

Draft Order laid before Parliament under section 115(1) of, and paragraphs 1, 2 and 3 of Schedule 7 to, the Scotland Act 1998 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No. (S.)

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
ROAD TRAFFIC**

**The Criminal Proceedings etc. (Reform) (Scotland) Act
2007 (Powers of District and JP Courts) Order 2007**

Made - - - - 2007

Coming into force - - 10th December 2007

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(4) and (5) of the Scotland Act 1998(1).

In accordance with section 115(1) of, and paragraphs 1, 2 and 3 of Schedule 7 to, that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Powers of District and JP Courts) Order 2007 and shall come into force on 10th December 2007.

(2) Subject to paragraph (3), this Order extends to England and Wales and Scotland.

(3) The amendments in article 2(2) of this Order extend to Scotland only.

Repeals and amendment

2.—(1) In the Road Traffic Offenders Act 1988(2)—

(a) in section 10 (Jurisdiction of district court in Scotland), subsection (2) is repealed;

(b) after section 34(5) (Disqualification for certain offences) there is inserted—

“(5A) In relation to Scotland, references in this section to the court include the district court.”;

(1) 1998 c. 46.

(2) 1988 c. 53.

- (c) in section 50 (Powers of district court in Scotland), paragraph (b) and the word “or” immediately preceding it are repealed.
- (2) In the Criminal Proceedings etc. (Reform) (Scotland) Act 2007~~(3)~~–
 - (a) in paragraph 7(a) of the schedule, for the words from “10” to “(2)” substitute “10(1) (jurisdiction of district court in relation to fixed penalty offences and offences where conditional offer may be sent)”;
 - (b) in paragraph 7(d) of the schedule, after the word “sections” there is inserted, “34(5A) (disqualification for certain offences)”.

Dover House,
London
2007

Minister of State, Scotland Office, Ministry of
Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision which is expedient in consequence of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”).

The 2007 Act reforms certain aspects of summary criminal procedure and makes changes to the organisation and administration of summary justice in Scotland.

Part 4 of the 2007 Act makes provision for justice of the peace courts (“JP courts”) and JPs. These are new courts of summary criminal jurisdiction, established by the Scottish Ministers by reference to sheriff court districts (section 59). Provision is made for the abolition of district courts (section 64) and for the replacement of statutory references to the district court with references to the JP court (paragraph 33 of the schedule to the 2007 Act). Sections 67 to 77 establish a new statutory regime for the appointment, conditions of office, training, appraisal, reappointment and removal of JPs. Following the commencement of these provisions, all JPs, whether sitting in remaining district courts or in newly established JP courts, will be subject to the new arrangements.

In consequence of the changes that are being made in Part 4 of the 2007 Act, this Order removes existing limitations on the powers of the district court when dealing with road traffic offences. Section 10(2) of the Road Traffic Offenders Act 1988 (“the 1988 Act”) provides that, subject to subsection (1), the district court may not try any offence involving obligatory endorsement. Section 50(b) of the 1988 Act provides that nothing in section 10 empowers a district court to impose disqualification. Both of these provisions are repealed by this Order meaning that district courts (prior to their abolition) and JP courts (following their establishment) will be able to try offences involving obligatory endorsement and impose disqualification from driving.

Article 2(1)(b) of the Order inserts a new section 34(5A) into the 1988 Act which confirms that the district court has the power to impose disqualification from driving under section 34 (disqualification for certain offences) of that Act. This power is in addition to the power of the district court to disqualify under section 35 (disqualification for repeated offences) of the 1988 Act.

Paragraph 7(a) of the schedule to the 2007 Act is amended to remove the reference to section 10(2) of the 1988 Act in view of the fact that section 10(2) is repealed by this Order. Paragraph 7(d) of the schedule is amended to take account of the newly inserted section 34(5A) of the 1988 Act.