
EXPLANATORY NOTE

(This note is not part of the Order)

The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”) received Royal Assent on 22nd February 2007.

Article 3 of this Order brings into force various provisions of the 2007 Act on 2nd June 2008. The provisions coming into force on that date together with the relevant subject matter are listed in the Schedule to the Order.

With the exception of section 51, the provisions commenced by this Order go hand-in-hand with the establishment of JP courts (and the associated disestablishment of district courts) in the Sheriffdom of Grampian, Highland and Islands. The Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008 (S.S.I. 2008/93) makes provision as to the establishment and disestablishment of those courts. Similarly the Justice of the Peace Courts (Sheriffdom of Lothian and Borders) etc. Order 2008 (S.S.I. 2008/31) made provision in relation to the establishment of JP courts in the Sheriffdom of Lothian and Borders on 10th March 2008. Further such Orders will be made in relation to the remaining four sheriffdoms to roll-out the establishment of JP courts across the country.

Section 51 of and paragraph 3(a) and (c) of the schedule to the 2007 Act are commenced to a limited extent. Section 51 creates a new direct measure (formerly referred to as an alternative to prosecution) which allows the procurator fiscal to offer an alleged offender the option of performing a period of unpaid work, known as a “work order”, instead of being prosecuted for an alleged offence. This direct measure can be used where a monetary penalty such as a fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995 (i.e. a “Fiscal fine”) or a compensation offer under new section 302A are not deemed appropriate. The use of work orders will be the subject of pilot projects within the local authority areas of Highland, South Lanarkshire, West Dunbartonshire and West Lothian prior to consideration of its roll-out across the country. Accordingly, it is commenced only for the purpose of making a work order in relation to an alleged offence committed within one of those local authority areas and to the extent that any such work order would fall to be supervised under arrangements made within those areas.

Paragraph 3(a) and (c) of the schedule to the 2007 Act are consequential modifications to the Social Work (Scotland) Act 1968 which stem from the section 51 provisions. The effect of these modifications is to place a duty on a local authority to provide a service for the purpose of supervising and providing advice guidance and assistance to persons in their area who are subject to work orders. The commencement of this provision, and the consequent imposition of this duty is limited to the local authorities mentioned above.