



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VI

MENTAL DISORDER

Disposal [^{F1}where accused found not criminally responsible]

Textual Amendments

- F1** Words in s. 57 cross-heading substituted (with application in accordance with art. 3 of the commencing S.S.I.) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), s. 206\(1\), sch. 7 para. 38](#); [S.S.I. 2012/160, art. 3, sch.](#)

- 57 Disposal of case where accused found** [^{F2}not criminally responsible or unfit for trial].
- (1) This section applies where—
- (a) a person is [^{F3}acquitted by reason of the special defence set out in section 51A of this Act]; or
 - (b) following an examination of facts under section 55, 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) [^{F4}subject to subsection (4) below, make a compulsion order [^{F5}(whether or not authorising the detention of the person in a hospital)]];
 - [^{F6}(b) subject to subsection (4A) below, make a restriction order in respect of the person (that is, in addition to a compulsion order authorising the detention of the person in a hospital);]
 - [^{F7}[^{F8}(bb) subject to subsections (3A) and (4B) below, make an interim compulsion order in respect of the person;]]

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- (c) [^{F9}subject to subsections (4C) and (6) below, make a guardianship order in respect of the person];
- (d) [^{F10}subject to subsection (5) below,] make a supervision and treatment order (within the meaning of paragraph 1(1) of Schedule 4 to this Act [^{F11}in respect of the person]); or
- (e) make no order.

[^{F12}(3) Where the court is satisfied, having regard to a report submitted in respect of the person following an interim [^{F13}compulsion] order, that, on a balance of probabilities, the risk his being at liberty presents to the safety of the public at large is high, it shall make orders under both paragraphs (a) and (b) of subsection (2) above in respect of that person.]

[^{F14}(3A) The court may make an interim compulsion order under paragraph (bb) of subsection (2) above in respect of a person only where it has not previously made such an order in respect of the person under that paragraph.]

[^{F15}(4) For the purposes of subsection (2)(a) above—

- (a) subsections (2) to (16) of section 57A of this Act shall apply as they apply for the purposes of subsection (1) of that section, subject to the following modifications—
 - (i) references to the offender shall be construed as references to the person to whom this section applies; and
 - (ii) in subsection (4)(b)(i), the reference to the offence of which the offender was convicted shall be construed as a reference to the offence with which the person to whom this section applies was charged;
- (b) section 57B of this Act shall have effect subject to the modification that references to the offender shall be construed as references to the person to whom this section applies;
- (c) section 57C of this Act shall have effect subject to the following modifications—
 - (i) references to the offender shall be construed as references to the person to whom this section applies; and
 - (ii) references to section 57A of this Act shall be construed as references to subsection (2)(a) above; and
- (d) section 57D of this Act shall have effect subject to the modification that references to the offender shall be construed as references to the person to whom this section applies.

(4A) For the purposes of subsection (2)(b) above, section 59 of this Act shall have effect.

(4B) For the purposes of subsection (2)(bb) above—

- (a) subsections (2) to (13) of section 53 of this Act shall apply as they apply for the purposes of subsection (1) of that section, subject to the following modifications—
 - (i) references to the offender shall be construed as references to the person to whom this section applies;
 - (ii) in subsection (3)(a)(ii), the reference to one of the disposals mentioned in subsection (6) of that section shall be construed as a reference to the disposal mentioned in subsection (6)(a) of that section;

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- (iii) in subsection (4)(a), the reference to the offence of which the offender is convicted shall be construed as a reference to the offence with which the person to whom this section applies is charged; and
 - (iv) subsection (6)(b) shall not apply;
 - (b) section 53A of this Act shall have effect subject to the modification that references to the offender shall be construed as references to the person to whom this section applies;
 - (c) section 53B of this Act shall have effect subject to the following modifications—
 - (i) references to the offender shall be construed as references to the person to whom this section applies; and
 - (ii) for paragraphs (a) and (b) of subsection (8) there shall be substituted
 - (a) make an order in respect of the person under paragraph (a), (b), (c) or (d) of subsection (2) of section 57 of this Act; or
 - (b) decide, under paragraph (e) of that subsection, to make no order in respect of the person.”;
 - (d) section 53C of this Act shall have effect subject to the following modifications—
 - (i) references to the offender shall be construed as references to the person to whom this section applies; and
 - (ii) for paragraphs (a) to (c) of subsection (1) there shall be substituted—
 - “(a) makes an order in respect of the person under paragraph (a), (b), (c) or (d) of subsection (2) of section 57 of this Act; or
 - (b) decides, under paragraph (e) of that subsection, to make no order in respect of the person.”; and
 - (e) section 53D of this Act shall have effect subject to the modification that the reference to the offender shall be construed as a reference to the person to whom this section applies.
- (4C) For the purposes of subsection (2)(c) above, subsections (1A), (6) to (8) and (11) of section 58 of this Act shall apply, subject to the modifications that the reference to a person convicted and any references to the offender shall be construed as references to the person to whom this section applies.]
- (5) Schedule 4 to this Act shall have effect as regards supervision and treatment orders.
- [^{F16}(6) Section 58A of this Act shall have effect as regards guardianship orders made under subsection (2)(c) of this section.]

Textual Amendments

- F2** Words in s. 57 heading substituted (with application in accordance with art. 3 of the commencing S.S.I.) by *Criminal Justice and Licensing (Scotland) Act 2010* (asp 13), s. 206(1), **sch. 7 para. 38**; S.S.I. 2012/160, art. 3, sch.
- F3** Words in s. 57(1)(a) substituted (with application in accordance with art. 3 of the commencing S.S.I.) by *Criminal Justice and Licensing (Scotland) Act 2010* (asp 13), s. 206(1), **sch. 7 para. 39**; S.S.I. 2012/160, art. 3, sch.
- F4** Words in s. 57(2)(a) substituted (5.10.2005) by *Mental Health (Care and Treatment) (Scotland) Act 2003* (asp 13), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(3)(a)(i)**; S.S.I. 2005/161, **art. 3**

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- F5** Words in s. 57(2)(a) substituted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 39(2)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F6** S. 57(2)(b) substituted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 39(2)(b)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F7** S. 57(2)(bb) inserted (4.10.2005) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 2(a)**, 89; S.S.I. 2005/433, **art. 2**
- F8** S. 57(2)(bb) substituted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(3)(a)(iii)**; S.S.I. 2005/161, **art. 3**
- F9** Words in s. 57(2)(c) substituted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(3)(a)(iv)**; S.S.I. 2005/161, **art. 3**
- F10** Words in s. 57(2)(d) inserted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(3)(a)(v)(A)**; S.S.I. 2005/161, **art. 3**
- F11** Words in s. 57(2)(d) inserted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(3)(a)(v)(B)**; S.S.I. 2005/161, **art. 3**
- F12** S. 57(3) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. {2(b)}, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F13** Word in s. 57(3) substituted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(3)(b)**; S.S.I. 2005/161, **art. 3**
- F14** S. 57(3A) substituted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(3)(c)**; S.S.I. 2005/161, **art. 3**
- F15** S. 57(4)-(4C) substituted (5.10.2005) for s. 57(4) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(1)-(4), **Sch. 4 para. 8(3)(d)**; S.S.I. 2005/161, **art. 3**
- F16** S. 57(6) inserted (1.4.2002) by 2000 asp 4, s. 88(2), **Sch. 5 para. 26(1)(c)**; S.S.I. 2001/81, art. 3, **Sch. 2**

Modifications etc. (not altering text)

- C1** S. 57(2)(a) extended (1.1.1998) by 1997 c. 48, s. **9(1)(a)** (subject to s. 9(2)); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)

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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.)