



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PROCEDURE PRIOR TO TRIAL

Procedure at trial of persons suffering from mental disorder

176 Requirements as to medical evidence.

(1) Of the medical practitioners whose evidence is taken into account under [^{F1}sections [^{F2}174(1),]174A(1) and] 175(1)(a) of this Act, at least one shall be a practitioner approved for the purposes of [^{F3}section 20 or section 39 of the ^{M1}Mental Health (Scotland) Act 1984] by a Health Board as having special experience in the diagnosis or treatment of mental disorder.

[^{F4}(1A) Written or oral evidence given for the purposes of the said section 175(1)(a) shall include a statement as to whether the person giving the evidence is related to the accused and of any pecuniary interest which that person may have in the admission of the accused to hospital or his reception into guardianship.]

(2) For the purposes of the said [^{F5}sections 174(1) and]175(1)(a) a report in writing purporting to be signed by a medical practitioner may, subject to the provisions of this section, be received in evidence without proof of the signature or qualifications of the practitioner; but the court may, in any case, require that the practitioner by whom such a report was signed be called to give oral evidence.

(3) Where any such report as aforesaid is tendered in evidence, otherwise than by or on behalf of the accused, then—

- (a) if the accused is represented by counsel or solicitor, a copy of the report shall be given to his counsel or solicitor;
- (b) if the accused is not so represented, the substance of the report shall be disclosed to the accused or, where he is a child under 16 years of age, to his parent or guardian if present in court;
- (c) in any case, the accused may require that the practitioner by whom the report was signed be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of the accused;

Changes to legislation: Criminal Procedure (Scotland) Act 1975, Section 176 is up to date with all changes known to be in force on or before 01 August 2023. 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

and where the court is of opinion that further time is necessary in the interests of the accused for consideration of that report, or the substance of any such report, it shall adjourn the case.

- (4) For the purpose of calling evidence to rebut the evidence contained in any such report as aforesaid, arrangements may be made by or on behalf of an accused person detained in a hospital [^{F6}or, as respects a report for the purposes of section 174(1), remanded in custody] for his examination by any medical practitioner, and any such examination may be made in private.

Textual Amendments

- F1** Word substituted by virtue of Mental Health (Amendment) (Scotland) Act 1983 (c. 39), **Sch. 2 para. 32** and Mental Health (Scotland) Act 1984 (c. 36, SIF 85), **s. 126(2)(b)**
- F2** Words in **s. 176(1)** inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 66(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F3** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), **Sch. 3 para. 27**
- F4** **S. 176(1A)** inserted by virtue of Mental Health (Amendment) (Scotland) Act 1983 (c. 39), s. 127(1), **Sch. 3 para. 27** and Mental Health (Scotland) Act 1984 (c. 36, SIF 85), **s. 126(2)(b)**
- F5** Word in **s. 176(2)** substituted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 66(b)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F6** Words in **s. 176(4)** inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 66(c)**; S.I. 1996/517, arts. 3(a), 4-6, **Sch. 2**

Modifications etc. (not altering text)

- C1** **S. 176** extended by Contempt of Court Act 1981 (c. 49, SIF 39:3), **s. 15(3)**

Marginal Citations

- M1** 1984 c. 36(85).

Changes to legislation:

Criminal Procedure (Scotland) Act 1975, Section 176 is up to date with all changes known to be in force on or before 01 August 2023. 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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act certain function transferred. by [1994 c. 39 s. 127\(1\)128](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 168(c)(ii) amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(6\)\(b\)](#)
- s. 364(c)(ii) amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(14\)\(b\)](#)
- s. 413(3) (defn.of "the appropriate local authority") para. (a)(b) amended by [1994 c. 39 Sch. 13 para. 97\(5\)](#)
- s. 413(3) (defns. of "care" and "the 1968 Act") repealed (prosp.) by [1995 c. 36 s. 105\(4\)\(5\)Sch. 4 para. 24\(17\)\(b\)\(i\)Sch. 5](#)
- s. 462 (defns. of "child" "children's hearing" "place of safety" "residential establishment" and "supervision requirement") amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(18\)](#)
- s. 462 (defns. of "crime" and "prosecutor") applied (prosp.) by [1995 c. 36 s. 53\(7\)](#)