



Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 8

MENTALLY DISORDERED PERSONS: CRIMINAL PROCEEDINGS

CHAPTER 2

DISPOSALS ON CONVICTION AND ACQUITTAL

Urgent detention of acquitted persons

134 Power of court to detain acquitted persons

After section 60B of the 1995 Act, there shall be inserted—

“60C Acquitted persons: detention for medical examination

- (1) Subject to subsection (7) below, this section applies where a person charged with an offence is acquitted.
- (2) If the court by or before which the person is acquitted is satisfied—
 - (a) on the written or oral evidence of two medical practitioners that the conditions mentioned in subsection (3) below are met in respect of the person; and
 - (b) that it is not practicable to secure the immediate examination of the person by a medical practitioner,the court may, immediately after the person is acquitted, make an order authorising the measures mentioned in subsection (4) below for the purpose of enabling arrangements to be made for a medical practitioner to carry out a medical examination of the person.
- (3) The conditions referred to in subsection (2)(a) above are—

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 134 is up to date with all changes known to be in force on or before 10 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) that the person has a mental disorder;
 - (b) that medical treatment which would be likely to—
 - (i) prevent the mental disorder worsening; or
 - (ii) alleviate any of the symptoms, or effects, of the disorder,
 is available for the person; and
 - (c) that if the person were not provided with such medical treatment there would be a significant risk—
 - (i) to the health, safety or welfare of the person; or
 - (ii) to the safety of any other person.
- (4) The measures referred to in subsection (2) above are—
- (a) the removal of the person to a place of safety by—
 - (i) a constable; or
 - (ii) a person specified by the court; and
 - (b) the detention, subject to subsection (6) below, of the person in that place of safety for a period of 6 hours beginning with the time at which the order under subsection (2) above is made.
- (5) If the person absconds—
- (a) while being removed to a place of safety under subsection (4) above; or
 - (b) from the place of safety,
- a constable or the person specified by the court under paragraph (a) of that subsection may, at any time during the period mentioned in paragraph (b) of that subsection, take the person into custody and remove the person to a place of safety.
- (6) An order under this section ceases to authorise detention of a person if, following the medical examination of the person, a medical practitioner grants—
- (a) an emergency detention certificate under section 36 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13); or
 - (b) a short-term detention certificate under section 44 of that Act.
- (7) This section does not apply—
- (a) in a case where a declaration is made by virtue of section 54(6) of this Act that the person is acquitted on account of the person’s insanity at the time of doing the act or making the omission constituting the offence with which the person was charged; or
 - (b) in a case where the court states under section 55(4) of this Act that the person is so acquitted on the ground of such insanity.
- (8) In this section, “medical treatment” has the same meaning as in section 52D of this Act.

60D Notification of detention under section 60C

- (1) This section applies where a person has been removed to a place of safety under section 60C of this Act.
- (2) The court shall, before the expiry of the period of 14 days beginning with the day on which the order under section 60C(2) of this Act is made, ensure that

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 134 is up to date with all changes known to be in force on or before 10 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

the Mental Welfare Commission is given notice of the matters mentioned in subsection (3) below.

- (3) Those matters are—
- (a) the name and address of the person removed to the place of safety;
 - (b) the date on and time at which the person was so removed;
 - (c) the address of the place of safety;
 - (d) if the person is removed to a police station, the reason why the person was removed there; and
 - (e) any other matter that the Scottish Ministers may, by regulations made by statutory instrument, prescribe.
- (4) The power conferred by subsection (3)(e) above may be exercised so as to make different provision for different cases or descriptions of case or for different purposes.
- (5) A statutory instrument containing regulations under subsection (3)(e) above shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.”.

Commencement Information

- I1** S. 134 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), [art. 2](#), [Sch. 1](#)
- I2** [S. 134](#) in force at 5.10.2005 in so far as not already in force by [S.S.I. 2005/161](#), [art. 3](#) (as substituted (1.7.2005) by [S.S.I. 2005/375](#), [art. 2](#) and as amended (22.9.2005) by [S.S.I. 2005/459](#), [art. 2](#))

Changes to legislation:

Mental Health (Care and Treatment) (Scotland) Act 2003, Section 134 is up to date with all changes known to be in force on or before 10 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)