

SCHEDULE 1

RSC ORDER 54

APPLICATIONS FOR WRIT OF HABEAS CORPUS

Application for writ of habeas corpus ad subjiciendum

Rule 1.—(1) Subject to rule 11, an application for a writ of habeas corpus ad subjiciendum shall be made to a judge in Court, except that—

- (a) it shall be made to a Divisional Court of the Queen’s Bench Division if the Court so directs;
- (b) it may be made to a judge otherwise than in court at any time when no judge is sitting in court; and
- (c) any application on behalf of a child must be made in the first instance to a judge otherwise than in court.

(2) An application for such writ may be made without notice being served on any other party and, subject to paragraph (3) must be supported by a witness statement or affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(3) Where the person restrained is unable for any reason to make the witness statement or affidavit required by paragraph (2) the witness statement or affidavit may be made by some other person on his behalf and that witness statement or affidavit must state that the person restrained is unable to make the witness statement or affidavit himself and for what reason.