



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VI

MENTAL DISORDER

[^{F1}Hospital directions]

[^{F1}59A Hospital direction

- (1) This section applies where a person, not being a child, (in this section and in sections 59B and 59C of this Act referred to as the “offender”) is convicted on indictment in—
 - (a) the High Court; or
 - (b) the sheriff court,of an offence punishable by imprisonment.
- (2) If the court is satisfied—
 - (a) on the written or oral evidence of two medical practitioners—
 - (i) that the conditions mentioned in subsection (3) below are met in respect of the offender; and
 - (ii) as to the matters mentioned in subsection (4) below; and
 - (b) that, having regard to the matters mentioned in subsection (5) below, it is appropriate,the court may, in addition to any sentence of imprisonment which it has the power or the duty to impose, make, subject to subsection (6) below, a direction (in this Act referred to as a “hospital direction”) authorising the measures mentioned in subsection (7) below.
- (3) The conditions referred to in subsection (2)(a)(i) above are—
 - (a) that the offender has a mental disorder;
 - (b) that medical treatment which would be likely to—
 - (i) prevent the mental disorder worsening; or
 - (ii) alleviate any of the symptoms, or effects, of the disorder,

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Changes to legislation: *Criminal Procedure (Scotland) Act 1995, Section 59A is up to date with all changes known to be in force on or before 24 May 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)*

- is available for the offender;
- (c) that if the offender were not provided with such medical treatment there would be a significant risk—
- (i) to the health, safety or welfare of the offender; or
 - (ii) to the safety of any other person; and
- (d) that the making of a hospital direction in respect of the offender is necessary.
- (4) The matters referred to in subsection (2)(a)(ii) above are—
- (a) that the hospital proposed by the two medical practitioners mentioned in subsection (2)(a) above is suitable for the purpose of giving the medical treatment mentioned in paragraph (b) of subsection (3) above to the offender; and
 - (b) that, were a hospital direction made, the offender could be admitted to such hospital before the [^{F2}end of the day following the] 7 days beginning with the day on which the direction is made.
- (5) The matters referred to in subsection (2)(b) above are—
- (a) the mental health officer’s report, prepared in accordance with section 59B of this Act, in respect of the offender;
 - (b) all the circumstances, including—
 - (i) the nature of the offence of which the offender was convicted; and
 - (ii) the antecedents of the offender; and
 - (c) any alternative means of dealing with the offender.
- (6) A hospital direction may authorise detention in a state hospital only if, on the written or oral evidence of the two medical practitioners mentioned in subsection (2)(a) above, it appears to the court—
- (a) that the offender requires to be detained in a state hospital under conditions of special security; and
 - (b) that such conditions of special security can be provided only in a state hospital.
- (7) The measures mentioned in subsection (2) above are—
- (a) in the case of an offender who, when the hospital direction is made, has not been admitted to the specified hospital, the removal, before the [^{F3}end of the day following the] 7 days beginning with the day on which the direction is made, of the offender to the specified hospital by—
 - (i) a constable;
 - (ii) a person employed in, or contracted to provide services in or to, the specified hospital who is authorised by the managers of that hospital to remove persons to hospital for the purposes of this section; or
 - (iii) a specified person;
 - (b) the detention of the offender in the specified hospital; and
 - (c) the giving to the offender, in accordance with Part 16 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), of medical treatment.
- (8) The court shall be satisfied as to the condition mentioned in subsection (3)(a) above only if the description of the offender’s mental disorder by each of the medical practitioners mentioned in subsection (2)(a) above specifies, by reference to the appropriate paragraph (or paragraphs) of the definition of “mental disorder” in section 328(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp

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13), at least one type of mental disorder that the offender has that is also specified by the other.

(9) A hospital direction—

- (a) shall specify, by reference to the appropriate paragraph (or paragraphs) of the definition of “mental disorder” in section 328(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), the type (or types) of mental disorder that each of the medical practitioners mentioned in subsection (2)(a) above specifies that is also specified by the other; and
- (b) may include such directions as the court thinks fit for the removal of the offender to, and the detention of the offender in, a place of safety pending the offender’s admission to the specified hospital.

(10) In this section—

“medical treatment” has the same meaning as in section 52D of this Act; and
“specified” means specified in the hospital direction.]

Textual Amendments

- F1** Ss. 59A-59C and preceding cross-heading substituted for s. 59A (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(6)**; S.S.I. 2005/161, **art. 3**
- F2** Words in s. 59A(4)(b) substituted (30.9.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 44(2)(a)**, 61(2); S.S.I. 2017/197, **art. 2, sch.**
- F3** Words in s. 59A(7)(a) substituted (30.9.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 44(2)(b)**, 61(2); S.S.I. 2017/197, **art. 2, sch.**

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