

2005 No. 444

MENTAL HEALTH

**The Mental Health (Form of Documents) (Scotland)
Regulations 2005**

Made - - - - - *12th September 2005*

Laid before the Scottish Parliament *13th September 2005*

Coming into force - - - *5th October 2005*

The Scottish Ministers, in exercise of the powers conferred on them by section 325 of the Mental Health (Care and Treatment) (Scotland) Act 2003(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—1) These Regulations may be cited as the Mental Health (Form of Documents) (Scotland) Regulations 2005 and shall come into force on 5th October 2005.

(1) In these Regulations—

- (a) “the 2003 Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003; and
- (b) any reference to a numbered section is a reference to the section bearing that number in the 2003 Act.

Form of documents

2. Any document required or authorised to be prepared by virtue of a section of the 2003 Act listed in column 1 of Schedule 1 shall contain the particulars set out in the corresponding form listed in column 2 of that Schedule and set out in Schedule 2 and shall be used in the circumstances specified in column 3 of Schedule 1.

LEWIS MACDONALD

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
12th September 2005

(a) 2003 asp 13. See section 329 for the definition of “regulations”.

SCHEDULE 1

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Section 35	Form MH01	Application for warrant to enter premises under subsection (1);
	Form MH01A	Warrant under subsection (1);
	Form MH02	Application for warrant to detain person under subsection (4) for the purpose of enabling a medical examination;
	Form MH02A	Warrant under subsection (4);
Section 292	Form MH003	Application for warrant for access to medical records under subsection (7);
	Form MH03A	Warrant under subsection (7).
	Form MH04	Application for warrant to enter premises under subsection (1);
Section 293	Form MH04A	Warrant under subsection (1)
	Form MH05	Warrant under subsection (1)
	Form MH05A	Application for removal order under subsection (1);
Section 294	Form MH05B	Intimation of application for removal order under subsection (1);
	Form MH06	Removal order granted by sheriff under subsection (1)
	Form MH06A	Application to Justice of the Peace for removal order;
Section 295	Form MH07	Removal order granted by Justice of the Peace
	Form MH07A	Application for recall or variation of removal order
	Form MH07B	Intimation of application for recall or variation of removal order
		Order recalling or varying removal order

SCHEDULE 2

FORM MH01

Form of application for warrant to enter premises under section 35(1)

APPLICATION FOR WARRANT TO ENTER PREMISES UNDER SECTION 35(1) OF THE
MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

SHERIFFDOM/COMMISSION AREA OF *(insert name of sheriffdom or commission area)*

AT *(insert place of court)*

I, *(insert name)*, being a relevant mental health officer appointed by *(insert name and address of local authority)*

hereby apply for a warrant to enter premises at *(insert address)*

for the purposes of inquiries being made by *(insert name of local authority)* into the case of *(name and address of person)* under section 33 of the 2003 Act and it being necessary to enter the above premises for the following reasons:

I am *unable to obtain entry to the premises/reasonably apprehend that I will be unable to obtain entry to those premises *(delete as applicable)* because:

(Signed)

Applicant *(insert name)*

Address

Date

FORM MH01A

Form of warrant under section 35(1) (warrant to enter premises)

WARRANT UNDER SECTION 35(1) (WARRANT TO ENTER PREMISES) OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

SHERIFFDOM/COMMISSION AREA OF *(insert name of sheriffdom or commission area)*

AT *(insert place of court)*

<i>Name of person who is the subject of inquiries</i>	<i>Address (include flat number if any)</i>	<i>Local authority making inquiries</i>

Having heard evidence on oath from *(insert name of relevant mental health officer)* appointed by *(insert name and address of local authority)*, and being satisfied that for the purposes of inquiries by said authority under section 33 of the Mental Health (Care and Treatment) (Scotland) Act 2003, it is necessary to enter premises at *(insert address)*, I hereby grant warrant as craved, by virtue of section 35 of the 2003 Act, authorising the following persons to enter the specified premises:

- 1 *(insert name)*, relevant mental health officer;
2. other person(s) *(insert name(s) and designation(s))*; and
3. any constable of *(insert name of the force maintained for the area in which the premises are situated)*

said warrant to remain valid for the period beginning from this date until *(insert date 8 days from the date of granting)*, and further providing authority to any such constable, in exercising the power to enter the said premises before the expiry of that period to open lock-fast places on those specified premises.

(insert place and date)

(signed)

Sheriff/Justice of the Peace

FORM MH02

Form of application for warrant to detain under section 35(4) for the purpose of enabling a medical examination

APPLICATION FOR WARRANT TO DETAIN PERSON FOR THE PURPOSES OF
ENABLING A MEDICAL EXAMINATION UNDER SECTION 35(4) OF THE MENTAL
HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

SHERIFFDOM/COMMISSION AREA OF *(insert name of sheriffdom or commission area)*

AT *(insert place of court)*

I, *(insert name)*, being a relevant mental health officer appointed by *(insert name and address of local authority)*,

hereby apply for a warrant to detain *(insert name and address of the person who is the subject of inquiries)*

at *(insert address of place where medical examination is to take place)*

for the purposes of inquiries being made by *(insert name of local authority)* into the case of *(name and address of person)* under section 33 of the 2003 Act and it being necessary that the medical practitioner carry out a medical examination of him/her for the following reasons:

Name and address of the medical practitioner:

I am unable to obtain the person's consent to the medical examination for the following reasons:

(Signed)

Applicant *(insert name)*

Address

Date

FORM MH02A

Form of warrant under section 35(4)

WARRANT UNDER SECTION 35(4) (WARRANT TO DETAIN PERSON FOR THE PURPOSES OF ENABLING A MEDICAL EXAMINATION) UNDER THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

SHERIFFDOM/COMMISSION AREA OF *(insert name of sheriffdom or commission area)*

AT *(insert place of court)*

<i>Name of person who is the subject of inquiries</i>	<i>Address (include flat number if any)</i>	<i>Local authority making inquiries</i>

Having heard evidence on oath from *(insert name of relevant mental health officer)*

appointed by *(insert name of local authority),*

and being satisfied that for the purposes of inquiries by said authority under section 33 of the Mental Health (Care and Treatment) (Scotland) Act 2003, it is necessary to detain *(insert name and address of the person who is the subject of the inquiries)* for a period of 3 hours to enable a medical examination of that person to take place at *(insert address of place where medical examination is to take place)*.

I hereby grant a warrant by virtue of section 35 of the said Act authorising the detention of the person who is the subject of the inquiries for a period of 3 hours at that address for the purpose of enabling a medical examination to be conducted by the following medical practitioner: *(insert name and address of medical practitioner)*

(insert place and date)

(signed)

Sheriff/Justice of the Peace

FORM MH03

Form of application for warrant for access to medical records under section 35(7)

APPLICATION FOR WARRANT FOR ACCESS TO MEDICAL RECORDS UNDER
SECTION 35(7) OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND)
ACT 2003

SHERIFFDOM/COMMISSION AREA OF *(insert name of sheriffdom or commission area)*

AT *(insert place of court)*

I, *(insert name)* being a relevant mental health officer appointed by *(name and address of local authority)*,

hereby apply for a warrant for the medical practitioner specified below to have access to the medical records of *(insert name and address of person who is subject to the inquiries)*

held by *(insert name and address of person holding records)*

for the purposes of inquiries being made by *(insert name of local authority)* under section 33 of the 2003 Act, into the case of *(insert name and address of person who is the subject of the inquiries)* and it being necessary that the specified medical practitioner have access to the person's medical records for the following reasons:

I am unable to obtain the person's consent for the following reasons:

Name and address of specified medical practitioner:

(Signed)

Applicant *(insert name)*

Address

Date

FORM MH03A

Form of warrant under section 35(7)

WARRANT UNDER SECTION 35(7) (WARRANT FOR ACCESS TO MEDICAL RECORDS)
UNDER THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

SHERIFFDOM/COMMISSION AREA OF *(insert name of sheriffdom or commission area)*

AT *(insert place of court)*

<i>Name of person who is the subject of inquiries</i>	<i>Address (include flat number if any)</i>	<i>Local authority making inquiries</i>

Having heard evidence on oath from *(insert name of the applicant)* being the relevant mental health officer, appointed by *(insert name and address of local authority)*, and being satisfied that for the purposes of inquiries by said authority under section 33 of the Mental Health (Care and Treatment) (Scotland) Act 2003 it is necessary for the medical records of *(insert name and address of the person who is the subject of the inquiries)* to be produced for inspection, hereby grant warrant by virtue of section 35 of the said Act requiring:

(insert name and address of person holding records)

to produce them for inspection by *(insert name and address of specified medical practitioner)* on being required to do so by that practitioner.

(insert place and date)

(signed)

Sheriff/Justice of the Peace

FORM MH04

Form of application for warrant to enter premises under section 292

FORM OF APPLICATION FOR WARRANT TO ENTER PREMISES UNDER SECTION 292
OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

SHERIFFDOM/COMMISSION AREA OF *(insert name of sheriffdom or commission area)*

AT *(insert place of court)*

I *(insert name and designation)* being a person authorised, in relation to *(insert name of patient)*,
by virtue of the Mental Health (Care And Treatment) (Scotland) Act 2003 to *(insert details of
authorisation)*, hereby apply for a warrant to enter premises at *(insert address)*

on the following grounds:-

(Signed)

Applicant *(insert name)*

Address

Date

FORM MH04A

Form of warrant to enter premises under section 292(1)

WARRANT UNDER SECTION 292(1) OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

SHERIFFDOM/COMMISSION AREA OF *(insert name of sheriffdom or commission area)*

AT *(insert place of court)*

Having heard evidence on oath from *(insert name of authorised person)*, being an authorised person, within the meaning of section 292(5) of the 2003 Act, and being satisfied that there are reasonable grounds to believe that it is necessary for the authorised person to enter premises at *(insert address of the specified premises)*

and that they are either unable (or that they reasonably apprehend that they will be unable) to obtain entry to those premises, by virtue of the powers conferred by section 292(1) of the 2003 Act, I grant warrant to enter the specified premises and hereby authorise:

1. *(insert name)*, the authorised person;
2. any mental health officer appointed by *(insert name and address of the local authority for the area in which the premises are situated)*; and
3. any constable of *(insert name of the force maintained for the area in which the premises are situated)*

to enter the specified premises and any such constable may, for the purposes of entering those premises, open lockfast places on those premises.

(insert place and date)

(signed)

Sheriff/Justice of the Peace

FORM MH05

Form of application for removal order under section 293(1)

APPLICATION FOR REMOVAL ORDER UNDER SECTION 293(1) OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

I, *(insert name)* being an relevant mental health officer appointed by *(insert name and address of local authority)*

hereby apply for a warrant to enter premises at *(insert address)*

and to remove *(insert name of person with mental disorder)* to the following place of safety *(insert address)*

on the following grounds:-

and

(1) I crave the court to intimate the application to the following persons:

- (a) *(insert name of the person who is the subject of the application)*; and
- (b) the persons listed below *(being persons prescribed by regulations under section 293(6) of the 2003 Act)*:

Name	Relationship <i>(to the person who is the subject of the application)</i>	Address
Indicate if details not knowns		
1.	nearest relative	
2.	guardian	
3.	welfare attorney	
4.	primary carer	

or

(2) I crave the court to dispense with intimation on the grounds that delay in obtaining a removal order is likely to be prejudicial to the person, for the following reasons:

(Signed)

Applicant *(insert name)*

Address

Date

Form MH05A

Form of intimation of application for removal order under section 293(1)

INTIMATION OF APPLICATION FOR REMOVAL ORDER UNDER SECTION 293(1) OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

Court ref. no.

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

NOTICE to *(insert name and address)*

An application for a removal order under section 293(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003, has been made by *(insert name and designation of applicant)* seeking authorisation to enter premises at *(insert address)*

to remove *(insert name of person with mental disorder)*

to the following place of safety *(insert address)*

A hearing on the application will take place at *(insert place)* on *(insert date)* at *(insert time)*

You may appear personally at the hearing of this application for the purposes of making representations and of leading, or producing evidence.

In any event, if you are unable or do not wish to appear personally, the sheriff will consider any representations or evidence you may wish to produce in writing.

These should be sent by _____ *(insert date by which these are required)*

to *(insert address)*:

(insert place and date)

(Signed)

Sheriff Clerk

Form MH05B

Form of removal order under section 293(1)

REMOVAL ORDER UNDER SECTION 293(1) OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

Court ref. no

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

Having on this date examined the applicant on oath and being satisfied on the information provided, by virtue of the powers conferred by section 293(1) of the said Act, I hereby grant a removal order authorising:

1. *(insert name of applicant)*, relevant mental health officer;
2. *(insert names and designations of other persons authorised)*; and
3. any constable of *(insert name of the force maintained for the area in which the premises are situated)* to
 - (a) enter the specified premises at *(insert address of specified premises)* within the period of 72 hours beginning with the granting of this order, (and any such constable may, for the purposes of entering those premises within that period, open lockfast places on those premises);
 - (b) remove *(insert name of the person suffering from mental disorder)* to a place of safety at *(insert address of place of safety)* within 72 hours of the granting of this order; and
 - (c) detain the person in the place of safety for the period specified.

Period specified (insert period not exceeding 7 days):

(insert place, date and time)

(signed)

Sheriff

Form MH06

Form of application to Justice of the Peace for removal order under section 294

FORM OF APPLICATION FOR REMOVAL ORDER UNDER SECTION 294 OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

COMMISSION AREA OF *(insert name of commission area)*

AT *(insert place of court)*

I, *(insert name)*, being a relevant mental health officer appointed by *(insert name and address of local authority)*

hereby apply for a warrant to enter premises at *(insert address)*

and to remove *(insert name of person with mental disorder)* to the following place of safety
(insert address)

on the following grounds:

I consider that making an application to the sheriff is impracticable in the circumstances and that any delay in obtaining a removal order is likely to be prejudicial to the person who is the subject of the application for the following reasons:

(Signed)

Applicant *(insert name)*

Address

Date

Form MH06A

Form of removal order granted by a Justice of the Peace

REMOVAL ORDER UNDER SECTION 294 OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

COMMISSION AREA OF *(insert name of commission area)*

AT *(insert place of court)*

Having on this date examined the applicant *(insert name and designation of applicant)* on oath and being satisfied on the information provided, by virtue of the powers conferred by section 293(1) (as applied by section 294) of the 2003 Act, hereby grant a removal order authorising:

1. *(insert name of applicant)*, relevant mental health officer;
2. *(insert names and designations of other persons authorised)*; and
3. any constable of *(insert name of the force maintained for the area in which the premises are situated)* to:
 - (a) enter the specified premises at *(insert address of specified premises)* within the period of 72 hours beginning with the granting of this order, (and any such constable may, for the purposes of entering those premises within that period, open lockfast places on those premises);
 - (b) remove *(insert name of the person suffering from mental disorder)* to a place of safety at *(insert address of place of safety)* within 72 hours of the granting of this order; and
 - (c) detain the person in the place of safety for the period specified.

Period specified *(insert period not exceeding 7 days)*:

(insert place, date and time)

(signed)

Justice of the Peace

Form MH07

Form of application for recall or variation of a removal order

APPLICATION FOR RECALL OR VARIATION OF A REMOVAL ORDER UNDER
SECTION 295 OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT
2003

Court ref. no.

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

I *(insert name and address of applicant)*

hereby apply under section 295 of the 2003 Act, in relation to a removal order in respect of *(insert name of person who is the subject of the removal order)* granted by *(insert name of sheriff or Justice of the Peace who granted the removal order)* on *(insert place, date and time removal order was granted)* on an application by *(insert name and designation of applicant for the removal order)*

for an order *(*Delete as applicable)*:

- (a) *Recalling the said removal order, or
- (b) *Varying the said removal order by specifying a different place of safety and the removal of the person to that place of safety at *(insert address of different place of safety)*

for the following reasons:

Relationship of applicant to the person/reason for interest in the person's welfare *(where the applicant is not the person who is the subject of the removal order)*:

(Signed)

Applicant *(insert name)*

Address

Date

Form MH07A

Form of intimation of hearing of application for recall or variation of removal order under section 295

INTIMATION OF APPLICATION FOR RECALL OR VARIATION OF REMOVAL ORDER
UNDER SECTION 295 OF THE MENTAL HEALTH (CARE AND TREATMENT)
(SCOTLAND) ACT 2003

Court ref. no.

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

Notice to *(insert name and address)*

An application has been made by *(insert name of applicant)* for an order to recall or vary a removal order under section 293(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003, in relation to *(insert name of person with mental disorder)* and in particular to *(insert details of the order sought)*

A hearing on the application will take place at *(insert place)* on *(insert date)* at *(insert time)*

You may appear personally at the hearing of this application for the purposes of making representations and of leading, or producing evidence.

In any event, if you are unable or do not wish to appear personally, the sheriff will consider any representations or evidence you may wish to produce in writing.

These should be sent by _____ *(insert date by which these are required)*

to *(insert address)*:

(insert place and date)

(Signed)

Sheriff Clerk

Form MH07B

Form of order for recall or variation of removal order

ORDER FOR RECALL OR VARIATION OF REMOVAL ORDER UNDER SECTION 295 OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

Court ref. no.

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

Having on this date examined the applicant *(insert name and designation of applicant)* on oath and being satisfied on the information provided, by virtue of the powers conferred by section 295 of the 2003 Act, hereby grant an order:

1. recalling the removal order granted at *(insert place, date and time removal order was granted)*, and authorising:
 - (a) the return of *(insert name of the person who is the subject of the said removal order)* to *(insert address of the premises from which that person was, by virtue of the order, removed)*; or
 - (b) the taking of *(insert name of the person who is the subject of the said removal order)* to *(insert specified address)* being an appropriate place chosen by that person; or
2. varying the removal order granted at *(insert place, date and time removal order was granted)* and:
 - (a) specifying as the place of safety *(insert address of different place of safety)*;
 - (b) authorising removal of *(insert name of the person who is the subject of the said removal order)* within a period of 72 hours beginning with the granting of this order to that place of safety; and
 - (c) authorising detention in that place of safety until *(insert period equivalent to the remainder of such period specified in the removal order)*.

(insert place, date and time)

(signed)

Sheriff

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations provide for the form of certain documents required or authorised under the Mental Health (Care and Treatment) (Scotland) Act 2003, the information to be set out in the forms and the circumstances in which those forms should be used.

£3.50

© Crown Copyright 2005

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
150 09/05 19593

