the receiving courts;
- these JP courts are scheduled to sit for three days or fewer each week (Annan sits only once a month); and
- the low volume of business is further reflected in the number of new summary criminal complaints being brought before these courts each year.

¹ The Scottish Court Service’s consultation, analysis and responses are available at: <http://www.scotcourts.gov.uk/about-the-scottish-court-service/consultations>

8. Costs are incurred by the SCS in keeping these courts in service to deal with a low volume of work and, in many cases, in buildings which offer poor facilities and a less than safe environment for court users. Consequently, the Scottish Government has concluded that all the JP court business in these courts should be transferred to courts which have sufficient business capacity to absorb the new business and that these JP courts be disestablished.

Closure of JP courts with low business volume

9. It is considered that the following factors are an appropriate measures of business below which it becomes disproportionate and inefficient to maintain a sheriff court and, given the economies of scale, therefore the co-located JP court.

- The court is scheduled to sit on average 2 days or fewer each week.
- The court's annual caseload is fewer than 200 new criminal cases and 300 new civil cases.

The courts at Dornoch, Duns, Kirkcudbright and Peebles fall below this measure.

10. Having considered the court capacity available in neighbouring sheriff court districts, and taking into account the *Principles for Provision of Access to Justice*², the Scottish Government proposes to close these four courts and transfer the business to the courts stated in the second column of the table in paragraph 2 above.

In addition, the Scottish Government considers that the JP courts at Portree, Stornoway, and Wick should be closed with all summary criminal business heard in the local sheriff court. All three have a very small caseload which is insufficient to justify maintaining a JP court in these areas. In these instances the Lord President has determined that a JP Court is not necessary after having regard to the level of summary business in the sheriffdom.

Closure of JP courts in close proximity to another

11. It is considered that the JP courts at Arbroath, Cupar, Dingwall, Haddington and Stonehaven should be disestablished and the court buildings and accommodation in those places should be closed. They are all in buildings that also house a sheriff court and are within 18 miles of another sheriff court location which also house a JP court. These JP courts have the capacity to take all the JP court business from those recommended to close.

12. In terms of section 59(7) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, the Lord President and the Scottish Court Service have given their consent to the making of this Order. In compliance with section 59(7A)(a) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, the Lord President has consulted with the sheriff principals in the sheriffdoms affected. Further in compliance with section 59(7A)(b) of that Act, the SCS has consulted with persons it considered appropriate.

Impact Assessments

13. An equality impact assessment has been completed on the SSI and is attached.

² These principles were set by the Lord President and the Sheriffs Principal – <http://bit.ly/ZWicXx> (Annex A)

Financial Effects

14. A BRIA has been completed and is attached.

Scottish Government
Justice Directorate
May 2013