

EXECUTIVE NOTE

THE JUSTICE OF THE PEACE COURTS (SHERIFFDOM OF NORTH STRATHCLYDE) ETC. ORDER 2009 SSI/2009/331

1. The above Order was made in exercise of the powers conferred by sections 59(2), 64(1) and (4), 65(1), 81(2) and 82(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”). The instrument is subject to negative resolution procedure.

2. This Order provides for Justice of the Peace Courts (“JP Courts”) in the Sheriffdom of North Strathclyde. Certain transitional provisions in the Order will enter into force on 23 November 2009 while the remainder comes into force on 14 December 2009. The Order makes provision in relation to:

- the establishment of JP courts in North Strathclyde;
- the disestablishment of the district courts which have jurisdiction wholly or partly in the Sheriffdom of North Strathclyde (other than the East Ayrshire District Court);
- the transfer of staff of the district courts to the employment of the Scottish Ministers;
- certain fixed penalties and conditional offers of penalties that will be dealt with by the clerks to the JP courts;
- citation of accused persons and witnesses to the JP courts in North Strathclyde prior to their establishment;
- the fixing of diets in the JP courts prior to their establishment, and applications for the alteration of such diets; and
- the repeal of certain sections of the District Courts (Scotland) Act 1975 (“the 1975 Act”), for the purposes of unification in North Strathclyde.

Policy Objectives

3. The 2007 Act makes provision for the unification of Scotland’s 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). Unification has already taken place in the Sheriffdoms of Lothian & Borders, Grampian, Highland & Islands, Glasgow & Strathkelvin and Tayside, Central & Fife. A further commencement order will bring into force a number of provisions of the 2007 Act for this fifth phase of unification on 14 December 2009.

4. 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 Justice of the Peace summary criminal courts;
- court services in all summary criminal courts, and managing and providing 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 - Establishment of Justice of the Peace Courts

5. Article 2 and Schedule 1 specify the JP Courts that are established in North Strathclyde on 14 December 2009, with reference to the particular sheriff court district and location in which they are established. Nine JP courts are established, these being Campbeltown, Dumbarton, Dunoon, Lochgilphead, Greenock, Kilmarnock, Irvine, Oban and Paisley.

Article 3 – Disestablishment of district courts

6. Article 3 and Schedule 2 provide for the disestablishment of those district courts which fall wholly or partly within the Sheriffdom of North Strathclyde, these being the district courts in the commission areas of Argyll and Bute Council, North Ayrshire Council, East Dunbartonshire Council, West Dunbartonshire Council, Inverclyde Council, Renfrewshire Council and East Renfrewshire Council.

7. There is only one district court established for each of the local authority areas in Scotland. A district court may however sit at different locations within each local authority area. For example, East Ayrshire District Court sits at both Kilmarnock and Cumnock. This Order does not disestablish the district court in the commission area of East Ayrshire (as that would affect sittings at Cumnock), but it does provide for the establishment of a JP Court at Kilmarnock, as that town falls within the Sheriffdom of North Strathclyde. A JP Court will be established at Kilmarnock on the 14 December 2009. The effect of Article 7 of the Order is that, among other things, proceedings in the East Ayrshire District Court sitting at Kilmarnock will continue in the JP court for Kilmarnock as if instituted there.

8. The repeal of section 6(1) of the Criminal Procedure (Scotland) Act 1995 for the Sheriffdom of North Strathclyde means that East Ayrshire Council will not be able to set down sittings of the East Ayrshire district court in the Sheriffdom of North Strathclyde (including Kilmarnock), but will be able to set down sittings in the Sheriffdom of South Strathclyde (including at Cumnock). The effect of this repeal will be that there will no longer be district court sittings in the Sheriffdom of North Strathclyde.

9. Cumnock District Court will continue in operation until unification in South Strathclyde, Dumfries & Galloway.

Article 4 – Transfer of staff

10. Article 4 requires the creation of a scheme that will identify the local authority staff to be transferred to the Scottish Administration. SCS and CoSLA have agreed that those local authority staff whose normal work duties entail 50% or more of their time being engaged on activities associated with the business of the district court will meet the criterion for transfer.

Article 5 – Incidental, consequential and transitional provisions in relation to certain fixed penalties and conditional offers

11. The provisions of Article 5 will allow the clerks to the JP courts to deal with matters relating to certain fixed penalties and conditional offers which were previously dealt with by the clerk to the disestablished district courts.

Article 6 – Transitional provisions relating to fixing of diets and citation in JP courts

12. Section 66 of the 2007 Act makes provision for the transfer of proceedings from district courts to JP courts upon unification. Article 6 (in conjunction with article 7(9) and (10)) makes further provision for the fixing of diets and the citation of accused persons and witnesses to JP courts in North Strathclyde prior to their establishment. This will be particularly useful where the JP court to which proceedings will transfer is in a different location to the current district court.

13. Article 6 (and article 7(9) and (10)) will have effect from 23 November 2009. From that date, district courts in North Strathclyde will be able to fix diets to take place in a JP court from 14 December 2009, and accused persons and witnesses may be cited to those sittings of the JP court although it is not yet established. In addition, transitional provision is made allowing district courts to re-fix diets and deal with applications for the alteration of diets, and fix earlier or later diets to take place in the district court or JP court, respectively.

Article 7 – Transitional arrangements for proceedings at certain sittings of the East Ayrshire District Court

14. Article 7 makes further transitional provision in relation to cases which have been instigated in the District Court of East Ayrshire sitting at Kilmarnock. This provision reflects the fact that there will be no further sittings of the East Ayrshire district court in that location. The effect of the provision is that cases instigated in Kilmarnock District Court will continue in the JP court for Kilmarnock as if they were instituted there.

Article 8 – Partial repeal of the 1975 Act

15. Article 8 repeals certain provisions of the 1975 Act for the Sheriffdom of North Strathclyde on 14 Dec 2009 as a consequence of unification in that area. Many of the 1975 Act provisions relate to local authorities' responsibilities for the maintenance of district courts and as such are superseded by sections 59-66 of the 2007 Act. The provisions of the 1975 Act repealed are sections 1A, 5, 7, 8, 17, 18, 20 and 23, relating respectively to: the establishment and disestablishment of district courts; the appointment of stipendiary magistrates; the appointment of district court clerks; the provision of premises; the payment of JP allowances; the appointment of clerks of the peace; the custody of records; and district court and justice of the peace expenses and destination of fines.

Consultation

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

16. Many of the provisions of the 2007 Act are based on the recommendations of the 'McInnes Committee' and subsequent consultation during 2004. The then 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.

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:

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17. Plans for unification of the summary courts under SCS were outlined in the *Next Steps* paper. In 2009, 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 North Strathclyde.³

18. As a part of this process, the Scottish Ministers have consulted with the Sheriff Principal for the Sheriffdom of North Strathclyde, Argyll and Bute Council, North Ayrshire Council, East Dunbartonshire Council, West Dunbartonshire Council, Inverclyde Council, Renfrewshire Council and East Renfrewshire Council, as required under sections 59(7) and 64(3) of the 2007 Act.

19. The considerations set out in the consultation paper and the responses that it attracted have been carefully considered in preparing this Order.

Financial Effects

20. 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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September 2009

<http://www.scotland.gov.uk/Publications/2004/03/19042/34176>

³ The Scottish Court Service consultation paper *Delivering a Unified Courts Administration in the Sheriffdom of North Strathclyde* is available at:

http://www.scotcourts.gov.uk/current/press_releases/consultation_document_NorthStrathclyde.pdf

The subsequent report on that consultation will be published at:

http://www.scotcourts.gov.uk/court_unification/publications.asp