



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VI

MENTAL DISORDER

Medical evidence

61 Requirements as to medical evidence.

^{F1}(1) Of the medical practitioners whose evidence is taken into account [^{F2}in making a finding under section 54(1)(a) of this Act or under any of the relevant provisions], at least one shall be a practitioner approved for the purposes of section 20 [^{F3}or section 39] of the ^{M1}Mental Health (Scotland) Act 1984 by a Health Board as having special experience in the diagnosis or treatment of mental disorder.

^{F4}(1A) Of the medical practitioners whose evidence is taken into account under section 53(1), 54(1)(c), 58(1)(a)(i) or 59A(3)(a) and (b) of this Act, at least one shall be employed at the hospital which is to be specified in the order or, as the case may be, direction.]

^{F5}(2) Written or oral evidence given for the purposes of [^{F6}any of the relevant provisions] shall include a statement as to whether the person giving the evidence is related to the accused and of any pecuniary interest which that person may have in the admission of the accused to hospital or his reception into guardianship.

^{F1}(3) For the purposes of [^{F7}making a finding under section 54(1)(a) of this Act or of any of the relevant provisions] a report in writing purporting to be signed by a medical practitioner may, subject to the provisions of this section, be received in evidence without proof of the signature or qualifications of the practitioner; but the court may, in any case, require that the practitioner by whom such a report was signed be called to give oral evidence.

(4) Where any such report as aforesaid is tendered in evidence, otherwise than by or on behalf of the accused, then—

- (a) if the accused is represented by counsel or solicitor, a copy of the report shall be given to his counsel or solicitor;

Status: Point in time view as at 27/06/2003.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Medical evidence is up to date with all changes known to be in force on or before 10 April 2024. 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)

- (b) if the accused is not so represented, the substance of the report shall be disclosed to the accused or, where he is a child under 16 years of age, to his parent or guardian if present in court;
- (c) in any case, the accused may require that the practitioner by whom the report was signed be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of the accused,

and where the court is of the opinion that further time is necessary in the interests of the accused for consideration of that report, or the substance of any such report, it shall adjourn the case.

- (5) For the purpose of calling evidence to rebut the evidence contained in any such report as aforesaid, arrangements may be made by or on behalf of an accused person detained in a hospital or, as respects a report for the purposes of the said section 54(1), remanded in custody for his examination by any medical practitioner, and any such examination may be made in private.

[^{F8}(6) In this section the “relevant provisions” means sections 53(1), 54(1)(c), 58(1)(a) and 59A(3)(a) and (b) of this Act.]

Textual Amendments

- F1** S. 61(1)(3): It is provided that for “and 58(1)(a)” there shall be substituted “, 58(1)(a) and 58(1A)(a)” (1.4.2002) by 2000 asp 4, s. 88(2), **Sch. 5 para. 26(4)(a)(c)**; S.S.I. 2001/81, art. 3, **Sch. 2**
- F2** Words in s. 61(1) substituted (1.1.1998) by 1997 c. 48, s. 10(2)(a); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F3** Words in s. 61(1) repealed (1.4.2002) by 2000 asp 4, s. 88(3), **Sch. 6**; S.S.I. 2001/81, art. 3, **Sch. 2**
- F4** S. 61(1A) inserted (1.1.1998) by 1997 c. 48, s. 10(2)(b); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F5** S. 61(2): It is provided that after “section 58(1)(a)” there shall be inserted “or 58(1A)(a)” (1.4.2002) by 2000 asp 4, s. 88(2), **Sch. 5 para. 26(4)(b)**; S.S.I. 2001/81, art. 3, **Sch. 2**
- F6** Words in s. 61(2) substituted (1.1.1998) by 1997 c. 48, s. 10(2)(c); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F7** Words in s. 61(3) substituted (1.1.1998) by 1997 c. 48, s. 10(2)(d); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F8** S. 61(6) added (1.1.1998) by 1997 c. 48, s. 10(2)(e); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)

Marginal Citations

- M1** 1984 c.36.

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