

Status: Point in time view as at 16/08/2013.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Part III is up to date with all changes known to be in force on or before 05 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)

SCHEDULES

SCHEDULE 4

SUPERVISION AND TREATMENT ORDERS

PART III

REVOCATION AND AMENDMENT OF ORDERS

Revocation of order in interests of health or welfare

- 6 Where a supervision and treatment order is in force in respect of any person and, on the application of the supervised person or the supervising officer, it appears to the relevant sheriff court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of the health or welfare of the supervised person that the order should be revoked, the court may revoke the order.

Amendment of order by reason of change of residence

- 7 (1) This paragraph applies where, at any time while a supervision and treatment order is in force in respect of any person, the relevant sheriff court is satisfied that—
- (a) the supervised person proposes to change, or has changed, his residence from the area specified in the order to the area of another local authority;
 - (b) a social worker who is an officer of the other local authority (“the new supervising officer”) is willing to undertake the supervision; and
 - (c) the requirements of the order as respects treatment will continue to be complied with.
- (2) Subject to sub-paragraph (3) below the court may, and on the application of the supervising officer shall, amend the supervision and treatment order by substituting the other area for the area specified in the order and the new supervising officer for the supervising officer specified in the order.
- (3) Where a supervision and treatment order contains requirements which, in the opinion of the court, can be complied with only if the supervised person continues to reside in the area specified in the order, the court shall not amend the order under this paragraph unless it also, in accordance with paragraph 8 below, either—
- (a) cancels those requirements; or
 - (b) substitutes for those requirements other requirements which can be complied with if the supervised person ceases to reside in that area.

Amendment of requirements of order

- 8 (1) Without prejudice to paragraph 7 above, but subject to sub-paragraph (2) below, the relevant sheriff court may, on the application of the supervised person or the supervising officer, by order amend a supervision and treatment order—

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- (a) by cancelling any of the requirements of the order; or
 - (b) by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include if it were the court by which the order was made and were then making it.
- (2) The power of the court under sub-paragraph (1) above shall not include power to amend an order by extending the period specified in it beyond the end of three years from the date of the original order.

Amendment of requirements in pursuance of medical report

- 9 (1) Where the medical practitioner by whom or under whose direction the supervised person is being treated for his mental condition in pursuance of any requirement of a supervision and treatment order—
- (a) is of the opinion mentioned in sub-paragraph (2) below; or
 - (b) is for any reason unwilling to continue to treat or direct the treatment of the supervised person,
- he shall make a report in writing to that effect to the supervising officer and that officer shall apply under paragraph 8 above to the relevant sheriff court for the variation or cancellation of the requirement.
- (2) The opinion referred to in sub-paragraph (1) above is—
- (a) that the treatment of the supervised person should be continued beyond the period specified in the supervision and treatment order;
 - (b) that the supervised person needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of such an order;
 - (c) that the supervised person is not susceptible to treatment; or
 - (d) that the supervised person does not require further treatment.

Supplemental

- 10 (1) On the making under paragraph 6 above of an order revoking a supervision and treatment order, the sheriff clerk shall forthwith give a copy of the revoking order to the supervising officer [^{F1}and to the medical practitioner by whom or under whose supervision the supervised person was treated under the supervision and treatment order].
- (2) On receipt of a copy of the revoking order the supervising officer shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person was required by the order to reside.

Textual Amendments

F1 Words in Sch. 4 para. 10(1) inserted (1.1.1998) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(35)(b)**; S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)

- 11 (1) On the making under paragraph 7 or 8 above of an order amending a supervision and treatment order, the sheriff clerk shall forthwith—
- (a) if the order amends the supervision and treatment order otherwise than by substituting a new area or a new place for the one specified in that order, give a copy of the amending order to the supervising officer [^{F2}and to the medical

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practitioner by whom or under whose supervision the supervised person has been treated under the supervision and treatment order];

- (b) if the order amends the supervision and treatment order in the manner excepted by paragraph (a) above, send to the new relevant sheriff court—
- (i) a copy of the amending order; and
 - (ii) such documents and information relating to the case as he considers likely to be of assistance to that court in exercising its functions in relation to the order;

and in a case falling within paragraph (b) above, the sheriff clerk shall give a copy of the amending order to the supervising officer.

- (2) On receipt of a copy of an amending order the supervising officer shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person is or was required by the order to reside.

Textual Amendments

- F2** Words in Sch. 4 para. 11(1)(a) inserted (1.1.1998) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(35)(c)**; S.I. 1997/2323, **art. 4**, **Sch. 2** (subject to **art. 7**)

- 12 On the making, revocation or amendment of a supervision and treatment order the supervising officer shall give a copy of the order or, as the case may be, of the order revoking or amending it, to the Mental Welfare Commission for Scotland.

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