



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VI

MENTAL DISORDER

[^{F1}Treatment orders

[^{F1}52M Treatment order

- (1) This section applies where an application for a treatment order is made under section 52K(1) or 52L(1) of this Act.
- (2) If the court is satisfied—
 - (a) on the written or oral evidence of two medical practitioners, as to the matters mentioned in subsection (3) below; and
 - (b) that, having regard to the matters mentioned in subsection (4) below, it is appropriate,it may, subject to subsection (5) below, make a treatment order authorising the measures mentioned in subsection (6) below.
- (3) The matters referred to in subsection (2)(a) above are—
 - (a) that the conditions mentioned in subsection (7) of section 52D of this Act are met in relation to the person in respect of whom the application is made;
 - (b) that the hospital proposed by the approved medical practitioner and the medical practitioner is suitable for the purpose of giving medical treatment to the person; and
 - (c) that, if a treatment order were made, such person could be admitted to such hospital before the [^{F2}end of the day following the] 7 days beginning with the day on which the order is made.
- (4) The matters referred to in subsection (2)(b) above are—

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 52M 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) View outstanding changes

- (a) all the circumstances (including the nature of the offence with which the person in respect of whom the application is made is charged or, as the case may be, of which the person was convicted); and
 - (b) any alternative means of dealing with the person.
- (5) The court may make a treatment order only if the person in respect of whom the application is made has not been sentenced.
- (6) The measures are—
- (a) in the case of a person who, when the treatment order is made, has not been admitted to the specified hospital, the removal, before the [^{F3}end of the day following the] 7 days beginning with the day on which the order is made, of the person to the specified hospital by—
 - (i) a constable;
 - (ii) a person employed in, or contracted to provide services in or to, the specified hospital who is authorised by the managers of that hospital to remove persons to hospital for the purposes of this section; or
 - (iii) a specified person;
 - (b) the detention of the person in the specified hospital; and
 - (c) the giving to the person, in accordance with Part 16 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), of medical treatment.
- (7) The court may make a treatment order in the absence of the person in respect of whom the application is made only if—
- (a) the person is represented by counsel or 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.
- (8) A treatment order may include such directions as the court thinks fit for the removal of the person subject to the order to, and detention of the person in, a place of safety pending the person's admission to the specified hospital.
- (9) The court shall, as soon as reasonably practicable after making a treatment order, give notice of the making of the order to—
- (a) the person subject to the order;
 - (b) 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,
 the prosecutor;
 - (d) in a case where the person, immediately before the order was made—
 - (i) was [^{F4}remanded] in custody ; or
 - (ii) was subject to an assessment order and, immediately before that order was made, was [^{F4}remanded] in custody,
 the Scottish Ministers; and
 - (e) the Mental Welfare Commission.

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(10) In this section—

“court” has the same meaning as in section 52B of this Act;

“medical treatment” has the same meaning as in section 52D of this Act; and

“specified” means specified in the treatment order.]

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**)
- F2** Words in s. 52M(3)(c) substituted (30.9.2017) by [Mental Health \(Scotland\) Act 2015](#) (asp 9), **ss. 41(2)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F3** Words in s. 52M(6)(a) substituted (30.9.2017) by [Mental Health \(Scotland\) Act 2015](#) (asp 9), **ss. 41(2)(b)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F4** Word in s. 52M(9)(d)(i)(ii) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015](#) (asp 9), **ss. 38(2)(g)**, 61(2); S.S.I. 2017/197, art. 2, sch.

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 52M(2) modified (temp.) by [2020 c. 7 Sch. 9 para. 13](#)

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. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to [legislation.gov.uk. 1997 c. 48, s. 1](#) repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to [legislation.gov.uk. 1997 c. 48, s. 1](#) repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)