



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

2007 asp 6

PART 4

JP COURTS AND JPS

Establishing JP courts etc.

59 Establishing JP courts

- (1) ^{F1}
- (2) The Scottish Ministers may by order establish courts of summary criminal jurisdiction to be known as justice of the peace courts.
- (3) JP courts are to be established by reference to a particular sheriff court district.
- (4) There is to be at least one JP court located in every sheriff court district except where, in relation to a district, the [^{F2}Lord President of the Court of Session determines] that a JP court is not necessary.
- (5) In determining for the purposes of subsection (4) whether a JP court is necessary, the [^{F3}Lord President] must have regard to—
 - (a) the amount of summary criminal court business in the district, and
 - (b) the capacity of—
 - (i) other JP courts in the same sheriffdom,
 - (ii) the sheriff courts in that sheriffdom.
- (6) The Scottish Ministers may by order provide for—
 - (a) the relocation of a JP court,
 - (b) the disestablishment of a JP court.
- ^{F4}(7) The Scottish Ministers may make an order under subsection (2) or (6) only with the consent of—
 - (a) the Lord President, and

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- (b) the Scottish Court Service.
- (7A) Before consenting to the making of such an order—
- (a) the Lord President must consult the sheriff principal for the sheriffdom in which the JP court is, or is to be, located, and
- (b) the Scottish Court Service must consult such persons as it considers appropriate.]
- (8) This section—
- (a) ^{F5}
- (b) does not affect the operation of the sheriff court.
- (9) In this Part—
- a “district court” is a court of that name established under the 1975 Act,
- a “JP court” is a justice of the peace court,
- a “JP” is a justice of the peace.

Textual Amendments

- F1** S. 59(1) repealed (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 57(2)(a), 76; S.S.I. 2010/39, art. 2, Sch.
- F2** Words in s. 59(4) substituted (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 57(2)(b), 76; S.S.I. 2010/39, art. 2, Sch.
- F3** Words in s. 59(5) substituted (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 57(2)(c), 76; S.S.I. 2010/39, art. 2, Sch.
- F4** S. 59(7)(7A) substituted (1.4.2010) for s. 59(7) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 57(2)(d), 76; S.S.I. 2010/39, art. 2, Sch.
- F5** S. 59(8)(a) and following word repealed (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 73, 76, Sch. 5 para. 5(3)(a); S.S.I. 2010/39, art. 2, Sch.

Commencement Information

- I1** S. 59 wholly in force at 22.2.2010; s. 59 not in force at Royal Assent, see s. 84; s. 59 in force for certain purposes at 10.12.2007, 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009, 14.12.2009 and 22.2.2010 otherwise by S.S.I. 2007/479, art. 3, Sch.; S.S.I. 2008/42, art. 3, Sch.; S.S.I. 2008/192, art. 3, Sch.; S.S.I. 2008/329, art. 3, Sch.; S.S.I. 2008/362, art. 3, Sch.; S.S.I. 2009/432, art. 3(1)(2), Sch. 1, Sch. 2

60 Making provision for JP courts

^{F6}

Textual Amendments

- F6** S. 60 repealed (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 73, 76, Sch. 5 para. 5(3)(b); S.S.I. 2010/39, art. 2, Sch.

[^{F7}61 Efficient disposal of business in JP courts

- (1) The sheriff principal of each sheriffdom is responsible for securing the efficient disposal of business in JP courts in that sheriffdom.

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- (2) If, in carrying out that responsibility, the sheriff principal gives a direction of an administrative character to a person mentioned in subsection (3), the person must comply with the direction.
- (3) Those persons are—
 - (a) a justice of the peace, or stipendiary magistrate, appointed for the sheriffdom,
 - (b) a member of staff of the Scottish Court Service.
- (4) Subsections (1) and (2) are subject to section 2(2)(a) and (3) of the Judiciary and Courts (Scotland) Act 2008 (asp 6) (which make the Head of the Scottish Judiciary responsible for maintaining arrangements for securing the efficient disposal of business in the Scottish courts and require compliance with directions given in pursuance of that responsibility).]

Textual Amendments

- F7** S. 61 substituted (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 58(2), 76; S.S.I. 2010/39, art. 2, Sch.

62 Area and territorial jurisdiction of JP courts

- (1) A JP court has territorial jurisdiction in respect of offences committed within—
 - (a) the sheriff court district in which it is located, and
 - (b) any other district in the same sheriffdom.
- (2) Without prejudice to subsection (1)(b), it is competent for proceedings for an offence committed in one district in a sheriffdom to be taken in a JP court in any other district in the sheriffdom.
- (3) Sections 9 and 10 of the 1995 Act include further provision in relation to the territorial jurisdiction of JP courts.
- (4) A JP or stipendiary magistrate may exercise the judicial functions of office at any place within the sheriffdom for which the JP or (as the case may be) magistrate is appointed.
- (5) It is also competent (in the exercise of judicial functions) for a JP or stipendiary magistrate to sign, at any other place in Scotland, any—
 - (a) warrant, judgment or interlocutor, or
 - (b) other document,relating to criminal proceedings within that sheriffdom.
- (6) A JP or stipendiary magistrate may exercise signing functions at any place in Scotland.
- (7) The competence of a JP or stipendiary magistrate under subsections (4) and (5) extends to competence to—
 - (a) exercise the functions mentioned in those subsections for the purposes of any remaining district court for an area wholly or partly within the sheriffdom for which the JP or (as the case may be) stipendiary magistrate is appointed, and
 - (b) do so at any place within the area of that district court.
- (8) Any reference in this Act, the 1995 Act or any other enactment to the area of a JP court means the sheriff court district in which it is located.

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Changes to legislation: There are currently no known outstanding effects for the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, Cross Heading: Establishing JP courts etc.. (See end of Document for details)

Commencement Information

- I2** S. 62 wholly in force at 22.2.2010; s. 62 not in force at Royal Assent, see s. 84; s. 62 partly in force at 10.12.2007, 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009, 14.12.2009 and 22.2.2010 otherwise by S.S.I. 2007/479, art. 3, Sch.; S.S.I. 2008/42, art. 3, Sch.; S.S.I. 2008/192, art. 3, Sch.; S.S.I. 2008/329, art. 3, Sch.; S.S.I. 2008/362, art. 3, Sch.; S.S.I. 2009/432, art. 3(1)(2), Sch. 1, Sch. 2

63 Constitution and powers etc. of JP courts

- (1) A JP court has competence, subject to sections 6 and 7 of the 1995 Act (which include provision as to the constitution and powers of JP courts), as respects summary proceedings for offences.
- (2) The Scottish Ministers may by order amend section 6(2) of the 1995 Act so that it provides that a JP court (when not constituted by a stipendiary magistrate) is to be constituted by one JP only.
- [^{F8}(2A) The Scottish Ministers may make an order under subsection (2) only on the recommendation of the Lord President of the Court of Session.]
- (3) Each JP court is to have a clerk of the court.
- (4) The clerk of a JP court is to be a solicitor or advocate.
- (5) The clerk of a JP court—
 - (a) except on occasions when a stipendiary magistrate presides, is to act as legal adviser to the court, and
 - (b) has such other functions as the [^{F9}Lord President] may confer.
- (6) ^{F10}

Textual Amendments

- F8** S. 63(2A) inserted (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 57(3)(a), 76; S.S.I. 2010/39, art. 2, Sch.
- F9** Words in s. 63(5)(b) substituted (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 57(3)(b), 76; S.S.I. 2010/39, art. 2, Sch.
- F10** S. 63(6) repealed (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), ss. 73, 76, Sch. 5 para. 5(3)(c); S.S.I. 2010/39, art. 2, Sch.

Commencement Information

- I3** S. 63 partly in force; s. 63 not in force at Royal Assent, see s. 84; s. 63(1)(3)-(6) in force at 10.3.2008 by S.S.I. 2008/42, art. 3, Sch.

64 Abolition of district courts

- (1) For the purpose mentioned in subsection (2), the Scottish Ministers may by order—
 - (a) provide for any district court to be disestablished,
 - (b) impose, in relation to the disestablishment, specific requirements on the local authority responsible for the court.

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- (2) The purpose is that, by the end of a period determined by the Scottish Ministers, the district courts (taken as a whole) cease to exist.
- (3) Before making an order under subsection (1), the Scottish Ministers must consult—
 - (a) the sheriff principal for the sheriffdom in which the district court is located, and
 - (b) the local authority responsible for the court.
- (4) The Scottish Ministers may by order repeal any or all of the provisions of the 1975 Act to such extent as they consider to be appropriate for the purposes of or in connection with the provisions of this Part.
- (5) The Scottish Ministers may by order provide for the application for the purpose of the operation of any remaining district courts of any provisions of the 1995 Act, or any other enactment, which refer to JP courts.
- (6) The provisions of—
 - (a) the 1975 Act for the time being in force,
 - (b) the 1995 Act, or any other enactment, so far as applying in relation to any remaining district courts,have effect with or subject to such modifications as the Scottish Ministers may by order make for the purpose of the operation of any remaining district courts.
- (7) Any function of any remaining district court (including as referable to jurisdiction or powers) exercisable by virtue of—
 - (a) a provision of the 1975 Act (including as modified under subsection (6)(a) or as affected by repeal by or under this Act),
 - (b) a provision of the 1995 Act (including as applied under subsection (5), as modified under subsection (6)(b) or as affected by repeal by or under this Act),
 - (c) a provision of any other enactment (including as modified under subsection (6)(b) or as affected by repeal by or under this Act),is subject to such provision as the Scottish Ministers may by order make for the purpose of the operation of any remaining district courts.
- (8) Any function of a local authority under a provision of the 1975 Act for the time being in force (including as modified under subsection (6)(a)) is subject to any requirements imposed under subsection (1)(b).

65 Transfer of staff and property

- (1) An order under section 64(1) may include provision by reference to a scheme made (or to be made) under subsection (2).
- (2) The Scottish Ministers must make a scheme for the transfer to the employment of the Scottish Administration of clerks, assessors and other staff of the district court to which the order applies.
- (3) A scheme under subsection (2) may apply to—
 - (a) all, or any description of, staff,
 - (b) an individual member of staff.

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- (4) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to any transfer of staff by virtue of a scheme made under subsection (2) whether or not they would apply apart from this subsection.
- (5) An order under section 64(1) may include provision for the transfer to, and vesting in, the Scottish Ministers of—
 - (a) property (including rights)—
 - (i) of the local authority responsible for the district court to which the order applies, and
 - (ii) which is used (or exercised) for the time being for or in connection with the operation or administration of that district court,
 - (b) liabilities of that local authority deriving from the operation or administration of that district court.
- (6) Provision—
 - (a) in a scheme under subsection (2),
 - (b) under subsection (5),
 may specify the extent to which the transfer is (or is to be) made.
- (7) Subsection (5) has effect despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property or liabilities to which it relates.
- (8) A certificate issued by the Scottish Ministers that any property or liability has (or has not) been transferred under subsection (5) is conclusive evidence of that matter.

66 Transitional arrangements for proceedings

- (1) Where a district court is disestablished by virtue of section 64(1)—
 - (a) any proceedings which were instituted in the district court, but which have not been completed when it is disestablished, continue in the appointed JP court as if instituted there,
 - (b) the cases involved are to be heard and disposed of as if the appointed JP court always had jurisdiction for the proceedings, and
 - (c) any relevant—
 - (i) verdict, sentence, order or other determination, and
 - (ii) complaint, notice, citation, warrant or other document,
 has effect accordingly.
- (2) For the purposes of subsection (1), the clerk of the district court must transfer to the clerk of the appointed JP court such records, productions and other documents relating to the proceedings as are in the district court clerk's possession.
- (3) Further, the clerk of the district court must transfer to the clerk of the appointed JP court such records, productions and other documents relating to recent proceedings as are in the district court clerk's possession.
- (4) For the purposes of subsection (3), proceedings are recent if they were completed not more than 5 years before the date on which the relevant district court is disestablished.

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- (5) The sheriff principal for the sheriffdom in which a district court is located may determine which is the appointed JP court for the purposes of the application of this section in relation to that district court.
- (6) Before making a determination under subsection (5) which would have the effect of transferring proceedings to another sheriffdom, the sheriff principal must consult the sheriff principal for that other sheriffdom.

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Changes to legislation:

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