
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision which is expedient in consequence of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”).

The 2007 Act reforms certain aspects of summary criminal procedure and makes changes to the organisation and administration of summary justice in Scotland.

Part 4 of the 2007 Act makes provision for justice of the peace courts (“JP courts”) and JPs. These are new courts of summary criminal jurisdiction, established by the Scottish Ministers by reference to sheriff court districts (section 59). Provision is made for the abolition of district courts (section 64) and for the replacement of statutory references to the district court with references to the JP court (paragraph 33 of the schedule to the 2007 Act). Sections 67 to 77 establish a new statutory regime for the appointment, conditions of office, training, appraisal, reappointment and removal of JPs. Following the commencement of these provisions, all JPs, whether sitting in remaining district courts or in newly established JP courts, will be subject to the new arrangements.

In consequence of the changes that are being made in Part 4 of the 2007 Act, this Order removes existing limitations on the powers of the district court when dealing with road traffic offences. Section 10(2) of the Road Traffic Offenders Act 1988 (“the 1988 Act”) provides that, subject to subsection (1), the district court may not try any offence involving obligatory endorsement. Section 50(b) of the 1988 Act provides that nothing in section 10 empowers a district court to impose disqualification. Both of these provisions are repealed by this Order meaning that district courts (prior to their abolition) and JP courts (following their establishment) will be able to try offences involving obligatory endorsement and impose disqualification from driving.

Article 2(1)(b) of the Order inserts a new section 34(5A) into the 1988 Act which confirms that the district court has the power to impose disqualification from driving under section 34 (disqualification for certain offences) of that Act. This power is in addition to the power of the district court to disqualify under section 35 (disqualification for repeated offences) of the 1988 Act.

Paragraph 7(a) of the schedule to the 2007 Act is amended to remove the reference to section 10(2) of the 1988 Act in view of the fact that section 10(2) is repealed by this Order. Paragraph 7(d) of the schedule is amended to take account of the newly inserted section 34(5A) of the 1988 Act.