



Mental Health Act 1983

1983 CHAPTER 20

PART III

PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

Remands to hospital

35 Remand to hospital for report on accused's mental condition.

- (1) Subject to the provisions of this section, the Crown Court or a magistrates' court may remand an accused person to a hospital specified by the court for a report on his mental condition.
- (2) For the purposes of this section an accused person is—
 - (a) in relation to the Crown Court, any person who is awaiting trial before the court for an offence punishable with imprisonment or who has been arraigned before the court for such offence and has not yet been sentenced or otherwise dealt with for the offence on which he has been arraigned;
 - (b) in relation to a magistrates' court, any person who has been convicted by the court of an offence punishable on summary conviction with imprisonment and any person charged with such an offence if the court is satisfied that he did the act or made the omission charged or he has consented to the exercise by the court of the powers conferred by this section.
- (3) Subject to subsection (4) below, the powers conferred by this section may be exercised if—
 - (a) the court is satisfied, on the written or oral evidence of a registered medical practitioner, that there is reason to suspect that the accused person is suffering from [^{F1}mental disorder] ; and
 - (b) the court is of the opinion that it would be impracticable for a report on his mental condition to be made if he were remanded on bail;

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but those powers shall not be exercised by the Crown Court in respect of a person who has been convicted before the court if the sentence for the offence of which he has been convicted is fixed by law.

- (4) The court shall not remand an accused person to a hospital under this section unless satisfied, on the written or oral evidence of the [^{F2}approved clinician] who would be responsible for making the report or of some other person representing the managers of the hospital, that arrangements have been made for his admission to that hospital and for his admission to it within the period of seven days beginning with the date of the remand; and if the court is so satisfied it may, pending his admission, give directions for his conveyance to and detention in a place of safety.
- (5) Where a court has remanded an accused person under this section it may further remand him if it appears to the court, on the written or oral evidence of the [^{F2}approved clinician] responsible for making the report, that a further remand is necessary for completing the assessment of the accused person's mental condition.
- (6) The power of further remanding an accused person under this section may be exercised by the court without his being brought before the court if he is represented by [^{F3}an authorised person who] is given an opportunity of being heard.
- (7) An accused person shall not be remanded or further remanded under this section for more than 28 days at a time or for more than 12 weeks in all; and the court may at any time terminate the remand if it appears to the court that it is appropriate to do so.
- (8) An accused person remanded to hospital under this section shall be entitled to obtain at his own expense an independent report on his mental condition from a registered medical practitioner [^{F4}or approved clinician] chosen by him and to apply to the court on the basis of it for his remand to be terminated under subsection (7) above.
- (9) Where an accused person is remanded under this section—
 - (a) a constable or any other person directed to do so by the court shall convey the accused person to the hospital specified by the court within the period mentioned in subsection (4) above; and
 - (b) the managers of the hospital shall admit him within that period and thereafter detain him in accordance with the provisions of this section.
- (10) If an accused person absconds from a hospital to which he has been remanded under this section, or while being conveyed to or from that hospital, he may be arrested without warrant by any constable and shall, after being arrested, be brought as soon as practicable before the court that remanded him; and the court may thereupon terminate the remand and deal with him in any way in which it could have dealt with him if he had not been remanded under this section.

Textual Amendments

- F1** Words in s. 35(3)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 1, 56, [Sch. 1 para. 5](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(a\)](#) (with [art. 3](#), [Sch.](#))
- F2** Words in s. 35(4)(5) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 10\(2\)\(a\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F3** Words in s. 35(6) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 54](#) (with [ss. 29](#), 192, 193); [S.I. 2009/3250](#), [art. 2\(h\)](#) (with [arts. 6](#), 9)
- F4** Words in s. 35(8) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 10\(2\)\(b\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(a\)](#) (with [art. 3](#), [Sch.](#))

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Modifications etc. (not altering text)

- C1** S. 35 modified (31.3.2005) by **Army Act 1955** (c. 18), s. 116B(2)(a)(c) (as substituted by 2004 c. 28, ss. 26, 60, **Sch. 3 para. 1** (with Sch. 12 para. 8)); S.I. 2005/579, **art. 3(b)**
S. 35 modified (31.3.2005) by **Airforce Act 1955** (c. 19), s. 116B(2)(a)(c), (as substituted by 2004 c. 28, ss. 26, 60, **Sch. 3 para. 1** (with Sch. 12 para. 8)); S.I. 2005/579, **art. 3(b)**
S. 35 modified (31.3.2005) by **Naval Discipline Act 1957** (c. 53), s. 63B(2)(a)(c), (as substituted by 2004 c. 28, ss. 26, 60, **Sch. 3 para. 3** (with Sch. 12 para. 8)); S.I. 2005/579, **art. 3(b)**
S. 35 modified (26.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 169, 383, **Sch. 4 para. 3**; S.I. 2009/812, **art. 3(a)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- C2** S. 35 applied (1.10.1997) by 1996 c. 27, **ss. 48, 67(2)**; S.I. 1997/1892, **art. 3(1)(a)**
- C3** S. 35 applied (15.10.2001) by 1996 c. 52 s. 156(4); S.I. 2001/3164, **art. 2**

36 Remand of accused person to hospital for treatment.

- (1) Subject to the provisions of this section, the Crown Court may, instead of remanding an accused person in custody, remand him to a hospital specified by the court if satisfied, on the written or oral evidence of two registered medical practitioners, that
 - [^{F5}(a) he is suffering from mental disorder of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment;]^{F6} and
 - (b) appropriate medical treatment is available for him.]
- (2) For the purposes of this section an accused person is any person who is in custody awaiting trial before the Crown Court for an offence punishable with imprisonment (other than an offence the sentence for which is fixed by law) or who at any time before sentence is in custody in the course of a trial before that court for such an offence.
- (3) The court shall not remand an accused person under this section to a hospital unless it is satisfied, on the written or oral evidence of the [^{F7}approved clinician who would have overall responsibility for his case] or of some other person representing the managers of the hospital, that arrangements have been made for his admission to that hospital and for his admission to it within the period of seven days beginning with the date of the remand; and if the court is so satisfied it may, pending his admission, give directions for his conveyance to and detention in a place of safety.
- (4) Where a court has remanded an accused person under this section it may further remand him if it appears to the court, on the written or oral evidence of the [^{F8}responsible clinician] , that a further remand is warranted.
- (5) The power of further remanding an accused person under this section may be exercised by the court without his being brought before the court if he is represented by [^{F9}an authorised person who] is given an opportunity of being heard.
- (6) An accused person shall not be remanded or further remanded under this section for more than 28 days at a time or for more than 12 weeks in all; and the court may at any time terminate the remand if it appears to the court that it is appropriate to do so.
- (7) An accused person remanded to hospital under this section shall be entitled to obtain at his own expense an independent report on his mental condition from a registered medical practitioner [^{F10}or approved clinician] chosen by him and to apply to the court on the basis of it for his remand to be terminated under subsection (6) above.
- (8) Subsections (9) and (10) of section 35 above shall have effect in relation to a remand under this section as they have effect in relation to a remand under that section.

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Textual Amendments

- F5** S. 36(1)(a) substituted (3.11.2008) for words by Mental Health Act 2007 (c. 12), ss. 1, 56, **Sch. 1 para. 6** (with Sch. 10); S.I. 2008/1900, **art. 2(a)** (with art. 3, Sch.)
- F6** S. 36(1)(b) and preceding word inserted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 5(2), 56** (with Sch. 10); S.I. 2008/1900, **art. 2(b)** (with art. 3, Sch.)
- F7** Words in s. 36(3) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 10(3)(a), 56** (with Sch. 10); S.I. 2008/1900, **art. 2(a)** (with art. 3, Sch.)
- F8** Words in s. 36(4) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 10(3)(b), 56** (with Sch. 10); S.I. 2008/1900, **art. 2(a)** (with art. 3, Sch.)
- F9** Words in s. 36(5) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, **Sch. 21 para. 55** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with arts. 6, 9)
- F10** Words in s. 36(7) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 10(3)(c), 56** (with Sch. 10); S.I. 2008/1900, **art. 2(a)** (with art. 3, Sch.)

Modifications etc. (not altering text)

- C4** S. 36 modified (31.3.2005) by Army Act 1955 (c. 18), s. 116B(2)(b)(c), (as substituted by 2004 c. 28, ss. 26, 60, **Sch. 3 para.1** (with Sch. 12 para. 8)); S.I. 2005/579, **art. 3(b)**
 S. 36 modified (31.3.2005) by Airforce Act 1955 (c. 19), s. 116B(2)(b)(c), (as substituted by 2004 c. 28, ss. 26, 60, **Sch. 3 para.1** (with Sch. 12 para. 8)); S.I. 2005/579, **art. 3(b)**
 S. 36 modified (31.3.2005) by Naval Discipline Act 1957 (c. 53), s. 63B(2)(b)(c), (as substituted by 2004 c. 28, ss. 26, 60, **Sch. 3 para.3** (with Sch. 12 para. 8)); S.I. 2005/579, **art. 3(b)**
 S. 36 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 169, 383, **Sch. 4 para. 4**; S.I. 2009/812, **art. 3(a)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

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