

CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

INTRODUCTION

Part 4 – Jp Courts and Jps

Appointment of JPs etc.

Section 68: Conditions of office

376. This section sets out the conditions which may be attached to the appointment of justices of the peace.
377. Subsection (1) states that somebody is not to be appointed as a JP unless they ordinarily live in, or within 15 miles of, the sheriffdom to which they are being appointed. This subsection only applies to a JP's first appointment. A JP who moved outside of the sheriffdom during the course of their five year appointment, but who still undertook duties on the bench within the sheriffdom to which they were appointed, would be eligible for reappointment at the end of five years, but could be subject to a recommendation against reappointment made by the sheriff principal in terms of section 70(3)(c).
378. The effect of subsection (1) is slightly different to that of sections 9(3) and 9(4) of the 1975 Act. These provisions of the 1975 Act prevent a JP from holding office, or acting as a JP, unless they live in or within 15 miles of their local authority area. They also allow Scottish Ministers to waive this requirement if they consider it to be in the public interest to do so. The new provisions remove this element of discretion at the time of a JP's appointment.
379. Subsection (2) states that the appointment of JPs shall be made subject to conditions relating to training, appraisal and their availability to meet the business needs of the relevant part of their sheriffdom. The intention is that JPs will need to accept these conditions prior to being appointed. Subsection (3) makes it clear that the sheriff principal will assess the likely court business in their sheriffdom. The sheriff principal's assessment will be referred to when setting conditions on JPs' required availability.
380. Subsections (4) and (5) require the Scottish Ministers to pay allowances to JPs according to a scheme devised by them. These allowances are likely to cover reimbursement for expenses incurred in fulfilling the duties of a JP, and also reimbursement for any loss of earnings as a result of undertaking a JP's duties. Under section 17(6) of the 1975 Act, allowances to JPs are currently paid by local authorities.