

JUDICIARY AND COURTS (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT

Part 3 – the Courts

Justice of the peace courts

Section 57 – Establishment, constitution etc.

108. Section 59 of the 2007 Act provides the Scottish Ministers with a power to establish Justice of the Peace courts (“JP courts”) by order, with reference to particular sheriff court districts. Before making an order establishing JP courts, the Scottish Ministers must consult the sheriff principal for the relevant sheriffdom. Subsection (5) requires the Scottish Ministers, in deciding whether a JP court is necessary, to take account of the amount of summary criminal business and the capacity of other JP or sheriff courts in the sheriffdom. Subsection (6) provides that, where JP courts have been established, the Scottish Ministers may subsequently, by order, provide for the relocation or disestablishment of a JP court. Subsection (7) provides that, before making such an order, the Scottish Ministers must consult the sheriff principal for the relevant sheriffdom. Section 57(2) amends section 59 to make the exercise of this power subject to the consent of the Lord President and the SCS. Before consenting to such an order the Lord President must consult the sheriff principal and the SCS must consult such persons as it considers appropriate. This reflects the Lord President’s responsibility for securing the efficient disposal of business in the Scottish courts in section 2(2)(a) and the SCS’s responsibility for the provision and resourcing of courts in Scotland.
109. Section 63(2) of the 2007 Act provides that the Scottish Ministers may amend section 6(2) of the [Criminal Procedure \(Scotland\) Act 1995 \(c.46\)](#) so that it provides that a JP court (where not constituted by a stipendiary magistrate) is to be constituted by one JP only. Section 57(3) amends section 63 to provide that this power may only be exercised on the recommendation of the Lord President.