

MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 Chapter 2: disposals on conviction and acquittal

Urgent detention of acquitted persons

Section 134: power of court to detain acquitted persons

259. **Section 134** inserts new sections 60C and 60D into the 1995 Act. Section 60C gives the court power to detain, for the purpose of a medical examination, a person charged with an offence and who has been acquitted (other than by reason of insanity).
260. Before it can so, the court must be satisfied on the evidence of two medical practitioners (one of whom must be an approved medical practitioner by virtue of section 61(1) of the 1995 Act (as amended by the 2003 Act)) that the person meets the criteria set out in subsection (3) and that it is not practicable for a medical practitioner to examine the person immediately.
261. The order authorises the measures mentioned in subsection (4), namely the removal of the person to, and the detention of the person in, a place of safety for a period of 6 hours to allow an examination by a medical practitioner.
262. Subsection (5) gives a police constable or person specified by the court in the order, the power to take an acquitted person into custody if that person absconds either on the way to, or from, the place of safety.
263. Subsection (6) provides that an order under this section ceases to have effect on the granting, before the expiry of the 6 hour period, of an emergency detention certificate or a short-term detention certificate in respect of the person.
264. Section 60D provides that where a court makes an order under section 60C(1), it must notify the Commission within 14 days and provide the information set out in subsection (3). Subsection (3)(e) gives power to the Scottish Ministers to add to the information which must be provided to the Commission. They may do so by making regulations, the procedure for which is set out in subsections (4) and (5).