



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VI

#### MENTAL DISORDER

##### *Examination of facts*

#### 55 Examination of facts.

- (1) At an examination of facts ordered under section 54(1)(b) of this Act the court shall, on the basis of the evidence (if any) already given in the trial and such evidence, or further evidence, as may be led by either party, determine whether it is satisfied—
  - (a) beyond reasonable doubt, as respects any charge on the indictment or, as the case may be, the complaint in respect of which the accused was being or was to be tried, that he did the act or made the omission constituting the offence; and
  - (b) on the balance of probabilities, that there are no grounds for acquitting him.
- (2) Where the court is satisfied as mentioned in subsection (1) above, it shall make a finding to that effect.
- (3) Where the court is not so satisfied it shall, subject to subsection (4) below, acquit the person of the charge.
- (4) Where, as respects a person acquitted under subsection (3) above, the court is satisfied as to the matter mentioned in subsection (1)(a) above but it appears to the court that the person was [<sup>F1</sup>not, because of section 51A of this Act, criminally responsible for the conduct] constituting the offence, the court shall state whether the acquittal is [<sup>F2</sup>by reason of the special defence set out in that section] .
- (5) Where it appears to the court that it is not practical or appropriate for the accused to attend an examination of facts the court may, if no objection is taken by or on behalf of the accused, order that the examination of facts shall proceed in his absence.
- (6) Subject to the provisions of this section, section 56 of this Act and any Act of Adjournal the rules of evidence and procedure and the powers of the court shall, in

*Status: Point in time view as at 25/06/2012.*

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Section 55 is up to date with all changes known to be in force on or before 04 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)*

respect of an examination of facts, be as nearly as possible those applicable in respect of a trial.

- (7) For the purposes of the application to an examination of facts of the rules and powers mentioned in subsection (6) above, an examination of facts—
- (a) commences when the indictment or, as the case may be, complaint is called; and
  - (b) concludes when the court—
    - (i) acquits the person under subsection (3) above;
    - (ii) makes an order under subsection (2) of section 57 of this Act; or
    - (iii) decides, under paragraph (e) of that subsection, not to make an order.

#### Textual Amendments

- F1** Words in s. 55(4) substituted (with application in accordance with art. 3 of the commencing S.S.I.) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 7 para. 37\(a\)](#); S.S.I. 2012/160, art. 3, sch.
- F2** Words in s. 55(4) substituted (with application in accordance with art. 3 of the commencing S.S.I.) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 7 para. 37\(b\)](#); S.S.I. 2012/160, art. 3, sch.

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