



Criminal Justice (Scotland) Act 1995

1995 CHAPTER 20

PART I

THE COURSE OF JUSTICE

Mental disorder and criminal proceedings

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—
- (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;

Status: This is the original version (as it was originally enacted).

- (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.
- (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.