



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VI

MENTAL DISORDER

Medical evidence

61 Requirements as to medical evidence.

- ^{F1}(1) Of the medical practitioners whose evidence is taken into account [^{F2}in making a finding ^{F3}... under any of the relevant provisions], at least one shall be [^{F4}an approved medical practitioner] .
- ^{F5}(1A) Of the medical practitioners whose evidence is taken into account under section [^{F6}52M(2)(a), 53(2)(a)] , 54(1)(c), [^{F7}57A(2)(a)] or 59A(3)(a) and (b) of this Act, at least one shall be employed at the hospital which is to be specified in the order or, as the case may be, direction.]
- ^{F8}(2) Written or oral evidence given for the purposes of [^{F9}section 52D(2)(a) or][^{F10}any of the relevant provisions] shall include a statement as to whether the person giving the evidence is related to the accused and of any pecuniary interest which that person may have in the admission of the accused to hospital or his reception into guardianship.
- ^{F1}(3) For the purposes of [^{F11}making a finding under section [^{F12}52D(2)(a)]^{F13} ... of this Act or of any of the relevant provisions] a report in writing purporting to be signed by a medical practitioner may, subject to the provisions of this section, be received in evidence without proof of the signature or qualifications of the practitioner; but the court may, in any case, require that the practitioner by whom such a report was signed be called to give oral evidence.
- (4) Where any such report as aforesaid is tendered in evidence, otherwise than by or on behalf of the accused, then—
- (a) if the accused is represented by counsel or solicitor, a copy of the report shall be given to his counsel or solicitor;

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- (b) if the accused is not so represented, the substance of the report shall be disclosed to the accused or, where he is a child under 16 years of age, to his parent or guardian if present in court;
- (c) in any case, the accused may require that the practitioner by whom the report was signed be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of the accused,

and where the court is of the opinion that further time is necessary in the interests of the accused for consideration of that report, or the substance of any such report, it shall adjourn the case.

- (5) For the purpose of calling evidence to rebut the evidence contained in any such report as aforesaid, arrangements may be made by or on behalf of an accused person detained in a hospital or, as respects a report for the purposes of ^{F14}section 54(1)(c) of this Act, remanded in custody for his examination by any medical practitioner, and any such examination may be made in private.

^{F15}(6) In this section the “relevant provisions” means sections ^{F16}52M(2)(a), 53(2)(a), 54(1)(c), 57A(2)(a), 58(1A)(a), 59A(2)(a) and 60C(2)(a) of this Act.

[In this section, “approved medical practitioner” has the meaning given by section 22 ^{F17}(7) of the Mental Health (Care and Treatment)(Scotland) Act 2003 (asp 13).]

Textual Amendments

- F1** S. 61(1)(3): It is provided that for “and 58(1)(a)” there shall be substituted “, 58(1)(a) and 58(1A)(a)” (1.4.2002) by 2000 asp 4, s. 88(2), **Sch. 5 para. 26(4)(a)(c)**; S.S.I. 2001/81, art. 3, **Sch. 2**
- F2** Words in s. 61(1) substituted (1.1.1998) by 1997 c. 48, s. 10(2)(a); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F3** Words in s. 61(1) repealed (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. 41(a)**; S.S.I. 2012/160, art. 3, sch.
- F4** Words in s. 61(1) 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(10)(a)**; S.S.I. 2005/161, art. 3
- F5** S. 61(1A) inserted (1.1.1998) by 1997 c. 48, s. 10(2)(b); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F6** Words in s. 61(1A) 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(10)(b)(i)**; S.S.I. 2005/161, art. 3
- F7** Words in s. 61(1A) 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(10)(b)(ii)**; S.S.I. 2005/161, art. 3
- F8** S. 61(2): It is provided that after “section 58(1)(a)” there shall be inserted “or 58(1A)(a)” (1.4.2002) by 2000 asp 4, s. 88(2), Sch. 5 para. 26(4)(b); S.S.I. 2001/81, art. 3, **Sch. 2**
- F9** Words in s. 61(2) 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(10)(c)**; S.S.I. 2005/161, art. 3
- F10** Words in s. 61(2) substituted (1.1.1998) by 1997 c. 48, s. 10(2)(c); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F11** Words in s. 61(3) substituted (1.1.1998) by 1997 c. 48, s. 10(2)(d); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F12** Words in s. 61(3) 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(10)(d)**; S.S.I. 2005/161, art. 3
- F13** Words in s. 61(3) repealed (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. 41(b)**; S.S.I. 2012/160, art. 3, sch.

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- F14** Words in s. 61(5) 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. 41(c)**; S.S.I. 2012/160, art. 3, sch.
- F15** S. 61(6) added (1.1.1998) by 1997 c. 48, s. **10(2)(e)**; S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F16** Words in s. 61(6) 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(10)(e)**; S.S.I. 2005/161, **art. 3**
- F17** S. 61(7) 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(10)(f)**; S.S.I. 2005/161, **art. 3**

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