

EXECUTIVE NOTE

THE JUSTICE OF THE PEACE COURTS (SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE) AMENDMENT ORDER 2009 SSI/2009/20

1. The above Order was made in exercise of the powers conferred by sections 64(1), 65(5) and 81(2) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”). The instrument is subject to negative resolution procedure.
2. This Order makes provision for the transfer of property from Dundee City Council and Fife Council to the Scottish Ministers, in the Sheriffdom of Tayside, Central and Fife.
3. This order inserts new article 8 and new Schedule 4 into the Justice of the Peace Courts (Sheriffdom of Tayside, Central and Fife) Order 2008 (S.S.I 2008/363) that was made on 6 November 2008 and made provision in relation to:
 - the establishment of JP courts in Tayside, Central & Fife; and
 - the disestablishment of the district courts in Tayside, Central & Fife;
4. Section 65 of the 2007 Act specifies that an order providing for the disestablishment of a district court may also include provision for the transfer of property from the local authority to the Scottish Ministers. As this transfer of property must be carried out in the same order, amendment of the Justice of the Peace Courts (Sheriffdom of Tayside, Central and Fife) Order 2008 is required.

Policy Objectives

5. The 2007 Act makes provision for the unification of the administration of Scotland’s summary courts to allow for the more efficient, effective and consistent handling of criminal cases through the summary courts. District courts are run by local authorities, and upon unification in each sheriffdom, will be replaced by JP courts run by the Scottish Court Service (SCS). The following Sheriffdoms have now unified:
 - Lothian & Borders - on 10 March 2008
 - Grampian, Highland and Islands – on 2 June 2008; and
 - Glasgow and Strathkelvin – on 8 December 2008.

The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Commencement No. 6) Order 2008 will bring into force a number of provisions of the 2007 Act for this fourth phase of court unification on 23 February 2009 in the Sheriffdom of Tayside, Central and Fife.

6. Court unification is a key element of the Scottish Government's reform of summary justice. It will bring all court services in Scotland under the responsibility of SCS, which will provide:

- support to the Judiciary in Sheriff and JP summary criminal courts;
- court services in all summary criminal courts, and management and provision of legal and administrative staff;
- one national IT system for all summary criminal cases; and
- improved collection and enforcement of all fines and financial penalties.

Article 2 – Amendments to the Justice of the Peace Courts (Sheriffdom of Tayside, Central and Fife) Order 2008

Transfer of property

7. New article 8 and Schedule 4 provide for the transfer of two properties to the Scottish Ministers. The property to be transferred from Dundee City Council is a building in which the Dundee JP court will sit from 23 February onwards, and is the building in which Dundee District Court currently sits. The property to be transferred from Fife Council is a building in which the Kirkcaldy JP court will sit from 23 February and is one of the buildings in which the Fife District Court currently sits.

8. By virtue of article 8(1), all the rights and liabilities of the aforementioned properties also transfer to the Scottish Ministers. Articles 8(2)-(4) contain transitional and savings provisions in relation to the transfer. These are the only properties in the Sheriffdom where transfer under the Order is required.

Consultation

General – The Criminal Proceedings etc. (Reform) (Scotland) Act 2007

12. Many of the provisions of the 2007 Act are based on the recommendations of the 'McInnes Committee' report and subsequent consultation during 2004. The Scottish Executive published *Smarter Justice, Safer Communities – Summary Justice Reform Next Steps*¹ in March 2005 following extensive consultation on the recommendations of the report² of the Committee chaired by Sheriff Principal John McInnes. Details of the history of the Act, including the McInnes report, and the *Smarter Justice* paper are all available through the Scottish Government's summary justice reform website.³

¹ Scottish Executive, *Smarter Justice, Safer Communities: Summary Justice Reform - Next Steps*, available at: <http://www.scotland.gov.uk/Publications/2005/03/20888/55016>

² Scottish Executive, *Report of the Summary Justice Review Committee*, available at: <http://www.scotland.gov.uk/Publications/2004/03/19042/34176>

³ The summary justice reform website can be found at: <http://www.scotland.gov.uk/Topics/Justice/criminal/criminalprocedure/19008>

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9. Plans for unification of the summary courts under SCS were outlined in the *Next Steps* paper. In 2008, SCS conducted a consultation exercise after publishing plans for the establishment of JP Courts, the consequent disestablishment of district courts, and arrangements for the delivery of court-related services in the Sheriffdom of Tayside, Central and Fife.⁴ Accordingly, the Scottish Ministers have consulted with the Sheriff Principal for the Sheriffdom of Tayside, Central and Fife, Dundee City Council and Fife Council under sections 59(7) and 64(3) of the 2007 Act.

Financial Effects

10. The Order is made in accordance with the original policy intention of the relevant provisions of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. It therefore has no financial effects beyond those which were set out in the Financial Memorandum to the Act.

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⁴ The Scottish Court Service consultation paper *Delivering a Unified Courts Administration in Tayside, Central and Sheriffdom*, and the report on responses to that consultation are available at:
http://www.scotcourts.gov.uk/court_unification/publications.asp