

2008 No. 192 (C. 19)

CRIMINAL LAW

**The Criminal Proceedings etc. (Reform) (Scotland) Act 2007
(Commencement No. 4) Order 2008**

Made - - - -

20th May 2008

The Scottish Ministers make the following Order in exercise of the powers conferred by section 84(1) and (2) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007(a).

Citation

1. This Order may be cited as the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Commencement No. 4) Order 2008.

Interpretation

2. In this Order—

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

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(b).

Commencement

3.—(1) The provisions of the 2007 Act specified in column 1 of the Schedule to this Order, the subject matter being specified in column 2, come into force on 2nd June 2008.

(2) The coming into force of the provisions listed in the Schedule to this Order are subject to any exceptions or limitations on extent specified in that Schedule.

(3) Where a particular purpose or area is specified in relation to any provision in column 1 of the Schedule to this Order, that provision shall come into force on 2nd June 2008 for that purpose or in that area only.

KENNY MACASKILL

A member of the Scottish Executive

St Andrew's House,
Edinburgh
20th May 2008

(a) 2007 asp 6.
(b) 1995 c.46.

SCHEDULE

Article 3

PROVISIONS COMING INTO FORCE ON 2ND JUNE 2008

<i>Column 1</i> <i>(provisions of the 2007 Act)</i>	<i>Column 2</i> <i>(subject matter)</i>
Section 51, but only for the purpose of making a work order where one or more of the alleged offences in relation to which the work order is to be made was committed in any of the local authority areas of Highland, South Lanarkshire, West Dunbartonshire or West Lothian and in respect of which arrangements have been made by a local authority within those areas for the supervision of any such work order.	Work orders
Section 59(1), (3), (4), (5) and (7), in so far as not already commenced, but only for the Sheriffdom of Grampian, Highland and Islands	Establishing JP courts
Section 62, in so far as not already commenced, but only for the Sheriffdom of Grampian, Highland and Islands	Area and territorial jurisdiction of JP courts
Section 68(4) and (5), but only for the Sheriffdom of Grampian, Highland and Islands	Conditions of Office
Section 74, but only for the Sheriffdom of Grampian, Highland and Islands	Appointment of stipendiary magistrates
Section 75, but only for the Sheriffdom of Grampian, Highland and Islands	Stipendiary magistrates: further provision
Section 77(2), (3) and (5), but only for the Sheriffdom of Grampian, Highland and Islands	Records and validity of appointment etc.
Section 80 for the purpose of bringing into force the following paragraphs of the schedule	Modification of enactments
Schedule, paragraph 3(a) and (c), but only in the local authority areas of Highland, South Lanarkshire, West Dunbartonshire and West Lothian	Modification of the Social Work (Scotland) Act 1968 (a)
Schedule, paragraph 4, but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the Education (Scotland) Act 1980 (b)
Schedule, paragraph 7, but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the Road Traffic Offenders Act 1988 (c)
Schedule, paragraphs 9(1) to (6), but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the 1995 Act
Schedule, paragraph 20(3)(b), but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the 1995 Act
Schedule, paragraph 22, but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the 1995 Act

(a) 1968 c.49.

(b) 1980 c.44.

(c) 1988 c.53. Paragraphs 7(a) and (d) of the Schedule to the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 were amended by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Powers of District and JP Courts) Order 2007 (S.I. 2007/3480) to take account of amendments made to the Road Traffic Offenders Act 1988 by that Order.

<i>Column 1</i> <i>(provisions of the 2007 Act)</i>	<i>Column 2</i> <i>(subject matter)</i>
Schedule, paragraph 25(a) and (d), but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the 1995 Act
Schedule, paragraph 26, but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the 1995 Act
Schedule, paragraph 27, in so far as not already commenced, but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the Bail, Judicial Appointments etc. (Scotland) Act 2000 (a)
Schedule, paragraph 30(a), but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the Criminal Justice (Scotland) Act 2003 (b)
Schedule, paragraph 32(b) and (c), but only for the Sheriffdom of Grampian, Highland and Islands	Modification of the Antisocial Behaviour etc. (Scotland) Act 2004 (c)
Schedule, paragraphs 33(1) and (2), but only for the Sheriffdom of Grampian, Highland and Islands and except for the purposes of any statutory instrument made under the 2007 Act	Enactments generally: references to district court and justices of the peace

(a) 2000 asp 9.
(b) 2003 asp 7.
(c) 2004 asp 8.

EXPLANATORY NOTE

(This note is not part of the Order)

The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”) received Royal Assent on 22nd February 2007.

Article 3 of this Order brings into force various provisions of the 2007 Act on 2nd June 2008. The provisions coming into force on that date together with the relevant subject matter are listed in the Schedule to the Order.

With the exception of section 51, the provisions commenced by this Order go hand-in-hand with the establishment of JP courts (and the associated disestablishment of district courts) in the Sheriffdom of Grampian, Highland and Islands. The Justice of the Peace Courts (Sheriffdom of Grampian, Highland and Islands) Order 2008 (S.S.I. 2008/93) makes provision as to the establishment and disestablishment of those courts. Similarly the Justice of the Peace Courts (Sheriffdom of Lothian and Borders) etc. Order 2008 (S.S.I. 2008/31) made provision in relation to the establishment of JP courts in the Sheriffdom of Lothian and Borders on 10th March 2008. Further such Orders will be made in relation to the remaining four sheriffdoms to roll-out the establishment of JP courts across the country.

Section 51 of and paragraph 3(a) and (c) of the schedule to the 2007 Act are commenced to a limited extent. Section 51 creates a new direct measure (formerly referred to as an alternative to prosecution) which allows the procurator fiscal to offer an alleged offender the option of performing a period of unpaid work, known as a “work order”, instead of being prosecuted for an alleged offence. This direct measure can be used where a monetary penalty such as a fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995 (i.e. a “Fiscal fine”) or a compensation offer under new section 302A are not deemed appropriate. The use of work orders will be the subject of pilot projects within the local authority areas of Highland, South Lanarkshire, West Dunbartonshire and West Lothian prior to consideration of its roll-out across the country. Accordingly, it is commenced only for the purpose of making a work order in relation to an alleged offence committed within one of those local authority areas and to the extent that any such work order would fall to be supervised under arrangements made within those areas.

Paragraph 3(a) and (c) of the schedule to the 2007 Act are consequential modifications to the Social Work (Scotland) Act 1968 which stem from the section 51 provisions. The effect of these modifications is to place a duty on a local authority to provide a service for the purpose of supervising and providing advice guidance and assistance to persons in their area who are subject to work orders. The commencement of this provision, and the consequent imposition of this duty is limited to the local authorities mentioned above.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 2007 Act have been brought into force by commencement orders made before the date of this Order.

<i>Provision</i>	<i>Purpose</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 1 to 6 and 7(2)(c)		10th December 2007	2007/479 (as amended by 2007/527)
Section 7, in so far as not already commenced, except for section 7(2)(g)		10th March 2008	2008/42

<i>Provision</i>	<i>Purpose</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 8 to 10		10th December 2007	2007/479 (as amended by 2007/527)
Section 11		10th March 2008	2008/42
Section 12(1)		10th December 2007	2007/479 (as amended by 2007/527)
Section 12(2)(partially)	To bring section 166B of the 1995 Act into force	10th December 2007	2007/479 (as amended by 2007/527)
Section 12, in so far as not already commenced		10th March 2008	2008/42
Sections 13 to 15		10th December 2007	2007/479 (as amended by 2007/527)
Sections 16 and 17		10th March 2008	2008/42
Sections 18 to 21		10th December 2007	2007/479 (as amended by 2007/527)
Sections 22 and 23		10th March 2008	2008/42
Sections 24 to 27		10th December 2007	2007/479 (as amended by 2007/527)
Section 28		10th March 2008	2008/42
Section 30		10th December 2007	2007/479 (as amended by 2007/527)
Sections 31		10th March 2008	2008/42
Sections 32 to 34		10th December 2007	2007/479 (as amended by 2007/527)
Sections 35 and 36		23rd April 2007	2007/250
Sections 37 to 40		10th December 2007	2007/479 (as amended by 2007/527)
Section 41(1) (partially)	To bring section 303B(6) of the 1995 Act into force	10th December 2007	2007/479 (as amended by 2007/527)
Section 41(2) (partially)	To bring sections 308A(2) to (4) of the 1995 Act into force	10th December 2007	2007/479 (as amended by 2007/527)
Section 43		10th December 2007	2007/479 (as amended by 2007/527)
Section 44(2)		23rd April 2007	2007/250
Sections 44, in so far as not already commenced, 45 and 47 to 48		10th December 2007	2007/479 (as amended by 2007/527)

<i>Provision</i>	<i>Purpose</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 49, 50 and 52 to 54		10th March 2008	2008/42
Section 55, except for the purpose of any relevant penalty which requires to be paid in any district court		10th March 2008	2008/42
Section 56		23rd April 2007	2007/250
Sections 57 and 58		10th December 2007	2007/479 (as amended by 2007/527)
Section 59 (partially)	To enable orders to be made under section 59(2) of the 2007 Act	10th December 2007	2007/479 (as amended by 2007/527)
Section 59(1), (3), (4), (5), (7), in so far as not already commenced, but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Section 59(6), (8) and (9) in so far as not already commenced		10th March 2008	2008/42
Section 60		10th December 2007	2007/479 (as amended by 2007/527)
Section 61		10th March 2008	2008/42
Section 62(4) to (7) (except as they apply to stipendiary magistrates)		10th December 2007	2007/479 (as amended by 2007/527)
Section 62, in so far as not already commenced, but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Section 63 except section 63(2)		10th March 2008	2008/42
Sections 64 to 66		10th December 2007	2007/479 (as amended by 2007/527)
Sections 67(5) and (6)		23rd April 2007	2007/250
Section 67, in so far as not already commenced, 68 (except subsections (4) and (5))		10th December 2007	2007/479 (as amended by 2007/527)
Section 68(4) and (5), but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Section 69		23rd April 2007	2007/250

<i>Provision</i>	<i>Purpose</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 70 to 73		10th December 2007	2007/479 (as amended by 2007/527)
Section 74 and 75, but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Sections 76, 77(1) and (4)		10th December 2007	2007/479 (as amended by 2007/527)
Section 77(2), (3) and (5), but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Section 78 and 79		23rd April 2007	2007/250
Section 80 (partially)	To bring into force certain paragraphs of the schedule to the 2007 Act.	23rd April 2007; 10th December 2007; and 10th March 2008	2007/250; 2007/479 (as amended by 2007/527); and 2008/42
Section 81 to 84		22nd February 2007	On Royal Assent
Schedule, paragraph 1		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraph 2		10th March 2008	2008/42
Schedule, paragraph 4, but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 5		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraph 6		23rd April 2007	2007/250
Schedule, paragraph 7, but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 8		10th March 2008	2008/42
Schedule, paragraph 9(1) to (6), but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 9(7), but only in so far as it applies to justices of the peace		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraphs 10 and 11		10th March 2008	2008/42
Schedule, paragraphs 12 to 15		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraph 16(1)		23rd April 2007	2007/250

<i>Provision</i>	<i>Purpose</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Schedule, paragraph 16(2) to 16(6)		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraphs 17, 18(1) and (4)		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraphs 18(2) and (3), 19		23rd April 2007	2007/250
Schedule, paragraph 20, except for paragraph 20(1)(b)(ii) and 20(3)(b)		10th March 2008	2008/42
Schedule, paragraph 20(1)(b)(ii), except for the purposes of any fines or expenses which require to be paid to the clerk of any district court		10th March 2008	2008/42
Schedule, paragraph 20(3)(b), but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 21		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraph 22, but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 23 and 24		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraph 25(a) and (d), but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 25(b)		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraph 25(c)		10th March 2008	2008/42
Schedule, paragraph 26, but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 27(a)		10th December 2007	2007/479 (as amended by 2007/527)

<i>Provision</i>	<i>Purpose</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Schedule, paragraph 27(c) (partially)	To repeal paragraph 2 of the Bail, Judicial, Appointments etc. (Scotland) Act 2000	10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraph 27, in so far as not already commenced, but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraphs 28 and 29		10th December 2007	2007/479 (as amended by 2007/527)
Schedule, paragraph 30(a), but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 31 and 32(a)		10th March 2008	2008/42
Schedule, paragraph 32(b) and (c), but only for the Sheriffdom of Lothian and Borders		10th March 2008	2008/42
Schedule, paragraph 33(1) and (2), but only for the Sheriffdom of Lothian and Borders and except for the purposes of any statutory instrument made under the 2007 Act		10th March 2008	2008/42
Schedule, paragraph 33(3) and (4)		10th December 2007	2007/479 (as amended by 2007/527)

2008 No. 192 (C. 19)

CRIMINAL LAW

**The Criminal Proceedings etc. (Reform) (Scotland) Act 2007
(Commencement No. 4) Order 2008**

£3.00

© Crown Copyright 2008

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland