



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

f¹Mental health treatment requirement

Textual Amendments

- F1** Ss. 227A-227ZN and cross-headings inserted (1.2.2011 except for the insertion of s. 227ZM, 1.4.2011 in so far as not already in force) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. [14\(1\)](#), [206\(1\)](#); S.S.I. 2010/413, art. 2, sch. (with art. 3(1))

227R Mental health treatment requirement

- (1) In this Act, a “mental health treatment requirement” is, in relation to an offender, a requirement that the offender must submit, during the specified period, to treatment by or under the direction of a registered medical practitioner or a registered psychologist (or both) with a view to improving the offender's mental condition.
- (2) The treatment to which an offender may be required to submit under a mental health treatment requirement is such of the kinds of treatment described in subsection (3) as is specified; but otherwise the nature of the treatment is not to be specified.
- (3) Those kinds of treatment are—
 - (a) treatment as a resident patient in a hospital (other than a State hospital) within the meaning of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (“the 2003 Act”),
 - (b) treatment as a non-resident patient at such institution or other place as may be specified, or
 - (c) treatment by or under the direction of such registered medical practitioner or registered psychologist as may be specified.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Mental health treatment requirement is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) A court may impose a mental health treatment requirement on an offender only if the court is satisfied—
- (a) on the written or oral evidence of an approved medical practitioner (within the meaning of the 2003 Act), that Condition A is met,
 - (b) on the written or oral evidence of the registered medical practitioner or registered psychologist by whom or under whose direction the treatment is to be provided, that Condition B is met, and
 - (c) that Condition C is met.
- (5) Condition A is that—
- (a) the offender suffers from a mental condition,
 - (b) the condition requires, and may be susceptible to, treatment, and
 - (c) the condition is not such as to warrant the offender's being subject to—
 - (i) a compulsory treatment order under section 64 of the 2003 Act, or
 - (ii) a compulsion order under section 57A of this Act.
- (6) Condition B is that the treatment proposed to be specified is appropriate for the offender.
- (7) Condition C is that arrangements have been made for the proposed treatment including, where the treatment is to be of the kind mentioned in subsection (3)(a), arrangements for the offender's reception in the hospital proposed to be specified in the requirement.
- (8) The specified period must not be longer than the period specified in the offender supervision requirement to be imposed at the same time as the mental health treatment requirement (by virtue of section 227G(2)(b)).
- (9) In this section, “ specified ”, in relation to a mental health treatment requirement, means specified in the requirement.

227S Mental health treatment requirements: medical evidence

- (1) For the purposes of section 227R(4)(a) or (b), a written report purporting to be signed by an approved medical practitioner (within the meaning of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)) may be received in evidence without the need for proof of the signature or qualifications of the practitioner.
- (2) Where such a report is lodged in evidence otherwise than by or on behalf of the offender, a copy of the report must be given to—
 - (a) the offender, and
 - (b) the offender's solicitor (if any).
- (3) The court may adjourn the case if it considers it necessary to do so to give the offender further time to consider the report.
- (4) Subsection (5) applies where the offender is—
 - (a) detained in a hospital under this Act, or
 - (b) remanded in custody.
- (5) For the purpose of calling evidence to rebut any evidence contained in a report lodged as mentioned in subsection (2), arrangements may be made by or on behalf of the offender for an examination of the offender by a registered medical practitioner.

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(6) Such an examination is to be carried out in private.

227T Power to change treatment

- (1) This section applies where—
 - (a) a mental health treatment requirement has been imposed on an offender, and
 - (b) the registered medical practitioner or registered psychologist by whom or under whose direction the offender is receiving the treatment to which the offender is required to submit in pursuance of the requirement is of the opinion mentioned in subsection (2).
- (2) That opinion is—
 - (a) that the offender requires, or that it would be appropriate for the offender to receive, a different kind of treatment (whether in whole or in part) from that which the offender has been receiving, or
 - (b) that the treatment (whether in whole or in part) can be more appropriately given in or at a different hospital or other institution or place from that where the offender has been receiving treatment.
- (3) The practitioner or, as the case may be, psychologist may make arrangements for the offender to be treated accordingly.
- (4) Subject to subsection (5), the treatment provided under the arrangements must be of a kind which could have been specified in the mental health treatment requirement.
- (5) The arrangements may provide for the offender to receive treatment (in whole or in part) as a resident patient in an institution or place even though it is one that could not have been specified for that purpose in the mental health treatment requirement.
- (6) Arrangements may be made under subsection (3) only if—
 - (a) the offender and the responsible officer agree to the arrangements,
 - (b) the treatment will be given by or under the direction of a registered medical practitioner or registered psychologist who has agreed to accept the offender as a patient, and
 - (c) where the treatment requires the offender to be a resident patient, the offender will be received as such.
- (7) Where arrangements are made under subsection (3)—
 - (a) the responsible officer must notify the court of the arrangements, and
 - (b) the treatment provided under the arrangements is to be taken to be treatment to which the offender is required to submit under the mental health treatment requirement.]

Changes to legislation:

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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.)