



# Mental Health (Scotland) Act 2015

## 2015 asp 9

### PART 2 **S**

#### CRIMINAL CASES

##### *Making and effect of disposals*

### 38 Making certain orders in remand cases **S**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In each place where they occur as follows, before the words “in custody” there is inserted “remanded”—
  - (a) in section 52B (prosecutor's power to apply for assessment order), in subsection (3)(c),
  - (b) in section 52C (Scottish Ministers' power to apply for assessment order), in subsection (1)(c),
  - (c) in section 52D (assessment order), in subsection (10)(d),
  - (d) in section 52F (assessment order: supplementary), in subsection (1)(a),
  - (e) in section 52K (prosecutor's power to apply for treatment order), in subsection (3)(c),
  - (f) in section 52L (Scottish Ministers' power to apply for treatment order), in subsection (1)(c),
  - (g) in section 52M (treatment order), in subsection (9)(d)(i) and (ii),
  - (h) in section 52P (treatment order: supplementary), in subsection (2)(a) and (b)(ii).

#### Commencement Information

- II** [S. 38](#) in force at 30.6.2017 by [S.S.I. 2017/197](#), art. 2, [sch.](#)

### 39 Detention under compulsion orders **S**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.

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*Changes to legislation: There are currently no known outstanding effects for the Mental Health (Scotland) Act 2015, Cross Heading: Making and effect of disposals. (See end of Document for details)*

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- (2) In section 57 (disposal of case where accused found not criminally responsible or unfit for trial), in subsection (2)—
- (a) in paragraph (a), for the words “authorising the detention of the person in a hospital” there is substituted “ (whether or not authorising the detention of the person in a hospital) ”,
  - (b) for paragraph (b) there is substituted—
    - “(b) subject to subsection (4A) below, make a restriction order in respect of the person (that is, in addition to a compulsion order authorising the detention of the person in a hospital);”.

#### Commencement Information

**I2** S. 39 in force at 30.6.2017 by S.S.I. 2017/197, art. 2, sch.

## 40 Periods for assessment orders **S**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 52D (assessment order)—
- (a) in subsection (6)—
    - (i) in paragraph (a), for the words “expiry of the period of” there is substituted “ end of the day following the ”,
    - (ii) in each of paragraphs (b) and (c), for the words “period of 28 days beginning with the day on which the order is made” there is substituted “ relevant period given by subsection (6A) below ”,
  - (b) after subsection (6) there is inserted—
 

“(6A) For the purpose of subsection (6)(b) and (c) above, the relevant period is the period—

    - (a) beginning with the day on which the order is made,
    - (b) expiring at the end of the 28 days following that day.”.
- (3) In section 52F (assessment order: supplementary), in subsection (1), for the words “expiry of the period of” there is substituted “ end of the day following the ”.
- (4) In section 52G (review of assessment order)—
- (a) in subsection (1), for the words “expiry of the period of” there is substituted “ end of the day following the ”,
  - (b) in subsection (4), for words from “7 days” to the end there is substituted “ the relevant period given by subsection (4A) below ”,
  - (c) after subsection (4) there is inserted—
 

“(4A) For the purpose of subsection (4) above, the relevant period is the period—

    - (a) beginning with the day on which the order would otherwise cease to authorise the detention of the person in hospital,
    - (b) expiring at the end of the 14 days following that day.”.
- (5) In section 52H (early termination of assessment order)—
- (a) in subsection (1)—

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- (i) in paragraph (a), for the words “period of 7 days beginning with the day on which the order is made” there is substituted “ relevant period given by subsection (1A) below ”,
  - (ii) in paragraph (b), for the words “period of 28 days beginning with the day on which the order is made” there is substituted “ relevant period given by subsection (1A) below ”,
- (b) after subsection (1) there is inserted—
- “(1A) For the purpose of subsection (1)(a) and (b) above, the relevant period is the period—
- (a) beginning with the day on which the order is made,
  - (b) expiring—
    - (i) as regards subsection (1)(a) above, at the end of the 7 days following the day mentioned in paragraph (a) of this subsection,
    - (ii) as regards subsection (1)(b) above, at the end of the 28 days following the day mentioned in paragraph (a) of this subsection.”.

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**Commencement Information**

**I3** S. 40 in force at 30.9.2017 by S.S.I. 2017/197, art. 2, sch. (with art. 19)

**41**      **Periods for treatment orders** **S**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 52M (treatment order)—
- (a) in subsection (3)(c), for the words “expiry of the period of” there is substituted “ end of the day following the ”,
  - (b) in subsection (6)(a), for the words “expiry of the period of” there is substituted “ end of the day following the ”.
- (3) In section 52P (treatment order: supplementary), in subsection (1), for the words “expiry of the period of” there is substituted “ end of the day following the ”.
- (4) In section 52R (termination of treatment order)—
- (a) in subsection (1)(a), for the words “period of 7 days beginning with the day on which the order is made” there is substituted “ relevant period given by subsection (1A) below ”,
  - (b) after subsection (1) there is inserted—

“(1A) For the purpose of subsection (1)(a) above, the relevant period is the period—

    - (a) beginning with the day on which the order is made,
    - (b) expiring at the end of the 7 days following that day.”.

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**Commencement Information**

**I4** S. 41 in force at 30.9.2017 by S.S.I. 2017/197, art. 2, sch. (with art. 20)

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*Changes to legislation: There are currently no known outstanding effects for the Mental Health (Scotland) Act 2015, Cross Heading: Making and effect of disposals. (See end of Document for details)*

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## 42 Periods for short-term compulsion **S**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 53 (interim compulsion order)—
- (a) in subsection (3)(c), for the words “expiry of the period of” there is substituted “end of the day following the”,
  - (b) in subsection (8)—
    - (i) in paragraph (a), for the words “expiry of the period of” there is substituted “end of the day following the”,
    - (ii) in paragraph (b), for the words “12 weeks beginning with the day on which the order is made” there is substituted “the relevant period given by subsection (8A) below”,
    - (iii) in paragraph (c), for the words “period of 12 weeks beginning with the day on which the order is made” there is substituted “relevant period given by subsection (8A) below”,
  - (c) after subsection (8) there is inserted—
 

“(8A) For the purpose of subsection (8)(b) and (c) above, the relevant period is the period—

    - (a) beginning with the day on which the order is made,
    - (b) expiring at the end of the 12 weeks following that day.”
- (3) In section 53A (interim compulsion order: supplementary), in subsection (1), for the words “expiry of the period of” there is substituted “end of the day following the”.
- (4) In section 53B (review and extension of interim compulsion order)—
- (a) in subsection (4), for the words from “(not exceeding” to “not made)” there is substituted “not exceeding the relevant period given by subsection (4A) below”,
  - (b) after subsection (4) there is inserted—
 

“(4A) For the purpose of subsection (4) above, the relevant period is the period—

    - (a) beginning with the day on which the order would cease to have effect if it were not extended,
    - (b) expiring at the end of the 12 weeks following that day.”
  - (c) in subsection (5), for the words “12 months beginning with the day on which the order was first made.” there is substituted “the period—
    - (a) beginning with the day on which the order was first made,
    - (b) expiring at the end of the 12 months following that day.”
- (5) In section 54 (unfitness for trial: further provision), in subsection (2B)(a), for the words “expiry of the period of” there is substituted “end of the day following the”.

### Commencement Information

**I5** S. 42 in force at 30.9.2017 by S.S.I. 2017/197, art. 2, sch. (with art. 21)

## 43 Periods for compulsion orders **S**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.

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**Changes to legislation:** There are currently no known outstanding effects for the Mental Health (Scotland) Act 2015, Cross Heading: Making and effect of disposals. (See end of Document for details)

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- (2) In section 57A (compulsion order)—
- (a) in subsection (2), for the words “period of 6 months beginning with the day on which the order is made” there is substituted “ relevant period given by subsection (2A) below ”,
  - (b) after subsection (2) there is inserted—
    - “(2A) For the purpose of subsection (2) above, the relevant period is the period—
      - (a) beginning with the day on which the order is made,
      - (b) expiring at the end of the 6 months following that day.”,
  - (c) in subsection (5)(b), for the words “expiry of the period of” there is substituted “ end of the day following the ”.
- (3) In section 57B (compulsion order authorising detention in hospital or requiring residence at place: ancillary provision), in subsection (1), for the words “expiry of the period of” there is substituted “ end of the day following the ”.
- (4) In section 57D (compulsion order: supplementary), in subsection (1), for the words “expiry of the period of” there is substituted “ end of the day following the ”.

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**Commencement Information**

**I6** S. 43 in force at 30.9.2017 by S.S.I. 2017/197, art. 2, sch. (with art. 22)

**44**      **Periods for hospital directions** **S**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 59A (hospital direction)—
- (a) in subsection (4)(b), for the words “expiry of the period of” there is substituted “ end of the day following the ”,
  - (b) in subsection (7)(a), for the words “expiry of the period of” there is substituted “ end of the day following the ”.
- (3) In section 59C (hospital direction: supplementary), in subsection (1), for the words “expiry of the period of” there is substituted “ end of the day following the ”.

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**Commencement Information**

**I7** S. 44 in force at 30.9.2017 by S.S.I. 2017/197, art. 2, sch. (with art. 23)

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Health (Scotland) Act 2015,  
Cross Heading: Making and effect of disposals.