



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VI

MENTAL DISORDER

Interim hospital orders

53 Interim hospital orders

- (1) Where, in the case of a person to whom this section applies the court is satisfied on the written or oral evidence of two medical practitioners (complying with subsection (2) below and section 61 of this Act)—
 - (a) that the offender is suffering from mental disorder within the meaning of section 1(2) of the Mental Health (Scotland) Act 1984; and
 - (b) that there is reason to suppose—
 - (i) that the mental disorder from which the offender is suffering is such that it may be appropriate for a hospital order to be made in his case; and
 - (ii) that, having regard to section 58(5) of this Act, the hospital to be specified in any such hospital order may be a State hospital,the court may, before making a hospital order or dealing with the offender in some other way, make an order (to be known as “an interim hospital order”) authorising his admission to and detention in a state hospital or such other hospital as for special reasons the court may specify in the order.
- (2) Of the medical practitioners whose evidence is taken into account under subsection (1) above at least one shall be employed at the hospital which is to be specified in the order.
- (3) An interim hospital order shall not be made in respect of an offender unless the court is satisfied that the hospital which is to be specified in the order, in the event of such an order being made by the court, is available for his admission thereto within 28 days of the making of such an order.

- (4) Where a court makes an interim hospital order it shall not make any other order for detention or impose a fine or pass sentence of imprisonment or make a probation order or a community service order in respect of the offence, but may make any other order which it has power to make apart from this section.
- (5) The court by which an interim hospital order is made may include in the order such direction as it thinks fit for the conveyance of the offender to a place of safety and his detention therein pending his admission to the hospital within the period of 28 days referred to in subsection (3) above.
- (6) An interim hospital order—
- (a) shall be in force for such period, not exceeding 12 weeks, as the court may specify when making the order; but
 - (b) may be renewed for further periods of not more than 28 days at a time if it appears to the court on the written or oral evidence of the responsible medical officer that the continuation of the order is warranted,
- but no such order shall continue in force for more than six months in all and the court shall terminate the order if it makes a hospital order in respect of the offender or decides, after considering the written or oral evidence of the responsible medical officer, to deal with the offender in some other way.
- (7) An interim hospital order may be renewed under subsection (6) above without the offender being brought before the court if he is represented by counsel or a solicitor and his counsel or solicitor is given an opportunity of being heard.
- (8) If an offender absconds from a hospital in which he is detained in pursuance of an interim hospital order, or while being conveyed to or from such a hospital, he may be arrested without warrant by a constable and shall, after being arrested, be brought as soon as practicable before the court which made the order; and the court may thereupon terminate the order and deal with him in any way in which it could have dealt with him if no such order had been made.
- (9) When an interim hospital order ceases to have effect in relation to an offender the court may deal with him in any way (other than by making a new interim hospital order) in which it could have dealt with him if no such order had been made.
- (10) The power conferred on the court by this section is without prejudice to the power of the court under section 200(1) of this Act to remand a person in order that an inquiry may be made into his physical or mental condition.
- (11) This section applies to any person—
- (a) convicted in the High Court or the sheriff court of an offence punishable with imprisonment (other than an offence the sentence for which is fixed by law);
 - (b) charged on complaint in the sheriff court if the sheriff is satisfied that he did the act or made the omission charged but does not convict him; or
 - (c) remitted to the sheriff court from the district court under section 58(10) of this Act if the sheriff is satisfied as mentioned in paragraph (b) above.
- (12) In this section “the court” means—
- (a) the High Court, as regards a person—
 - (i) convicted on indictment in that court; or
 - (ii) convicted on indictment in the sheriff court and remitted for sentence to the High Court; and

- (b) the sheriff court, as regards a person—
 - (i) convicted in the sheriff court and not remitted as mentioned in paragraph (a)(ii) above; or
 - (ii) referred to in paragraph (b) or (c) of subsection (11) above.