

MENTAL HEALTH (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE & A SUMMARY OF THE ACT

Part Two – Criminal Cases

Section 40: Periods for assessment orders

Amendment to sections 52D, 52F, 52G and 52H

119. **Section 40(2)(a)** changes the way in which timescales for removal of a person to hospital under an assessment order (AO) are calculated. At present the AO authorises the removal to and detention of a person in a specific hospital for up to 28 days, beginning with the day that the order is issued and ending 28 days after that event. This approach is different from the general rule applicable to the computation of time periods in the criminal court where time periods are calculated from the day the relevant order begins to the end of the day following the expiry of the relevant period. Section 40(2)(a) amends section 52D of the 1995 Act to align the computation of time periods under the parts of the 1995 Act amended by the 2003 Act, to the computation of time periods generally found in criminal procedure. This approach is replicated in the remainder of section 40 for the purposes of computation of time periods with regard to supplementary provision for AOs, review of AOs, and early termination of AOs in sections 52F, 52G and 52H of the 1995 Act respectively.
120. In addition, section 40(4) amends the period of extension for consideration of a case. If the court is satisfied on receipt of an assessment report under 52G(1), that further time is necessary to consider the case, it may on one occasion only make an order extending the AO for 14 days, beginning with the day on which the order would otherwise cease to authorise the detention of the person in hospital and expiring at the end of the 14 days following that day. This is an increase of 7 days from the previous power to extend an AO.