
Changes to legislation: Criminal Procedure (Scotland) Act 1995, Part II is up to date with all changes known to be in force on or before 21 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) View outstanding changes

SCHEDULES

SCHEDULE 4

SUPERVISION AND TREATMENT ORDERS

PART II

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 [^{F1}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 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.
- [^{F2}(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)**

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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;
 - [^{F3}(bb) 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
 - (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;

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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.

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.

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

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

- s. 5A inserted by 2010 asp 13 Sch. 7 para. 26
- s. 13(1B)(1C) inserted by 2006 asp 10 s. 82(2)
- s. 13(2)(aa) inserted by 2006 asp 10 s. 82(3)(b)
- s. 13(3A) inserted by 2006 asp 10 s. 82(4)
- s. 13(5)(ba) inserted by 2006 asp 10 s. 82(5)(a)
- s. 13(6)(a)(iii) and word inserted by 2006 asp 10 s. 82(6)(b)
- s. 13(8) inserted by 2006 asp 10 s. 82(7)
- s. 22(5A) inserted by 2007 asp 6 s. 7(2)(g)
- s. 22A(1A) inserted by 2023 asp 4 s. 1(2)
- s. 23B(1)(1A) substituted for s. 23B(1) by 2023 asp 4 s. 2(2)(a)
- s. 23B(6A) inserted by 2023 asp 4 s. 1(3)(c)
- s. 23B(8)-(10) inserted by 2023 asp 4 s. 2(2)(c)
- s. 23C(1A) inserted by 2023 asp 4 s. 2(3)(b)
- s. 23C(3) inserted by 2023 asp 4 s. 2(3)(c)
- s. 24(2C) inserted by 2023 asp 4 s. 4(4)
- s. 24(2AA) inserted by 2023 asp 4 s. 4(2)
- s. 73A inserted by 2004 asp 3 s. 2(3)
- s. 167(7D)(7E) inserted by 2007 asp 17 sch. 4 para. 1(3)
- s. 167(7D) words substituted by 2010 asp 13 Sch. 3 para. 16(2)
- s. 167(7E) words substituted by 2010 asp 13 Sch. 3 para. 16(3)
- s. 194ZA repealed by 2014 asp 18 sch. 3 para. 25
- s. 200A inserted by 2016 asp 1 s. 85
- s. 205A added by 1997 c. 48 s. 1(1) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by 2023 asp 4 s. 5
- s. 249(4A)-(4D) inserted by 2014 asp 1 s. 24
- s. 271D(4A) inserted by 2019 asp 8 s. 6(4)
- s. 271F(2)(aa) inserted by 2019 asp 8 s. 10(4)
- s. 271AA inserted by 2019 asp 8 s. 6(2)
- s. 271BZD inserted by 2019 asp 8 s. 3(2)
- s. 288AB288AC inserted by 2024 asp 1 s. 32(3)
- Sch. 5A added by 1997 c. 48 s. 1(2) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)