
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 93

The Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008.

(2) The provisions of this article and article 5 come into force on 31st March 2008.

(3) All other articles come into force on the relevant date.

(4) In this Order—

“the 1975 Act” means the District Courts (Scotland) Act 1975(1);

“the 1988 Act” means the Road Traffic Offenders Act 1988(2);

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(3);

“the 2004 Act” means the Antisocial Behaviour etc. (Scotland) Act 2004(4);

“the 2007 Act” means the Criminal Proceedings etc. (Reform) (Scotland) Act 2007;

“the appointed JP court” means the JP court which the Sheriff Principal determines is the appointed JP court (under section 66(5) of the 2007 Act) in relation to a relevant district court;

“relevant date” means 2nd June 2008; and

“relevant district court” means a district court disestablished by this Order.

Establishment of Justice of the Peace Courts

2.—(1) Justice of the peace courts are established, on the relevant date, in each of the sheriff court districts listed in column 1 of Schedule 1 to this Order.

(2) Those justice of the peace courts shall take place at the locations specified in column 2 of Schedule 1 to this Order.

Disestablishment of district courts

3. The district courts established for the commission areas listed in Schedule 2 to this Order are disestablished on the relevant date(5).

(1) 1975 c. 20.

(2) 1988 c. 53.

(3) 1995 c. 46.

(4) 2004 asp 8.

(5) District courts were established for commission areas by virtue of section 1(1) of the District Courts (Scotland) Act 1975. “Commission areas” is defined in section 26 of that Act as “the area of a local authority”. “Local authority” is defined as a “council constituted under section 2 of the Local Government etc. (Scotland) Act 1994” (c.39).

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

4.—(1) The clerk of a relevant district court must transfer to the clerk of the appointed JP court such records, productions and other documents relating to any conditional offer or fixed penalty notice.

(2) The clerk of the appointed JP court—

- (a) shall act as the fixed penalty clerk for the purpose of any conditional offer or fixed penalty notice in which the clerk of a relevant district court was the fixed penalty clerk; and
- (b) shall exercise the functions of a fixed penalty clerk in relation to the disposal of any such offer or notice.

(3) Where paragraph (2)(a) applies, anything done by the clerk of the relevant district court, in the capacity of fixed penalty clerk, shall be treated as if done by the clerk of the appointed JP court acting in that capacity.

(4) A notice requesting a hearing, sent to a relevant district court or the clerk of a relevant district court, shall be treated as if sent to the clerk of the appointed JP court.

(5) In this article—

“conditional offer” means, as the case may be, a conditional offer within the meaning of—

- (a) section 302 (fixed penalty: conditional offer by procurator fiscal) of the 1995 Act; or
- (b) section 75(5) (issue of conditional offer) of the 1988 Act;

“fixed penalty clerk” means, as the case may be—

- (a) a fixed penalty clerk within the meaning of section 69(4) of the 1988 Act;
- (b) a fixed penalty clerk within the meaning of section 75(6) of the 1988 Act;
- (c) a clerk of court who has been specified in a conditional offer made under section 302 of the 1995 Act; or
- (d) a clerk of court who has been specified in a fixed penalty notice issued under Part 11 (fixed penalties) of the 2004 Act;

“fixed penalty notice” means, as the case may be, a fixed penalty notice within the meaning of—

- (a) Part 3 (fixed penalties) of the 1988 Act; or
- (b) Part 11 of the 2004 Act; and

“a notice requesting a hearing” has the same meaning as in section 89(2) (interpretation) of the 1988 Act.

Transitional provisions relating to JP courts

5.—(1) Where a case in a relevant district court is—

- (a) adjourned, continued or deferred; and
- (b) a further diet of that case is to be fixed for a date after the relevant date,

the court may fix that diet in the appointed JP court despite the fact that that JP court has not yet been established.

(2) It is competent to cite an accused person or a witness to a diet or an ordinary sitting of a JP court (taking place after the relevant date) prior to that court being established by this Order.

(3) Where, prior to its establishment, a diet is fixed in or an accused person is cited to a diet or an ordinary sitting of the appointed JP court—

- (a) any application—

(i) made under section 134 (incidental applications) or section 137 (alteration of diets) of the 1995 Act in respect of those proceedings; and

(ii) made prior to the establishment of the appointed JP court,
is to be made to the relevant district court; and

(b) the relevant district court may hear and dispose of the application.

(4) Where paragraph (3)(b) applies in relation to an application made by virtue of section 137 of the 1995 Act, the relevant district court may, in accordance with the functions conferred on it by that section, discharge the diet fixed in the appointed JP court, and, either—

(a) fix a new diet to take place prior to the relevant date in the district court; or

(b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed, and to take place after the relevant date, in the appointed JP court.

(5) Where section 137ZA (refixing diets) of the 1995 Act applies in respect of a diet fixed in the appointed JP court prior to its establishment, the relevant district court may discharge that diet and—

(a) fix a new diet to take place prior to the relevant date in the district court; or

(b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed, and to take place after the relevant date, in the appointed JP court.

(6) Nothing in this article affects the operation of section 66 (transitional arrangements for proceedings) of the 2007 Act.

Partial repeal of the 1975 Act

6. The provisions of the 1975 Act listed in column 1 of Schedule 3 to this Order, the subject matter being specified in column 2, to the extent specified cease to have effect in so far as they apply to the Sheriffdom of Grampian, Highland and Islands.

St Andrew's House,
Edinburgh
5th March 2008

KENNY MACASKILL
A member of the Scottish Executive