



# Mental Health (Scotland) Act 2015

## 2015 asp 9

### PART 2

#### CRIMINAL CASES

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

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

- (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).

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

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

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

- (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)—
    - (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.”.

#### **41 Periods for treatment orders**

- (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.”.

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

- (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”.

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

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

#### **44      Periods for hospital directions**

- (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”.