



# Criminal Justice (Scotland) Act 1995

## 1995 CHAPTER 20

### PART I

#### THE COURSE OF JUSTICE

VALID FROM 31/03/1996

#### *Mental disorder and criminal proceedings*

#### **47 Insanity in bar of trial.**

(1) For subsection (1) of section 174 of the 1975 Act (finding of insanity in bar of trial in solemn proceedings) there shall be substituted the following subsections—

“(1) Where the court is satisfied, on the written or oral evidence of two medical practitioners, that a person charged on indictment with the commission of an offence is insane so that his trial cannot proceed or, if it has commenced, cannot continue, the court shall, subject to subsection (1A) below—

- (a) make a finding to that effect and state the reasons for that finding;
- (b) discharge the trial diet and order that a diet (in this Act referred to as an “an examination of facts”) be held under section 174ZA of this Act; and
- (c) remand the person in custody or on bail or, where the court is satisfied—

- (i) on the written or oral evidence of two medical practitioners, that he is suffering from mental disorder of a nature or degree which warrants his admission to hospital under Part V of the Mental Health (Scotland) Act 1984; and
- (ii) that a hospital is available for his admission and suitable for his detention,

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make an order (in this section referred to as a “temporary hospital order”) committing him to that hospital until the conclusion of the examination of facts.

- (1A) Subsection (1) above is without prejudice to the power of the court, on an application by the prosecutor, to desert the diet pro loco et tempore.
- (1B) The court may, before making a finding under subsection (1) above as to the insanity of a person, adjourn the case in order that investigation of his mental condition may be carried out.
- (1C) The court which made a temporary hospital order may, at any time while the order is in force, review the order on the ground that there has been a change of circumstances since the order was made and, on such review—
- (a) where the court considers that such an order is no longer required in relation to a person, it shall revoke the order and may remand him in custody or on bail;
  - (b) in any other case, the court may—
    - (i) confirm or vary the order; or
    - (ii) revoke the order and make such other order, under subsection (1)(c) above or any other provision of this Part of this Act, as the court considers appropriate.”.
- (2) For subsection (2) of section 375 of the 1975 Act (finding of insanity in bar of trial in summary proceedings) there shall be substituted the following subsections—
- “(2) Where the court is satisfied, on the written or oral evidence of two medical practitioners, that a person charged summarily in the sheriff court with the commission of an offence is insane so that his trial cannot proceed or, if it has commenced, cannot continue, the court shall, subject to subsection (2A) below—
- (a) make a finding to that effect and state the reasons for that finding;
  - (b) discharge the trial diet and order that a diet (in this Act referred to as an “examination of facts”) be held in accordance with section 375ZA of this Act; and
  - (c) remand the person in custody or on bail or, where the court is satisfied—
    - (i) on the written or oral evidence of two medical practitioners, that he is suffering from mental disorder of a nature or degree which warrants his admission to hospital under Part V of the Mental Health (Scotland) Act 1984; and
    - (ii) that a hospital is available for his admission and suitable for his detention,
 make an order (in this section referred to as a “temporary hospital order”) committing him to that hospital until the conclusion of the examination of facts.
- (2A) Subsection (2) above is without prejudice to the power of the court, on an application by the prosecutor, to desert the diet pro loco et tempore.
- (2B) The court may, before making a finding under subsection (2) above as to the insanity of a person, adjourn the case in order that investigation of his mental condition may be carried out.

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(2C) The court which made a temporary hospital order may, at any time while the order is in force, review the order on the ground that there has been a change of circumstances since the order was made and, on such review—

- (a) where the court considers that such an order is no longer required in relation to a person, it shall revoke the order and may remand him in custody or on bail;
- (b) in any other case, the court may—
  - (i) confirm or vary the order; or
  - (ii) revoke the order and make such other order, under subsection (2)(c) above or any other provision of this Part of this Act, as the court considers appropriate.”.

#### **48 Insanity as ground of acquittal in summary proceedings.**

After subsection (3) of section 375 of the 1975 Act (insanity in bar of trial) there shall be inserted the following subsection—

“(3A) Where, in the case of any person charged summarily in the sheriff court, evidence is brought before the court that the person was insane at the time of doing the act or making the omission constituting the offence with which he is charged and the person is acquitted, the court shall state whether the person was insane at that time and, if so, whether he was acquitted on that ground.”.

#### **49 Examination of facts.**

(1) After section 174 of the 1975 Act there shall be inserted the following sections—

##### **“174ZA Examination of facts.**

- (1) At an examination of facts ordered under section 174(1)(b) of this Act the court shall, on the basis of the evidence (if any) already given in the trial and such evidence, or further evidence, as may be led by either party, determine whether it is satisfied—
  - (a) beyond reasonable doubt, as respects any charge on indictment in respect of which the accused was being or was to be tried, that he did the act or made the omission constituting the offence; and
  - (b) on the balance of probabilities, that there are no grounds for acquitting him.
- (2) Where the court is satisfied as mentioned in subsection (1) above, it shall make a finding to that effect.
- (3) Where the court is not so satisfied it shall, subject to subsection (4) below, acquit the person of the charge.
- (4) Where, as respects a person acquitted under subsection (3) above, the court is satisfied as to the matter mentioned in subsection (1)(a) above but it appears to the court that the person was insane at the time of doing the act or making the omission constituting the offence, the court shall state whether the acquittal is on the ground of such insanity.

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- (5) Where it appears to the court that it is not practicable or appropriate for the accused to attend an examination of facts the court may, if no objection is taken by or on behalf of the accused, order that the examination of facts shall proceed in his absence.
- (6) Subject to the provisions of this section, section 174ZB of this Act and any Act of Adjournal, the rules of evidence and procedure and the powers of the court shall, in respect of an examination of facts, be as nearly as possible those applicable in respect of a trial.
- (7) For the purposes of the application to an examination of facts of the rules and powers mentioned in subsection (6) above, an examination of facts—
  - (a) commences when the indictment is called; and
  - (b) concludes when the court—
    - (i) acquits the person under subsection (3) above;
    - (ii) makes an order under subsection (2) of section 174ZC of this Act; or
    - (iii) decides, under paragraph (e) of that subsection, not to make an order.

#### **174ZB Examination of facts: supplementary provisions.**

- (1) An examination of facts ordered under section 174(1)(b) of this Act may, where the order is made at the trial diet, be held immediately following the making of the order and, where it is so held, the citation of the accused and any witness to the trial diet shall be a valid citation to the examination of facts.
- (2) A warrant for citation of an accused and witnesses under section 69 of this Act shall be sufficient warrant for citation to an examination of facts.
- (3) Where an accused person is not legally represented at an examination of facts the court shall appoint counsel or a solicitor to represent his interests.
- (4) The court may, on the motion of the prosecutor and after hearing the accused, order that the examination of facts shall proceed in relation to a particular charge, or particular charges, in the indictment in priority to other such charges.
- (5) The court may, on the motion of the prosecutor and after hearing the accused, at any time desert the examination of facts pro loco et tempore as respects either the whole indictment or any charge therein.
- (6) Where, and to the extent that, an examination of facts has, under subsection (5) above, been deserted pro loco et tempore, the Lord Advocate may, at any time, raise and insist in a new indictment notwithstanding any time limit which would otherwise apply in respect of prosecution of the alleged offence.
- (7) If, in a case where a court has made a finding under subsection (2) of section 174ZA above, a person is subsequently charged, whether on indictment or on a complaint, with an offence arising out of the same act or omission as is referred to in subsection (1) of that section, any

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order made under section 174ZC(2) of this Act shall, with effect from the commencement of the later proceedings, cease to have effect.

(8) For the purposes of subsection (7) above, the later proceedings are commenced when the indictment or, as the case may be, the complaint is served.”.

(2) After section 375 of the 1975 Act there shall be inserted the following sections—

**“375ZA Examination of facts.**

(1) At an examination of facts ordered under section 375(2)(b) of this Act the court shall, on the basis of the evidence (if any) already given in the trial and such evidence, or further evidence, as may be led by either party, determine whether it is satisfied—

- (a) beyond reasonable doubt, as respects any charge in a complaint in respect of which the accused was being or was to be tried, that he did the act or made the omission constituting the offence; and
- (b) on the balance of probabilities, that there are no grounds for acquitting him.

(2) Where the court is satisfied as mentioned in subsection (1) above, it shall make a finding to that effect.

(3) Where the court is not so satisfied it shall, subject to subsection (4) below, acquit the person of the charge.

(4) Where, as respects a person acquitted under subsection (3) above, the court is satisfied as to the matter mentioned in subsection (1)(a) above but it appears to the court that the person was insane at the time of doing the act or making the omission constituting the offence, the court shall state whether the acquittal is on the ground of such insanity.

(5) Where it appears to the court that it is not practicable or appropriate for the accused to attend an examination of facts the court may, if no objection is taken by or on behalf of the accused, order that the examination of facts shall proceed in his absence.

(6) Subject to the provisions of this section, section 375ZB of this Act and any Act of Adjournal, the rules of evidence and procedure and the powers of the court in respect of an examination of facts shall be as nearly as possible those applicable in respect of a trial.

(7) For the purposes of the application to an examination of facts of the rules and powers mentioned in subsection (6) above, an examination of facts—

- (a) commences when the diet is called; and
- (b) concludes when the court—
  - (i) acquits the person under subsection (3) above;
  - (ii) makes an order under subsection (2) of section 375ZC of this Act; or
  - (iii) decides, under paragraph (e) of that subsection, not to make an order.

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### **375ZB Examination of facts: supplementary provisions.**

- (1) An examination of facts ordered under section 375(2)(b) of this Act may, where the order is made at the trial diet, be held immediately following the making of the order and, where it is so held, the citation of the accused and any witness to the trial diet shall be a valid citation to the examination of facts.
- (2) Where an accused person is not legally represented at an examination of facts the court shall appoint counsel or a solicitor to represent his interests.
- (3) The court may, on the motion of the prosecutor and after hearing the accused, order that the examination of facts shall proceed in relation to a particular charge, or particular charges, in the complaint in priority to other such charges.
- (4) The court may, on the motion of the prosecutor and after hearing the accused, at any time desert the examination of facts pro loco et tempore as respects the whole complaint or any charge in the complaint.
- (5) Where, and to the extent that, an examination of facts has, under subsection (4) above, been deserted pro loco et tempore, the prosecutor may, at any time, raise a fresh libel notwithstanding any time limit which would otherwise apply in respect of prosecution of the alleged offence.
- (6) If, in a case where a court has made a finding under subsection (2) of section 375ZA of this Act, a person is subsequently charged, whether on indictment or on a complaint, with an offence arising out of the same act or omission as is referred to in subsection (1) of that section, any order made under section 375ZC(2) of this Act shall, with effect from the commencement of the later proceedings, cease to have effect.
- (7) For the purposes of subsection (6) above, the later proceedings are commenced when the indictment or, as the case may be, the complaint is served.”.

### **50 Disposal of case where accused found to be insane.**

- (1) After section 174ZB of the 1975 Act (inserted by section 49(1) of this Act) there shall be inserted the following section—

#### **“174ZC Disposal of case where accused found to be insane.**

- (1) This section applies where—
  - (a) a person is, by virtue of section 174(2) or 174ZA(3) of this Act, acquitted on the ground of his insanity at the time of the act or omission; or
  - (b) following an examination of facts under section 174ZA, a court makes a finding under subsection (2) of that section.
- (2) Subject to subsection (3) below, where this section applies the court may, as it thinks fit—

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- (a) make an order (which shall have the same effect as a hospital order) that the person be detained in such hospital as the court may specify;
  - (b) in addition to making an order under paragraph (a) above, make an order (which shall have the same effect as a restriction order) that the person shall, without limit of time, be subject to the special restrictions set out in section 62(1) of the Mental Health (Scotland) Act 1984;
  - (c) make an order (which shall have the same effect as a guardianship order) placing the person under the guardianship of a local authority or of a person approved by a local authority;
  - (d) make a supervision and treatment order (within the meaning of paragraph 1(1) of Schedule 5A to this Act); or
  - (e) make no order.
- (3) Where the offence with which the person was charged is murder, the court shall make orders under both paragraphs (a) and (b) of subsection (2) above in respect of that person.
- (4) Sections 175(1) and (3) to (6) and 176 to 178 of this Act shall have effect in relation to the making, terms and effect of an order under paragraph (a), (b) or (c) of subsection (2) above as those provisions have effect in relation to the making, terms and effect of, respectively, a hospital order, a restriction order and a guardianship order as respects a person convicted of an offence, other than an offence the sentence for which is fixed by law, punishable by imprisonment.”.
- (2) After section 375ZB of the 1975 Act (inserted by section 49(2) of this Act) there shall be inserted the following section—

**“375ZC Disposal of case where accused found to be insane.**

- (1) This section applies where—
- (a) a person is, by virtue of section 375(3A) or 375ZA(3) of this Act, acquitted on the ground of his insanity at the time of the act or omission; or
  - (b) following an examination of facts under section 375ZA, a court makes a finding under subsection (2) of that section.
- (2) Where this section applies the court may, as it thinks fit—
- (a) make an order (which shall have the same effect as a hospital order) that the person be detained in such hospital as the court may specify;
  - (b) in addition to making an order under paragraph (a) above, make an order (which shall have the same effect as a restriction order) that the person shall, without limit of time, be subject to the special restrictions set out in section 62(1) of the Mental Health (Scotland) Act 1984;
  - (c) make an order (which shall have the same effect as a guardianship order) placing the person under the guardianship of a local authority or of a person approved by a local authority;
  - (d) make a supervision and treatment order (within the meaning of paragraph 1(1) of Schedule 5A to this Act); or
  - (e) make no order.

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(3) Sections 376(1) and (6) to (9) and 377 to 379 of this Act shall have effect in relation to the making, terms and effect of an order under paragraph (a), (b) or (c) of subsection (2) above as those provisions have effect in relation to the making, terms and effect of, respectively, a hospital order, a restriction order and a guardianship order as respects a person convicted of an offence, other than an offence the sentence for which is fixed by law, punishable by imprisonment.”

(3) The Schedule set out in Schedule 2 to this Act (which makes provision as respects supervision and treatment orders) shall be inserted in the 1975 Act as Schedule 5A to that Act.

## **51 Appeal by accused in case involving insanity.**

(1) After section 174ZC of the 1975 Act (inserted by section 50(1) of this Act) there shall be inserted the following section—

### **“174ZD Appeal by accused in case involving insanity.**

(1) A person may appeal to the High Court against—

- (a) a finding made under section 174(1) of this Act that he is insane so that his trial cannot proceed or continue, or the refusal of the court to make such a finding;
- (b) a finding under section 174ZA(2) of this Act; or
- (c) an order made under section 174ZC(2) of this Act.

(2) An appeal under subsection (1) above shall be—

- (a) in writing; and
- (b) lodged—
  - (i) in the case of an appeal under paragraph (a) of that subsection, not later than seven days after the date of the finding or refusal which is the subject of the appeal;
  - (ii) in the case of an appeal under paragraph (b), or both paragraphs (b) and (c), of that subsection, not later than 28 days after the conclusion of the examination of facts;
  - (iii) in the case of an appeal under paragraph (c) of that subsection against an order made on an acquittal, by virtue of section 174(2) or 174ZA(3) of this Act, on the ground of insanity at the time of the act or omission, not later than 14 days after the date of the acquittal;
  - (iv) in the case of an appeal under that paragraph against an order made on a finding under section 174ZA(2), not later than 14 days after the conclusion of the examination of facts, or within such longer period as the High Court may, on cause shown, allow.

(3) Subsections (1)(a) and (2)(b)(i) above are without prejudice to section 76A(1) of this Act.



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- (4) Where an appeal is taken under subsection (1) above, the period from the date on which the appeal was lodged until it is withdrawn or disposed of shall not count towards any time limit applying in respect of the case.
  - (5) An appellant in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.
  - (6) In disposing of an appeal under subsection (1) above the High Court may—
    - (a) affirm the decision of the court of first instance;
    - (b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or
    - (c) remit the case to that court with such directions in the matter as the High Court thinks fit.
  - (7) Section 280 of this Act shall not apply in relation to any order as respects which a person has a right of appeal under subsection (1)(c) above.”.
- (2) After section 375ZC of that Act (inserted by section 50(2) of this Act) there shall be inserted the following section—

**“375ZD Appeal by accused in case involving insanity.**

- (1) A person may appeal to the High Court against—
  - (a) a finding made under section 375(2) of this Act that he is insane so that his trial cannot proceed or continue, or the refusal of the court to make such a finding;
  - (b) a finding under section 375ZA(2) of this Act; or
  - (c) an order made under section 375ZC(2) of this Act.
- (2) An appeal under subsection (1) above shall be—
  - (a) in writing; and
  - (b) lodged—
    - (i) in the case of an appeal under paragraph (a) of that subsection, not later than seven days after the date of the finding or refusal which is the subject of the appeal;
    - (ii) in the case of an appeal under paragraph (b), or both paragraphs (b) and (c), of that subsection, not later than 28 days after the conclusion of the examination of facts;
    - (iii) in the case of an appeal under paragraph (c) of that subsection against an order made on an acquittal, by virtue of section 375(3A) or 375ZA(3) of this Act, on the ground of insanity at the time of the act or omission, not later than 14 days after the date of the acquittal;
    - (iv) in the case of an appeal under that paragraph against an order made on a finding under section 375ZA(2), not later than 14 days after the conclusion of the examination of facts, or within such longer period as the High Court may, on cause shown, allow.

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- (3) Where an appeal is taken under subsection (1) above, the period from the date on which the appeal was lodged until it is withdrawn or disposed of shall not count towards any time limit applying in respect of the case.
- (4) An appellant in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.
- (5) In disposing of an appeal under subsection (1) above the High Court may—
  - (a) affirm the decision of the court of first instance;
  - (b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or
  - (c) remit the case to that court with such directions in the matter as the High Court thinks fit.
- (6) Section 443 of this Act shall not apply in relation to any order as respects which a person has a right of appeal under subsection (1)(c) above.”.

## **52 Appeal by prosecutor in case involving insanity.**

- (1) After section 174ZD of the 1975 Act (inserted by section 51(1) of this Act) there shall be inserted the following section—

### **“174ZE Appeal by Lord Advocate in case involving insanity.**

- (1) The Lord Advocate may appeal to the High Court on a point of law against—
  - (a) a finding under subsection (1) of section 174 of this Act that an accused is insane so that his trial cannot proceed or continue;
  - (b) an acquittal on the ground of insanity at the time of the act or omission by virtue of subsection (2) of that section;
  - (c) an acquittal under section 174ZA(3) of this Act (whether or not on the ground of insanity at the time of the act or omission); or
  - (d) any order made under section 174ZC(2) of this Act.
- (2) An appeal under subsection (1) above shall be—
  - (a) in writing; and
  - (b) lodged—
    - (i) in the case of an appeal under paragraph (a) or (b) of that subsection, not later than seven days after the finding or, as the case may be, the acquittal which is the subject of the appeal;
    - (ii) in the case of an appeal under paragraph (c) or (d) of that subsection, not later than seven days after the conclusion of the examination of facts,
 or within such longer period as the High Court may, on cause shown, allow.
- (3) Subsection (1)(a) and (2)(b)(i) above are without prejudice to section 76A(1) of this Act.

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- (4) A respondent in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.
- (5) In disposing of an appeal under subsection (1) above the High Court may—
- (a) affirm the decision of the court of first instance;
  - (b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or
  - (c) remit the case to that court with such directions in the matter as the High Court thinks fit.”.
- (2) After section 375ZD of that Act (inserted by section 51(2) of this Act) there shall be inserted the following section—

**“375ZE Appeal by prosecutor in case involving insanity.**

- (1) The prosecutor may appeal to the High Court on a point of law against—
- (a) a finding under subsection (2) of section 375 of this Act that an accused is insane so that his trial cannot proceed or continue;
  - (b) an acquittal on the ground of insanity at the time of the act or omission by virtue of subsection (3A) of that section;
  - (c) an acquittal under section 375ZA(3) of this Act (whether or not on the ground of insanity at the time of the act or omission); or
  - (d) any order made under section 375ZC(2) of this Act.
- (2) An appeal under subsection (1) above shall be—
- (a) in writing; and
  - (b) lodged—
    - (i) in the case of an appeal under paragraph (a) or (b) of that subsection, not later than seven days after the finding or, as the case may be, the acquittal which is the subject of the appeal;
    - (ii) in the case of an appeal under paragraph (c) or (d) of that subsection, not later than seven days after the conclusion of the examination of facts,or within such longer period as the High Court may, on cause shown, allow.
- (3) A respondent in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.
- (4) In disposing of an appeal under subsection (1) above the High Court may—
- (a) affirm the decision of the court of first instance;
  - (b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or
  - (c) remit the case to that court with such directions in the matter as the High Court thinks fit.”.

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### **53 Review of committal of mentally disordered accused to hospital.**

In each of sections 25 and 330 of the 1975 Act (power of court to commit to hospital person suffering from mental disorder), after subsection (4) there shall be inserted the following subsections—

“(5) Without prejudice to subsection (3) above, the court may review an order under subsection (1) above on the ground that there has been a change of circumstances since the order was made and, on such review—

- (a) where the court considers that such an order is no longer required in relation to a person, it shall revoke the order and may deal with him in such way mentioned in subsection (3) above as the court thinks appropriate;
- (b) in any other case, the court may—
  - (i) confirm or vary the order; or
  - (ii) revoke the order and deal with him in such way mentioned in subsection (3) above as the court considers appropriate.

(6) Subsections (1) to (4) above shall apply to the review of an order under subsection (5) above as they apply to the making of an order under subsection (1) above.”.

### **54 Restriction orders to be without limit of time.**

- (1) In subsection (1) of each of sections 178 and 379 of the 1975 Act (power of court to impose restriction order in addition to hospital order), the words “either” and “or during such period as may be specified in the order” shall cease to have effect.
- (2) The amendments made by subsection (1) above shall not have effect in relation to any restriction order made before the coming into force of this section.

### **55 Committal to hospital for inquiry into mental condition.**

- (1) Each of sections 180 and 381 of the 1975 Act (remand for inquiry into physical or mental condition) shall be amended as follows.
- (2) In subsection (1) for the words “shall remand him in custody or on bail for” there shall be substituted—

“shall—

- (a) for the purpose of inquiry solely into his physical condition, remand him in custody or on bail;
- (b) for the purpose of inquiry into his mental condition (whether or not in addition to his physical condition), remand him in custody or on bail or, where the court is satisfied—
  - (i) on the written or oral evidence of a medical practitioner, that the person appears to be suffering from a mental disorder; and
  - (ii) that a hospital is available for his admission and suitable for his detention,

make an order committing him to that hospital,

for ”.

*Status: Point in time view as at 05/03/1996. This version of this cross heading contains provisions that are not valid for this point in time.*

**Changes to legislation:** There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, Cross Heading: Mental disorder and criminal proceedings. (See end of Document for details)

(3) After subsection (1) there shall be inserted the following subsections—

“(1A) Where the court is of the opinion that a person ought to continue to be committed to hospital for the purpose of inquiry into his mental condition following the expiry of the period specified in an order for committal to hospital under paragraph (b) of subsection (1) above, the court may—

- (a) if the condition in sub-paragraph (i) of that paragraph continues to be satisfied and a suitable hospital is available for his continued detention, renew the order for such further period not exceeding three weeks as the court thinks necessary to enable a medical examination and report to be made; and
- (b) in any other case, remand the person in custody or on bail in accordance with subsection (1) above.

(1B) An order under subsection (1A)(a) above may, unless objection is made by or on behalf of the person to whom it relates, be made in his absence.

(1C) Where, before the expiry of the period specified in an order for committal to hospital under subsection (1)(b) above, the court considers, on an application made to it, that committal to hospital is no longer required in relation to the person, the court shall revoke the order and may make such other order, under subsection (1)(a) above or any other provision of this Part of this Act, as the court considers appropriate.”

(4) In subsection (4), after the word “section” there shall be inserted “ to remand in custody or on bail ”.

(5) After subsection (4) there shall be inserted the following subsection—

“(4A) On making an order of committal to hospital under subsection (1)(b) above the court shall send to the hospital specified in the order a statement of the reasons for which the court is of the opinion that an inquiry ought to be made into the mental condition of the person to whom it relates, and of any information before the court about his mental condition.”

(6) In subsection (5)—

- (a) after the word “imposed” there shall be inserted “ , and a person committed to hospital under this section may appeal against the order of committal, ”;
- (b) after the word “remand” there shall be inserted “ or, as the case may be, committal ”; and
- (c) at the end of paragraph (b) there shall be inserted—

“; or

- (c) in the case of an appeal against an order of committal to hospital, revoke the order and remand the person in custody.”

(7) After subsection (5) there shall be inserted the following subsections—

“(6) The court may, on cause shown, vary an order for committal to hospital under subsection (1)(b) above by substituting another hospital for the hospital specified in the order.

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**Changes to legislation:** There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995. Cross Heading: Mental disorder and criminal proceedings. (See end of Document for details)

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(7) Subsection (1)(b) above shall apply to the variation of an order under subsection (6) above as it applies to the making of an order for committal to hospital.”.

**Status:**

Point in time view as at 05/03/1996. This version of this cross heading contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995,  
Cross Heading: Mental disorder and criminal proceedings.