

# ACT OF ADJOURNAL (CRIMINAL PROCEDURE RULES) 1996 SI 1996/513

## SCHEDULE 2

### CRIMINAL PROCEDURE RULES 1996

#### **PART II General**

#### **CHAPTER 7 MENTAL DISORDER**

##### **Application for assessment orders**

- 7.1 (1) A written application under—
- (a) section 52B(1) of the Act of 1995 (assessment order: prosecutor); or
  - (b) section 52C(1) of the Act of 1995 (assessment order: Scottish Ministers),

shall be in Form 7.1.

- (2) Where an application is made under paragraph (1) —
- (a) the court shall appoint a diet for hearing the application; and
  - (b) the clerk of court shall intimate the diet to the applicant, the person in respect of whom the application is made or the solicitor for that person, the governor of any institution in which the person in respect of whom the application is made is detained and, where the application is by the Scottish Ministers, the prosecutor.

##### **Assessment orders *ex proprio motu***

7.2 Where the court considers making an assessment order under section 52E of the Act of 1995 (assessment order: *ex proprio motu*) and considers it appropriate to do so—

- (a) the court shall appoint a diet for parties to be heard; and
- (b) the clerk of court shall intimate the diet to the prosecutor, the person in respect of whom the order may be made or the solicitor for that person, and the governor of any institution in which the person in respect of whom the application is made is detained.

##### **Applications for treatment orders**

- 7.3 (1) A written application under—
- (a) section 52K(1) of the Act of 1995 (treatment order: prosecutor); or
  - (b) section 52L(1) of the Act of 1995 (treatment order: Scottish Ministers),

shall be in Form 7.3.

- (2) Where an application is made under paragraph (1)—
  - (a) the court shall appoint a diet for hearing the application; and
  - (b) the clerk of court shall intimate the diet to the applicant, the person in respect of whom the application is made or the solicitor for that person, the governor of any institution in which the person in respect of whom the application is made is detained, and where the application is by the Scottish Ministers, the prosecutor.

### **Treatment orders *ex proprio motu***

7.4 Where the court considers making a treatment order under section 52N of the Act of 1995 (treatment order: *ex proprio motu*) and considers it appropriate to do so—

- (a) the court shall appoint a diet for parties to be heard; and
- (b) the clerk of court shall intimate the diet to the prosecutor, the person in respect of whom the order may be made or the solicitor for that person, and the governor of any institution in which the person in respect of whom the application is made is detained.

### **Variation of assessment orders or review of treatment orders**

7.5 Where the court receives a report under section 52G(9) (report for variation of assessment order) or section 52Q(1) (report for review of treatment order) of the Act of 1995—

- (a) the court shall, by interlocutor in Form 7.5, appoint a hearing for parties to be heard and where appropriate, grant warrant to authorised officers of the hospital or officers of law, to bring the offender from the hospital to the court for that diet; and
- (b) the clerk of court shall intimate the diet to the prosecutor, the person in respect of whom the order has been made or the solicitor for that person.

### **Interim compulsion order**

7.6 (1) Subject to paragraph (2), where the court receives a report under section 53B(1) of the Act of 1995 (interim compulsion order) —

- (a) the court shall—
  - (i) by interlocutor in Form 7.6, appoint a hearing for parties to be heard and where appropriate, grant warrant to authorised officers of the hospital or officers of law, to bring the offender from the hospital to the court for that diet;
  - (ii) discharge the diet already fixed; and

(b) the clerk of court shall intimate the diet to the prosecutor, the person in respect of whom the order has been made or the solicitor for that person.

(2) Where the report referred to in paragraph (1) is received within 14 days before the diet already fixed, paragraph (1) shall not apply.

### **Assessment, treatment and interim compulsion orders: specified hospital**

7.7 Where the court makes a direction under section 52F(1)(b) (assessment order: specified hospital), section 52P(1)(b) (treatment order: specified hospital) or section 53A(1) (interim compulsion order: specified hospital) of the Act of 1995 the court shall send a copy of the direction to the person in respect of whom the order has been made, the solicitor for that person, the prosecutor and Scottish Ministers.

### **Compulsion orders and hospital directions: specified hospital**

7.8 Where the court makes a direction under 57D(1) (compulsion order: specified hospital) or specifies another hospital in a direction under section 59C(1) (hospital direction: specified hospital) of the Act of 1995 the court shall send a copy of the direction or specification, as the case may be, to the person in respect of whom the order has been made and the solicitor for that person.

### **Appeals**

7.9 (1) An appeal under–

(a) section 62 of the Act of 1995 (appeal by accused in case involving insanity); or

(b) section 63 of the Act of 1995 (appeal by prosecutor in case involving insanity),

shall be made by lodging a note of appeal in Form 7.9.

(2) At the same time as lodging a note of appeal under paragraph (1), the applicant shall send a copy to the other parties.

(3) As soon as possible after the lodging of a note of appeal under paragraph (1), the Clerk of Justiciary shall request a report from the judge who made the finding, order or acquittal which is the subject of the appeal.