



# Mental Health (Public Safety and Appeals) (Scotland) Act 1999

1999 asp 1

## 2 Appeal from decisions etc. of sheriff under sections 64, 65 and 66 of 1984 Act

(1) In section 64 of the 1984 Act—

- (a) in subsection (3), for “thereupon” there is substituted “, on the occurrence of any of the events mentioned in subsection (4A) of this section,”;
- (b) in subsection (4), after “section”, where first occurring, there is inserted “the conditional discharge shall have effect on the occurrence of any of the events mentioned in subsection (4A) of this section and, when it does, the following provisions shall apply in relation to the patient—”;
- (c) after subsection (4) there are inserted the following subsections—

“(4A) The events are—

- (a) the expiry of the appeal period, no appeal having been lodged within it;
- (b) the receipt by both the Court of Session and the managers of the hospital in which the patient is detained of notice from the Scottish Ministers that they do not intend to move the Court to make an order under section 66A(3) of this Act;
- (c) the refusal by the Court to make such an order;
- (d) the recall of any such order or the expiry of its effect.

(4B) In subsection (4A) of this section—

“appeal” means an appeal under section 66A of this Act;

“appeal period” means, in relation to an appeal, the period within which, under section 66A(2) of this Act, the appeal has to be lodged in order to be competent.”.

(2) After section 66 of the 1984 Act there is inserted the following section—

**“66A Appeal to Court of Session against sheriff’s decisions under sections 64, 65 and 66**

- (1) It shall be competent to appeal to the Court of Session against the decision of the sheriff under section 64 or 66 or a notification or recommendation by the sheriff under section 65 of this Act.
- (2) An appeal under subsection (1) of this section shall be competent only if it is lodged within 14 days of the decision, notification or recommendation appealed against.
- (3) Where an appeal has been lodged under subsection (1) of this section against a decision of the sheriff to direct the discharge of a patient under section 64 or 66 or a notification or recommendation by the sheriff under section 65 of this Act, the Court of Session may, on a motion by the Scottish Ministers, order—
  - (a) that the patient who is the subject of the appeal shall continue, in accordance with subsection (4) of this section, to be detained; and
  - (b) that the relevant order or direction shall continue to have effect accordingly.
- (4) An order under subsection (3) of this section has the effect of continuing the patient’s detention—
  - (a) where no appeal is made to the House of Lords against the decision of the Court of Session on an appeal under this section, until the expiry of the time allowed, without leave, to appeal to the House of Lords against the decision; and
  - (b) where such an appeal has been made, until it is abandoned or finally determined.”.