



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VI

#### MENTAL DISORDER

##### *[<sup>F1</sup>Assessment orders*

#### **[<sup>F1</sup>52G Review of assessment order**

- (1) The responsible medical officer shall, before the expiry of the period of 28 days beginning with the day on which the assessment order is made, submit a report in writing to the court—
  - (a) as to whether the conditions mentioned in section 52D(7) of this Act are met in respect of the person subject to the order; and
  - (b) as to any matters specified by the court under section 52D(2) of this Act.
- (2) The responsible medical officer shall, at the same time as such officer submits the report to the court, send a copy of such report—
  - (a) to the person in respect of whom the report is made;
  - (b) to any solicitor acting for the person;
  - (c) in a case where—
    - (i) the person has been charged with an offence; and
    - (ii) a relevant disposal has not been made in the proceedings in respect of the offence,to the prosecutor; and
  - (d) to the Scottish Ministers.
- (3) Subject to subsection (4) below, the court shall, on receiving a report submitted under subsection (1) above, revoke the assessment order and—
  - (a) subject to subsections (7) and (8) below, make a treatment order; or

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*Status: Point in time view as at 05/10/2005. This version of this provision has been superseded.*

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- (b) commit the person to prison or such other institution to which the person might have been committed had the assessment order not been made or otherwise deal with the person as the court considers appropriate.
- (4) If, on receiving a report submitted under subsection (1) above, the court is satisfied that further time is necessary to assess whether the conditions mentioned in section 52D(7) of this Act are met in respect of the person subject to the assessment order, it may, on one occasion only, make an order extending the assessment order for a period not exceeding 7 days beginning with the day on which the order otherwise would cease to authorise the detention of the person in hospital.
- (5) The court may, under subsection (4) above, extend an assessment order in the absence of the person subject to the order only if—
- (a) the person is represented by counsel or a solicitor;
  - (b) that counsel or solicitor is given an opportunity of being heard; and
  - (c) the court is satisfied that it is—
    - (i) impracticable; or
    - (ii) inappropriate,
 for the person to be brought before it.
- (6) Where the court makes an order under subsection (4) above, it shall, as soon as reasonably practicable after making the order, give notice of the making of the order to—
- (a) the persons mentioned in paragraphs (a) and (b) of subsection (2) above;
  - (b) in a case where—
    - (i) the person has been charged with an offence; and
    - (ii) a relevant disposal has not been made in the proceedings in respect of the offence,
 the prosecutor;
  - (c) the Scottish Ministers; and
  - (d) the person's responsible medical officer.
- (7) The court shall make a treatment order under subsection (3)(a) above only if it would make one under subsections (2) to (10) of section 52M of this Act; and those subsections shall apply for the purposes of subsection (3)(a) above as they apply for the purposes of that section, references in those subsections to the person in respect of whom the application is made being construed as references to the person in respect of whom it is proposed to make a treatment order.
- (8) A treatment order made under subsection (3)(a) above shall, for the purposes of this Act and the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), be treated as if made under section 52M(2) of this Act.
- (9) The responsible medical officer shall, where that officer is satisfied that there has been a change of circumstances since the assessment order was made which justifies the variation of the order, submit a report to the court in writing.
- (10) Where a report is submitted under subsection (9) above, the court shall—
- (a) if satisfied that the person need not be subject to an assessment order, revoke the order and take any action mentioned in subsection (3)(b) above; or
  - (b) if not so satisfied—
    - (i) confirm the order;

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- (ii) vary the order; or
- (iii) revoke the order and take any action mentioned in subsection (3)(b) above.
- (11) Sections 52D, 52F, 52H and 52J of this Act and subsections (1) to (3) above apply to the variation of an order under subsection (10)(b)(ii) above as they apply to an assessment order.
- (12) In this section—
- “court” means the court which made the assessment order;
- “relevant disposal” has the same meaning as in section 52B of this Act; and
- “responsible medical officer” means the person’s responsible medical officer appointed under section 230 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).]

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#### Textual Amendments

- F1** Ss. 52A-52U inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), [ss. 130, 333\(1\)-\(4\)](#); [S.S.I. 2005/161](#), [art. 3](#) (as amended (27.9.2005) by [S.S.I. 2005/465](#), [art. 2](#), [sch. 1 para. 32\(13\)\(a\)\(i\)\(ii\)](#), [sch. 2](#))

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