

2013 No. 152

SHERIFF COURT

The Sheriff Court Districts Amendment Order 2013

Made - - - - *16th May 2013*

Laid before the Scottish Parliament *20th May 2013*

Coming into force - - *29th June 2013*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(2), 3(3) and 43 of the Sheriff Courts (Scotland) Act 1971(a) and all other powers enabling them to do so.

In accordance with section 3(2A)(b) of that Act, the Lord President of the Court of Session and the Scottish Court Service have given consent to the making of this Order.

In accordance with section 3(2B)(c) of that Act, the Scottish Court Service consulted such persons as it considered appropriate before giving its consent.

Citation and commencement

1. This Order may be cited as the Sheriff Court Districts Amendment Order 2013 and comes into force on 29th June 2013.

Abolition of sheriff court districts and closure of sheriff courts

2. On the dates specified in column 1 of the Schedule to this Order, the sheriff court districts listed in column 2 of that Schedule will be abolished and the sheriff courts held at the places listed in column 3 of that Schedule will cease to be held at those places.

Amendment of the Sheriff Court Districts (Alteration of Boundaries) Order 1996 and application of transitional provisions

3.—(1) The Sheriff Court Districts (Alteration of Boundaries) Order 1996(d) is amended in accordance with articles 4 to 13 on the relevant appointed dates specified in those articles.

(2) Paragraph (3) of each of those articles defines relevant terms with regard to the application of articles 14 and 15 (transitional provisions) to the relevant court.

(a) 1971 c 58. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(b) Section 3(2A) was added by the Judiciary and Courts (Scotland) Act 2008 (asp 6), (the “2008 Act”) section 51(2).
(c) Section 3(2B) was added by the 2008 Act, section 51(2).
(d) S.I. 1996/1005, amended by S.I. 1996/2192 and S.S.I. 2009/293.

Arbroath sheriff court district and Arbroath sheriff court

- 4.—(1) In columns 2 and 4 of Schedule 1 omit “Arbroath”.
- (2) In column 3 of Schedule 1—
- (a) omit the entry relating to Arbroath; and
 - (b) in the entry relating to Forfar, for “11-14 and 19-24” substitute “1-26”.
- (3) In the application of articles 14 and 15 of this Order—
- (a) “the appointed date” means 31st May 2014;
 - (b) “the closing court” means the sheriff court held at Arbroath; and
 - (c) “the receiving court” means the sheriff court held at Forfar.

Cupar sheriff court district and Cupar sheriff court

- 5.—(1) In columns 2 and 4 of Schedule 1 omit “Cupar”.
- (2) In column 3 of Schedule 1—
- (a) omit the entry for Cupar; and
 - (b) in the entry relating to Dundee, at the end, insert “and in the area of Fife, wards 75-92”.
- (3) In the application of articles 14 and 15 of this Order—
- (a) “the appointed date” means 31st May 2014;
 - (b) “the closing court” means the sheriff court held at Cupar; and
 - (c) “the receiving court” means the sheriff court held at Dundee.

Dingwall sheriff court district and Dingwall sheriff court

- 6.—(1) In columns 2 and 4 of Schedule 1 omit “Dingwall”.
- (2) In column 3 of Schedule 1—
- (a) omit the entry for Dingwall; and,
 - (b) for the entry relating to Inverness, substitute “In the area of Highland, wards 16, 25, 26 and 29-64; in ward 17, the parish of Lochalsh; and in ward 28, the parish of Kiltearn.”.
- (3) In the application of articles 14 and 15 of this Order—
- (a) “the appointed date” means 31st January 2015;
 - (b) “the closing court” means the sheriff court held at Dingwall; and
 - (c) “the receiving court” means the sheriff court held at Inverness.

Dornoch sheriff court district and Dornoch sheriff court

- 7.—(1) In columns 2 and 4 of Schedule 1 omit “Dornoch”.
- (2) In column 3 of Schedule 1—
- (a) omit the entry for Dornoch; and
 - (b) in the entry relating to Tain, for “22-24” substitute “9-15, 22-24”.
- (3) In the application of articles 14 and 15 of this Order—
- (a) “the appointed date” means 30th November 2013;
 - (b) “the closing court” means the sheriff court held at Dornoch; and
 - (c) “the receiving court” means the sheriff court held at Tain.

Duns sheriff court district and Duns sheriff court

- 8.—(1) In columns 2 and 4 of Schedule 1 omit “Duns”.

- (2) In column 3 of Schedule 1—
 - (a) omit the entry relating to Duns; and
 - (b) in the entry relating to Jedburgh, for “15, 16” substitute “1-10, 15, 16”.
- (3) In the application of articles 14 and 15 of this Order—
 - (a) “the appointed date” means 31st January 2015;
 - (b) “the closing court” means the sheriff court held at Duns; and
 - (c) “the receiving court” means the sheriff court held at Jedburgh.

Haddington sheriff court district and Haddington sheriff court

- 9.—(1) In columns 2 and 4 of Schedule 1 omit “Haddington”.
- (2) In column 3 of Schedule 1—
 - (a) omit the entry relating to Haddington; and
 - (b) in the entry relating to Edinburgh, after “City of Edinburgh” insert “, East Lothian”.
- (3) In the application of articles 14 and 15 of this Order—
 - (a) “the appointed date” means 31st January 2015;
 - (b) “the closing court” means the sheriff court held at Haddington; and
 - (c) “the receiving court” means the sheriff court held at Edinburgh.

Kirkcudbright sheriff court district and Kirkcudbright sheriff court

- 10.—(1) In columns 2 and 4 of Schedule 1 omit “Kirkcudbright”.
- (2) In column 3 of Schedule 1—
 - (a) omit the entry relating to Kirkcudbright; and
 - (b) in the entry relating to Dumfries, for “27-70” substitute “15-70”.
- (3) In the application of articles 14 and 15 of this Order—
 - (a) “the appointed date” means 30th November 2013;
 - (b) “the closing court” means the sheriff court held at Kirkcudbright; and
 - (c) “the receiving court” means the sheriff court held at Dumfries.

Peebles sheriff court district and Peebles sheriff court

- 11.—(1) In columns 2 and 4 of Schedule 1 omit “Peebles”.
- (2) In column 3 of Schedule 1—
 - (a) omit the entry relating to Peebles; and
 - (b) in the entry relating to Selkirk, for “and 17-28” substitute “, 17-28 and 47-58”.
- (3) In the application of articles 14 and 15 of this Order—
 - (a) “the appointed date” means 31st January 2015;
 - (b) “the closing court” means the sheriff court held at Peebles; and
 - (c) “the receiving court” means the sheriff court held at Selkirk.

Rothsay sheriff court district and Rothsay sheriff Court

- 12.—(1) In columns 2 and 4 of Schedule 1 omit “Rothsay”.
- (2) In column 3 of Schedule 1—
 - (a) omit the entry for Rothsay; and

- (b) in the entry relating to Greenock, at the end, insert “and in the area of Argyll and Bute, wards 18-20 and, in ward 21, the Isle of Bute”.
- (3) In the application of articles 14 and 15 of this Order—
 - (a) “the appointed date” means 30th November 2013;
 - (b) “the closing court” means the sheriff court held at Rothesay; and
 - (c) “the receiving court” means the sheriff court held at Greenock.

Stonehaven sheriff court district and Stonehaven sheriff court

- 13.**—(1) In columns 2 and 4 of Schedule 1 omit “Stonehaven”.
- (2) In column 3 of Schedule 1—
- (a) omit the entry for Stonehaven; and
 - (b) in the entry relating to Aberdeen for “19-34” substitute “19-47”.
- (3) In the application of articles 14 and 15 of this Order—
- (a) “the appointed date” means 31st May 2014;
 - (b) “the closing court” means the sheriff court held at Stonehaven; and
 - (c) “the receiving court” means the sheriff court held at Aberdeen.

Transitional provisions

14.—(1) Anything which prior to the appointed date would be dealt with by reference to the closing court may—

- (a) in respect of any period on or after the appointed date; and
- (b) in the interests of ensuring continuity on or after the appointed date,

be dealt with prior to the appointed date, by reference to the receiving court.

(2) Without prejudice to the generality and conditions of paragraph (1), any function may be exercised in terms of that paragraph by reference to the receiving court, or as the case may be, the sheriff court district of the receiving court despite the fact that the closing court has not yet been closed, or the sheriff court district of the closing court has not yet been abolished.

(3) For the purposes of this article and without prejudice to the generality of paragraphs (1) and (2) “function” includes—

- (a) the fixing, adjournment, postponement, discharge, continuation, or deferral of any sentence, diet, calling, sitting, hearing or other court process and the extending of any period;
- (b) the citation of any witness or accused person;
- (c) ordering the production of documents;
- (d) the summoning of jurors;
- (e) the administration and management of any case, proceedings or matter.

(4) The operation of this article does not—

- (a) affect the competence of any person to continue to exercise any function by reference to the closing court or the sheriff court district of the closing court until the appointed date;
- (b) prevent, where it would be otherwise competent to do so, the overturning or variation of any action taken under this article prior to the appointed date;
- (c) permit anything to be done in the receiving court which would not have been permitted in the closing court had the closing court continued to operate on or after the appointed date;
- (d) affect any power any person has apart from this article, to provide for the receiving court to deal with any matter prior to the appointed date;
- (e) limit the operation of article 15.

15.—(1) With effect from the appointed date—

- (a) anything done in the closing court under article 14 has effect as if done in or in relation to the receiving court;
- (b) any cases, proceedings or matters instituted in the closing court, but which have not yet been completed, are to continue in the receiving court as if instituted there;
- (c) ongoing cases, proceedings or matters at the closing court are to be heard and disposed of at the receiving court as if the receiving court always had jurisdiction for such cases, proceedings or matters;
- (d) any—
 - (i) verdict, sentence (deferred or otherwise), order or other determination (interim or otherwise);
 - (ii) document, (including any indictment, complaint, petition, writ, notice, citation, warrant, interlocutor or extract),

which makes reference (in whatever terms) to the closing court, a sheriff or sheriff principal of the closing court, the sheriff clerk of the closing court or the sheriff court district where the closing court is situated has effect as though that reference is a reference to the receiving court, a sheriff or sheriff principal of the receiving court, the sheriff clerk of the receiving court or the sheriff court district where the receiving court is situated (whichever is applicable);

- (e) any sentence, order, decree, interlocutor, fine, penalty, conditional offer, compensation offer or other alternative to prosecution that was enforceable in the sheriff court district where the closing court is situated is to continue to be enforceable in the sheriff court district where the receiving court is situated;
- (f) the general jury book maintained in respect of the sheriff court district in which the closing court is situated in terms of section 3 of the Jurors (Scotland) Act 1825(a) is to continue to be maintained in respect of the sheriff court district in which the receiving sheriff court is situated;
- (g) all documents held by the closing court are to be treated as held by the receiving court.

(2) The operation of this article does not affect the power or jurisdiction of the receiving court, apart from this article, to deal with any matter prior to or with effect from the appointed date.

(3) Despite the operation of this article, any document which makes reference to the closing court, may be treated as referring to the closing court, where—

- (a) it is in the interests of justice; or
- (b) the context otherwise requires.

(4) In this article—

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

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

(a) 1825 c.22; section 3 was amended by the Local Government (Scotland) Act 1973 (c.65), Schedule 27, paragraph 4, and was renumbered and relevantly amended by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 4, paragraph 1.

(b) 1988 c.53; to which there are amendments not relevant to this Order.

(c) 1995 c.46; there are amendments to section 302 which are not relevant to this Order. Section 302A was added by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), section 50(2), there are amendments to section 302A which are not relevant to this Order.

“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;

“compensation offer” means a compensation offer within the meaning of section 302A (compensation offer) of the 1995 Act;

“fixed penalty” means, as the case may be, a fixed penalty within the meaning of Part III (fixed penalties) of the 1988 Act, or Part 11 (fixed penalties) of the Antisocial Behaviour etc. (Scotland) Act 2004(a);

“order” includes an order for payment (including pecuniary forfeiture or compensation), imprisonment in default of payment of any sum of money or contempt of court;

“penalty” includes a fixed penalty;

“sheriff clerk” includes sheriff clerk depute.

KENNY MACASKILL

A member of the Scottish Government

St Andrew’s House,
Edinburgh
16th May 2013

(a) 2004 asp 8.

SCHEDULE

Article 2

<i>Column 1</i> <i>Date of abolition of sheriff court district and closure of sheriff court</i>	<i>Column 2</i> <i>Sheriff court district</i>	<i>Column 3</i> <i>Place where sheriff court held</i>
31st May 2014	Arbroath	Arbroath
31st May 2014	Cupar	Cupar
31st January 2015	Dingwall	Dingwall
30th November 2013	Dornoch	Dornoch
31st January 2015	Duns	Duns
31st January 2015	Haddington	Haddington
30th November 2013	Kirkcudbright	Kirkcudbright
31st January 2015	Peebles	Peebles
30th November 2013	Rothesay	Rothesay
31st May 2014	Stonehaven	Stonehaven

EXPLANATORY NOTE

(This note is not part of the Order)

This Order closes certain sheriff courts, by providing that a sheriff court is to cease to be held at a certain place, and abolishes certain sheriff court districts.

Article 2 and the Schedule to the Order close certain sheriff courts and abolish certain sheriff court districts, specifying the date of closure of each court and the abolition of its district.

Articles 3 to 13 make consequential amendments to the Sheriff Court Districts (Alteration of Boundaries) Order 1996 and define relevant terms with regard to the application of transitional provisions to each closure and abolition.

Articles 14 and 15 make transitional provisions relating to the transfer of court business from the closing court and the abolished sheriff court district to the court and district to which that business will transfer.