



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

Pre-sentencing procedure

200 Remand for inquiry into physical or mental condition.

- (1) Without prejudice to any powers exercisable by a court under section 201 of this Act, where—
- (a) the court finds that an accused has committed an offence punishable with imprisonment; and
 - (b) it appears to the court that before the method of dealing with him is determined an inquiry ought to be made into his physical or mental condition,
- subsection (2) below shall apply.
- (2) Where this subsection applies the court shall—
- (a) for the purpose of inquiry solely into his physical condition, remand him in custody or on bail;
 - (b) for the purpose of inquiry into his mental condition (whether or not in addition to his physical condition), remand him in custody or on bail or, where the court is satisfied—
 - (i) on the written or oral evidence of a medical practitioner, that the person appears to be suffering from a mental disorder; and
 - ^{F1}(ii) that the accused could be admitted to a hospital that is suitable for his detention,]make an order committing him to that hospital,
- for such period or periods, no single period exceeding three weeks, as the court thinks necessary to enable a medical examination and report to be made.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 200 is up to date with all changes known to be in force on or before 20 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

- (3) Where the court is of the opinion that a person ought to continue to be committed to hospital for the purpose of inquiry into his mental condition following the expiry of the period specified in an order for committal to hospital under paragraph (b) of subsection (2) above, the court may—
- (a) if the condition in sub-paragraph (i) of that paragraph continues to be satisfied and [F²he could be admitted to a hospital that is suitable] for his continued detention, renew the order for such further period not exceeding three weeks as the court thinks necessary to enable a medical examination and report to be made; and
 - (b) in any other case, remand the person in custody or on bail in accordance with subsection (2) above.
- (4) An order under subsection (3)(a) above may, unless objection is made by or on behalf of the person to whom it relates, be made in his absence.
- (5) Where, before the expiry of the period specified in an order for committal to hospital under subsection (2)(b) above, the court considers, on an application made to it, that committal to hospital is no longer required in relation to the person, the court shall revoke the order and may make such other order, under subsection (2)(a) above or any other provision of this Part of this Act, as the court considers appropriate.
- (6) Where an accused is remanded on bail under this section, it shall be a condition of the order granting bail that he shall—
- (a) undergo a medical examination by a duly qualified registered medical practitioner or, where the inquiry is into his mental condition, and the order granting bail so specifies, two such practitioners; and
 - (b) for the purpose of such examination, attend at an institution or place, or on any such practitioner specified in the order granting bail and, where the inquiry is into his mental condition, comply with any directions which may be given to him for the said purpose by any person so specified or by a person of any class so specified,
- and, if arrangements have been made for his reception, it may be a condition of the order granting bail that the person shall, for the purpose of the examination, reside in an institution or place specified as aforesaid, not being an institution or place to which he could have been remanded in custody, until the expiry of such period as may be so specified or until he is discharged therefrom, whichever first occurs.
- (7) On exercising the powers conferred by this section to remand in custody or on bail the court shall—
- (a) where the person is remanded in custody, send to the institution or place in which he is detained; and
 - (b) where the person is released on bail, send to the institution or place at which or the person by whom he is to be examined,
- a statement of the reasons for which it appears to the court that an inquiry ought to be made into his physical or mental condition, and of any information before the court about his physical or mental condition.
- (8) On making an order of committal to hospital under subsection (2)(b) above the court shall send to the hospital specified in the order a statement of the reasons for which the court is of the opinion that an inquiry ought to be made into the mental condition of the person to whom it relates, and of any information before the court about his mental condition.

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(9) A person remanded under this section may [^{F3}, before the expiry of the period of 24 hours beginning with his remand,] appeal [^{F4}to the [^{F5}appropriate Appeal Court] by note of appeal] against the refusal of bail or against the conditions imposed and a person committed to hospital under this section may [^{F6}, at any time during the period when the order for his committal, or, as the case may be, renewal of such order, is in force,] appeal [^{F4}to the [^{F5}appropriate Appeal Court] by note of appeal] against the order of committal ^{F7} . . . ^{F8} . . . , and the [^{F5}appropriate Appeal Court], either in court or in chambers, may after hearing parties—

- (a) review the order and grant bail on such conditions as it thinks fit; or
- (b) confirm the order; or
- (c) in the case of an appeal against an order of committal to hospital, revoke the order and remand the person in custody.

[^{F9}(9A) A note of appeal under subsection (9) above is to be—

- (a) lodged with the clerk of the court from which the appeal is to be taken; and
- (b) sent without delay by that clerk (where not the [^{F10}clerk of the appropriate Appeal Court]) to the [^{F10}clerk of the appropriate Appeal Court].]

(10) The court may, on cause shown, vary an order for committal to hospital under subsection (2)(b) above by substituting another hospital for the hospital specified in the order.

(11) Subsection (2)(b) above shall apply to the variation of an order under subsection (10) above as it applies to the making of an order for committal to hospital.

[^{F11}(12) In this section—

“appropriate Appeal Court” means—

- (a) in the case of an appeal under subsection (9) against a decision of the High Court, that Court;
- (b) in the case of an appeal under subsection (9) against a decision of a sheriff (whether in solemn or summary proceedings) or a JP court, the Sheriff Appeal Court; and

“the clerk of the appropriate Appeal Court” means—

- (a) in a case where the High Court is the appropriate Appeal Court, the Clerk of Justiciary;
- (b) in a case where the Sheriff Appeal Court is the appropriate Appeal Court, the Clerk of that Court.]

Textual Amendments

- F1** S. 200(2)(b)(ii) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (asp 13), ss. 331(1), 333(2)-(4), **Sch. 4 para. 8(13)(a)**; S.S.I. 2005/161, **art. 3**
- F2** Words in s. 200(3)(a) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (asp 13), ss. 331(1), 333(2)-(4), **Sch. 4 para. 8(13)(b)**; S.S.I. 2005/161, **art. 3**
- F3** Words in s. 200(9) inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (asp 13), **ss. 132(a)**, 333(2)-(4); S.S.I. 2005/161, **art. 3**
- F4** Words in s. 200(9) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), **ss. 6(4)(a)(i)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F5** Words in s. 200(9) substituted (22.9.2015) by [The Courts Reform \(Scotland\) Act 2014](#) (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(6)(a)** (with art. 4)

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- F6** Words in s. 200(9) inserted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), **ss. 132(b)**, 333(2)-(4); S.S.I. 2005/161, **art. 3**
- F7** Words in s. 200(9) repealed (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), **ss. 132(c)**, 331(2), 333(2)-(4), **Sch. 5**; S.S.I. 2005/161, **art. 3**
- F8** Words in s. 200(9) repealed (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 6(4)(a)(ii)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F9** S. 200(9A) added (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 6(4)(b)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F10** Words in s. 200(9A)(b) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(6)(b)** (with art. 4)
- F11** S. 200(12) inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(6)(c)** (with art. 4)

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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.)