

*Status: Point in time view as at 28/02/2011.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, SCHEDULE 4 is up to date with all changes known to be in force on or before 05 June 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)*

## SCHEDULES

### SCHEDULE 4 **S**

Section 57(5).

#### SUPERVISION AND TREATMENT ORDERS

#### PART I **S**

##### PRELIMINARY

- 1 (1) In this Schedule “supervision and treatment order” means an order requiring the person in respect of whom it is made (“the supervised person”)—
- (a) to be under the supervision of a social worker who is an officer of the local authority for the area where the supervised person resides or is to reside (in this Schedule referred to as “the supervising officer”) for such period, not being more than three years, as is specified in the order;
  - (b) to comply during that period with instructions given to him by the supervising officer regarding his supervision; and
  - (c) to submit during that period to treatment by or under the direction of a medical practitioner with a view to the improvement of his mental condition.
- (2) The Secretary of State may by order amend sub-paragraph (1) above by substituting, for the period for the time being specified in that sub-paragraph, such period as may be specified in the order.
- (3) An order under sub-paragraph (2) above may make any amendment to paragraph 8(2) below which the Secretary of State considers necessary in consequence of the order.
- (4) The power of the Secretary of State to make orders under sub-paragraph (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### PART II **S**

##### MAKING AND EFFECT OF ORDERS

##### *Circumstances in which orders may be made*

- 2 (1) The court shall not make a supervision and treatment order unless it is satisfied—
- (a) that, having regard to all the circumstances of the case, the making of such an order is the most suitable means of dealing with the person; and
  - (b) on the written or oral evidence of two or more [<sup>F1</sup>approved medical practitioners] , that the mental condition of the person—
    - (i) is such as requires and may be susceptible to treatment; but
    - (ii) is not such as to warrant the making of an order under paragraph (a) of subsection (2) of section 57 of this Act (whether with or without

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an order under paragraph (b) of that subsection) or an order under paragraph (c) of that subsection.

- (2) The court shall not make a supervision and treatment order unless it is also satisfied—
- (a) that the supervising officer intended to be specified in the order is willing to undertake the supervision; and
  - (b) that arrangements have been made for the treatment intended to be specified in the order.
- (3) Subsections (3) to (5) of section 61 of this Act shall have effect with respect to proof of a person’s mental condition for the purposes of sub-paragraph (1) above as they have effect with respect to proof of an offender’s mental condition for the purposes of section 58(1)(a) of this Act.
- [<sup>F2</sup>(4) In this Schedule “approved medical practitioner” has the meaning given by section 22(4) of the Mental Health (Care and Treatment)(Scotland) Act 2003 (asp 13).]

#### Textual Amendments

- F1** Words in Sch. 4 para. 2(1)(b) substituted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 2, **Sch. 1 para. 27(6)(a)**
- F2** Sch. 4 para. 2(4) inserted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 2, **Sch. 1 para. 27(6)(b)**

#### *Making of orders and general requirements*

- 3 (1) A supervision and treatment order shall specify the local authority area in which the supervised person resides or will reside.
- (2) Before making such an order, the court shall explain to the supervised person in ordinary language—
- (a) the effect of the order (including any requirements proposed to be included in the order in accordance with paragraph 5 below); and
  - (b) that the sheriff court for the area in which the supervised person resides or will reside (in this Schedule referred to as “the relevant sheriff court”) has power under paragraphs 6 to 8 below to review the order on the application either of the supervised person or of the supervising officer.
- (3) After making such an order, the court shall forthwith give a copy of the order to—
- (a) the supervised person;
  - (b) the supervising officer;
  - [<sup>F3</sup>(b) the medical practitioner by whom or under whose supervision the supervised person is to be treated under the order;] and
  - (c) the person in charge of any institution in which the supervised person is required by the order to reside.
- (4) After making such an order, the court shall also send to the relevant sheriff court—
- (a) a copy of the order; and

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- (b) such documents and information relating to the case as it considers likely to be of assistance to that court in the exercise of its functions in relation to the order.
- (5) Where such an order is made, the supervised person shall comply with such instructions as he may from time to time be given by the supervising officer regarding his supervision and shall keep in touch with that officer and notify him of any change of address.

#### Textual Amendments

- F3** Sch. 4 para. 3(3)(bb) inserted (1.1.1998) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(35)(a)**; S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)

#### *Obligatory requirements as to medical treatment*

- 4 (1) A supervision and treatment order shall include a requirement that the supervised person shall submit, during the period specified in the order, to treatment by or under the direction of a medical practitioner with a view to the improvement of his mental condition.
- (2) The treatment required by the order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
- (a) treatment as a non-resident patient at such institution or place as may be specified in the order; and
  - (b) treatment by or under the direction of such medical practitioner as may be so specified;
- but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a) or (b) above.
- (3) Where the medical practitioner by whom or under whose direction the supervised person is being treated for his mental condition in pursuance of a supervision and treatment order is of the opinion that part of the treatment can be better or more conveniently given at an institution or place which—
- (a) is not specified in the order; and
  - (b) is one at which the treatment of the supervised person will be given by or under the direction of a medical practitioner,
- he may, with the consent of the supervised person, make arrangements for him to be treated accordingly.
- (4) Where any such arrangements as are mentioned in sub-paragraph (3) above are made for the treatment of a supervised person—
- (a) the medical practitioner by whom the arrangements are made shall give notice in writing to the supervising officer, specifying the institution or place at which the treatment is to be carried out; and
  - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the supervision and treatment order.

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### *Optional requirements as to residence*

- 5
- (1) Subject to sub-paragraphs (2) to (4) below, a supervision and treatment order may include requirements as to the residence of the supervised person.
  - (2) Such an order may not require the supervised person to reside as a resident patient in a hospital.
  - (3) Before making such an order containing any such requirement, the court shall consider the home surroundings of the supervised person.
  - (4) Where such an order requires the supervised person to reside in any institution, the period for which he is so required to reside shall be specified in the order.

## PART III S

### REVOCATION AND AMENDMENT OF ORDERS

#### *Revocation of order in interests of health or welfare*

- 6
- Where a supervision and treatment order is in force in respect of any person and, on the application of the supervised person or the supervising officer, it appears to the relevant sheriff court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of the health or welfare of the supervised person that the order should be revoked, the court may revoke the order.

#### *Amendment of order by reason of change of residence*

- 7
- (1) This paragraph applies where, at any time while a supervision and treatment order is in force in respect of any person, the relevant sheriff court is satisfied that—
    - (a) the supervised person proposes to change, or has changed, his residence from the area specified in the order to the area of another local authority;
    - (b) a social worker who is an officer of the other local authority (“the new supervising officer”) is willing to undertake the supervision; and
    - (c) the requirements of the order as respects treatment will continue to be complied with.
  - (2) Subject to sub-paragraph (3) below the court may, and on the application of the supervising officer shall, amend the supervision and treatment order by substituting the other area for the area specified in the order and the new supervising officer for the supervising officer specified in the order.
  - (3) Where a supervision and treatment order contains requirements which, in the opinion of the court, can be complied with only if the supervised person continues to reside in the area specified in the order, the court shall not amend the order under this paragraph unless it also, in accordance with paragraph 8 below, either—
    - (a) cancels those requirements; or
    - (b) substitutes for those requirements other requirements which can be complied with if the supervised person ceases to reside in that area.

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*Amendment of requirements of order*

- 8 (1) Without prejudice to paragraph 7 above, but subject to sub-paragraph (2) below, the relevant sheriff court may, on the application of the supervised person or the supervising officer, by order amend a supervision and treatment order—
- (a) by cancelling any of the requirements of the order; or
  - (b) by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include if it were the court by which the order was made and were then making it.
- (2) The power of the court under sub-paragraph (1) above shall not include power to amend an order by extending the period specified in it beyond the end of three years from the date of the original order.

*Amendment of requirements in pursuance of medical report*

- 9 (1) Where the medical practitioner by whom or under whose direction the supervised person is being treated for his mental condition in pursuance of any requirement of a supervision and treatment order—
- (a) is of the opinion mentioned in sub-paragraph (2) below; or
  - (b) is for any reason unwilling to continue to treat or direct the treatment of the supervised person,
- he shall make a report in writing to that effect to the supervising officer and that officer shall apply under paragraph 8 above to the relevant sheriff court for the variation or cancellation of the requirement.
- (2) The opinion referred to in sub-paragraph (1) above is—
- (a) that the treatment of the supervised person should be continued beyond the period specified in the supervision and treatment order;
  - (b) that the supervised person needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of such an order;
  - (c) that the supervised person is not susceptible to treatment; or
  - (d) that the supervised person does not require further treatment.

*Supplemental*

- 10 (1) On the making under paragraph 6 above of an order revoking a supervision and treatment order, the sheriff clerk shall forthwith give a copy of the revoking order to the supervising officer <sup>F4</sup>and to the medical practitioner by whom or under whose supervision the supervised person was treated under the supervision and treatment order].
- (2) On receipt of a copy of the revoking order the supervising officer shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person was required by the order to reside.

**Textual Amendments**

**F4** Words in Sch. 4 para. 10(1) inserted (1.1.1998) by 1997 c. 48, s. 62(1), Sch. 1 para. 21(35)(b); S.I. 1997/2323, art. 4, Sch. 2 (subject to art. 7)

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- 11 (1) On the making under paragraph 7 or 8 above of an order amending a supervision and treatment order, the sheriff clerk shall forthwith—
- (a) if the order amends the supervision and treatment order otherwise than by substituting a new area or a new place for the one specified in that order, give a copy of the amending order to the supervising officer [<sup>F5</sup>and to the medical practitioner by whom or under whose supervision the supervised person has been treated under the supervision and treatment order];
  - (b) if the order amends the supervision and treatment order in the manner excepted by paragraph (a) above, send to the new relevant sheriff court—
    - (i) a copy of the amending order; and
    - (ii) such documents and information relating to the case as he considers likely to be of assistance to that court in exercising its functions in relation to the order;
 and in a case falling within paragraph (b) above, the sheriff clerk shall give a copy of the amending order to the supervising officer.
- (2) On receipt of a copy of an amending order the supervising officer shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person is or was required by the order to reside.

#### **Textual Amendments**

**F5** Words in Sch. 4 para. 11(1)(a) inserted (1.1.1998) by 1997 c. 48, s. 62(1), Sch. 1 para. 21(35)(c); S.I. 1997/2323, art. 4, Sch. 2 (subject to art. 7)

- 12 On the making, revocation or amendment of a supervision and treatment order the supervising officer shall give a copy of the order or, as the case may be, of the order revoking or amending it, to the Mental Welfare Commission for Scotland.

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