

MENTAL HEALTH (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE & A SUMMARY OF THE ACT

Part Three – Victims’ Rights

Section 54: Right to information: offender imprisoned

146. Section 16 of the Criminal Justice (Scotland) Act 2003 (the Criminal Justice Act) as amended by the Victims and Witnesses (Scotland) Act 2014, provides that victims of any offence can receive information mainly related to the circumstances in which a prisoner leaves prison. This may be information about: the first time a prisoner is entitled to be considered for temporary release, an escape, transfer to a prison outwith Scotland, release on licence or parole, death of the prisoner or the end of the custodial sentence.
147. The Act amends the Criminal Justice Act to provide for the disclosure of information about mentally disordered offenders (restricted patients) to their victims or their relatives, in certain circumstances. A mentally disordered offender is the term used to describe a person charged with an offence who, upon conviction or acquittal has either been given a mental health disposal by a court authorising compulsory measures of treatment in hospital without limit of time rather than being sentenced to imprisonment, or a prisoner who has been found to be suffering from a mental disorder whilst in prison and who is thereafter transferred into the mental health system.

Amendment of section 16 of the Criminal Justice (Scotland) Act 2003

148. Section 54 of the Act amends section 16 of the Criminal Justice Act to add to the information which a victim can receive under the existing scheme in cases where the offender is in hospital receiving treatment for mental disorder by virtue of a hospital direction or a transfer for treatment direction. In such cases, section 54 of the Act amends section 16 so that victims can receive notification when the offender is unlawfully at large from a hospital, or has been returned to hospital after being unlawfully at large, and when a certificate has been granted, for the first time, allowing unescorted suspension of detention.
149. **Section 54** also extends the order making power in section 16(4) of the Criminal Justice Act by giving the power to the Scottish Ministers to modify section 18A of the Criminal Justice Act by adding, amending, or repealing definitions of terms used in section 16(3).