STATUTORY INSTRUMENTS

1984 No. 1542 (L. 16)

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Forms) (Amendment) Rules 1984

Made - - - -	*27th September* 1984
Laid before Parliament	*28th September* 1984
Coming into Operation	
for the purposes of Rule 2(b)	*1st October* 1984
for all other purposes	*29th October* 1984

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980 (**a**), as extended by section 145 of that Act, after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Magistrates' Courts (Forms) (Amendment) Rules 1984 and shall come into operation for the purposes of Rule 2(*b*) on 1st October 1984 and for all other purposes on 29th October 1984.

(2) In these Rules, "the principal Rules", means the Magistrates' Courts (Forms) Rules 1981 (**b**).

2. Schedule 2 of the principal Rules shall be amended as follows:—

(a) for the forms numbered 35, 36 and 42 there shall be substituted the forms numbered in the like manner in the Schedule to these Rules;

(b) after the form numbered 35 there shall be inserted the forms numbered 35A, 35B, 35C and 35D in the Schedule to these Rules;

(c) after the form numbered 97 there shall be inserted the form numbered 97A in the Schedule to these Rules.

Hailsham of St. Marylebone, C.

Dated 27th September 1984.

(**a**) 1980 c.43.
(**b**) S.I. 1981/553, amended by S.I. 1982/246, 1983/524.

Rule 2

SCHEDULE

Forms to be substituted or inserted in Schedule 2 to the Magistrates' Courts (Forms) Rules 1981

FORM 35

Hospital order (M.H. Act 1983, *s.*37, *M.C. Rules* 1981, *r.*31)

.....Magistrates' Court *(Code)*

Date:

Accused:

Address:

Offence: *(short particulars and statute)*

The above offence being punishable on summary conviction with imprisonment and [the accused having [today] [on .....] been convicted of the above offence] [the court being satisfied that the accused did the act or made the omission charged above]:

And:

1. The court being satisfied, having [heard] [considered] the [written] [oral] evidence of two registered medical practitioners, namely (insert names and addresses), complying with the provisions of section 54 of the Mental Health Act 1983, that the accused is suffering from [mental illness] [psychopathic disorder] [severe mental impairment] [mental impairment] which [is] [are] [a] form[s] of mental disorder[s] within the meaning of the Mental Health Act 1983:

2. All other conditions which under section 37(1) of the Mental Health Act 1983, are required to be satisfied for the making of a hospital order being satisfied in respect of the accused:

3. The court being further satisfied on the [written] [oral] evidence of [the registered medical practitioner who would be in charge of his treatment] [a person representing the managers of the hospital specified below] that arrangements have been made for the accused's admission to ..... hospital in the event of an order being made and for his admission to that hospital within 28 days of the date of this Order.

Order: It is ordered that (name and address of hospital) be authorised to admit and detain the accused [and that the accused be conveyed to that hospital by [A.B.]].

[And it is directed that pending admission to the hospital within the stated period of 28 days the accused be detained at a place of safety namely] [and shall be conveyed there by [C.D.]]

Justice of the Peace
[*or* By order of the Court
Clerk of the Court]

FORM 35A

Order for remand to a hospital for report on the mental condition of the accused (M.H. Act 1983 s.35)

.....Magistrates' Court *(Code)*

Date:

Accused: Age: years

Address:

Offence: *(short particulars and statute)*

The above offence being punishable on summary conviction with imprisonment:

And:

[the accused having [today] [on .....] been convicted of the offence] [the court being satisfied that the accused did the act or made the omission charged] [the accused having consented to be remanded to hospital for reports on his mental condition]:

And:

1. The court being satisfied on the [written] [oral] evidence of a registered medical practitioner, namely (insert name and address), complying with the provisions of section 54 of the Mental Health Act 1983, that there is reason to suspect that the accused is suffering from mental illness, psychopathic disorder, severe mental impairment or mental impairment, and being of the opinion that it would be impracticable for a report on his mental condition to be made if he were remanded on bail:

2. The court being further satisfied on the [written] [oral] evidence of [the registered medical practitioner who would be responsible for making the report] [a person representing the managers of the hospital specified below] that arrangements have been made for his admission to hospital within 7 days of the date of this Order.

Decision: The court therefore remands the accused to ..... hospital for a period of ..... days for a report on his mental condition and adjourns the hearing until .....

Direction: You [the constables of Police Force] [A.B.] are required to convey the accused to the said hospital within seven days from the date of this Order.

[Pending the accused's admission to the said hospital it is directed that [the constables of Police Force] [C.D.] convey him to, and that he be detained at, a place of safety, namely .]

Justice of the Peace
[*or* By order of the Court
Clerk of the Court]

FORM 35B

Order for further remand to a hospital for report on the mental condition of the accused (M.H. Act s.35 (5))

.....Magistrates' Court *(Code)*

Date:

Accused: Age: years

Address:

Offence: *(short particulars and statute)*

The accused having been remanded to a hospital for a report on his mental condition under the terms of section 35(1) of the Mental Health Act 1983:

And:

It appearing to the court, on the [written] [oral] evidence of the registered medical practitioner responsible for making the report that a further remand is necessary for completing the assessment of the accused person's mental condition.

Decision: The court further remands the accused to ..... hospital for a period of ..... days and adjourns the hearing until .....

Direction: You [the constables of Police Force] [A.B.] are required to convey the accused to the said hospital.

Justice of the Peace
[*or* By order of the Court
Clerk of the Court]

FORM 35C

Interim Hospital Order (M.H. Act 1983 *s.*38)

.....Magistrates' Court *(Code)*

Date:

Offender: Age: years

Address:

Offence: *(short particulars and statute)*

The offender, having [today] [on .....] been convicted of an offence punishable on summary conviction with imprisonment:

And:

1. The court being satisfied, on the [written] [oral] evidence of two registered medical practitioners, namely (insert names and addresses), complying with section 54 of the Mental Health Act 1983, [one] [both] of whom [is] [are] employed at the hospital specified in this Order, that the offender is suffering from mental illness, psychopathic disorder, severe mental impairment or mental impairment and that there is reason to suppose that the mental disorder is such that it may be appropriate for a hospital order to be made in his case:

2. The court being further satisfied on the [written] [oral] evidence of [the registered medical practitioner who would be in charge of his treatment] [a person representing the managers of the hospital specified below] that arrangements have been made for the offender's admission to that hospital within 28 days of the date of this Order.

Decision: It is ordered that the offender's admission to and detention in ..... hospital be authorised until .....

Direction: You [the constables of Police Force] [A.B.] are required to convey the offender to the said hospital within 28 days of the date of this Order.

[Pending the offender's admission to the said hospital it is directed that [the constables of Police Force] [C.D.] convey him to, and that he be detained at, a place of safety, namely, .]

Justice of the Peace
[*or* By order of the Court
Clerk of the Court]

FORM 35D

Continuation of an Interim Hospital Order (M.H. Act 1983 *s.*38(5))

.....Magistrates' Court *(Code)*

Date:

Offender: Age: years

Address:

Offence: *(short particulars and statute)*

The offender's admission to and detention in ..... hospital, having been authorised by an Interim Hospital Order made by this court on under s38 of the Mental Health Act 1983:

And:

It appearing to the court on the [written] [oral] evidence of the responsible medical officer that the continuation of the order is warranted.

Decision: It is ordered that the Interim Hospital Order made on .... do continue in force until .....

Justice of the Peace
[*or* By order of the Court
Clerk of the Court]

FORM 36

Guardianship order (M.H. Act 1983, *s.*37; *M.C. Rules* 1981, *r.*31)

.....Magistrates' Court *(Code)*

Date:

Accused:

Address:

Offence: *(short particulars and statute)*

The above offence being punishable on summary conviction with imprisonment and [the accused [having [today] [on .....] been convicted of the above offence] [the Court being satisfied that the accused did the act or made the omission charged above]:

And:

1. The court being satisfied, having [heard] [considered] the [written] [oral] evidence of two registered medical practitioners, namely (insert names and addresses), complying with the provisions of section 54 of the Mental Health Act 1983, that the accused is suffering from [mental illness] [psychopathic disorder] [severe mental impairment] [mental impairment] which [is] [are] [a] form[s] of mental disorder[s] within the meaning of the Mental Health Act 1983:

2. All other conditions which, under section 37(1) of the Mental Health Act 1983 are required to be satisfied for the making of a guardianship order being satisfied in respect of the accused:

3. The court being further satisfied that the [authority] [person] specified below is willing to receive the accused into guardianship:

Order: It is ordered that the accused be placed under the guardianship of [social services authority] [A.B. being a person approved by social services authority].

Justice of the Peace
[*or* By order of the Court
Clerk of the Court]

FORM 42

Order of admission to hospital pending restriction order (M.H. Act 1983, *s.*44)

.....Magistrates' Court *(Code)*

Date:

Offender: Age: years

Address:

Offence: *(short particulars and statute)*

The offender was [today] [on .....] convicted of the above offence which is punishable on summary conviction with imprisonment:

And:

1. It appearing to the court that on the day of the offender's conviction the offender was not less than 14 years of age:

2. The conditions which, under section 37(1) of the Mental Health Act 1983, are required to be satisfied for the making of a hospital order being satisfied in respect of the offender:

3. It appearing to the court, having regard to the nature of the offence, the antecedents of the offender and the risk of him committing further offences if set at large, that if a hospital order is made a restriction order should also be made:

4. The court having committed the offender to the Crown Court at under section 43(1) of the Mental Health Act 1983 to be dealt with in respect of the offence:

5. The court being satisfied on the [written] [oral] evidence of [the registered medical practitioner who would be in charge of the offender's treatment] [a person representing the managers of the hospital specified below] that arrangements have been made for the admission of the offender to the hospital.

Order: The court directs that the offender be admitted to the above hospital and be detained there until the Crown Court at has disposed of the case:

Direction: [Pending the offender's admission into the said hospital it is directed that [A.B.] should convey him to, and that he should be detained at, a place of safety, namely].

And it is directed that [C.D.] [the managers of the hospital] should produce the offender from the above hospital to attend the Crown Court at on the day and at the time to be notified by the appropriate officer of the Crown Court.

Justice of the Peace
[*or* By order of the Court
Clerk of the Court]

FORM 97A

Notice of cessation of effect of a transfer direction (M.H. Act 1983 *s.*52(5))

.....Magistrates' Court *(Code)*

Date:

Accused:

Address:

Offence: *(short particulars and statute)*

The above accused having been remanded in custody by this court on ..... and a transfer direction having been given in respect of him by the Secretary of State by virtue of section 48(2)(b) of the Mental Health Act 1983:

And:

The court being satisfied on the [written] [oral] evidence of the responsible medical officer that [the accused no longer requires treatment in hospital for mental disorder] [no effective treatment for his disorder can be given in the hospital to which he has been removed]:

Direction: It is directed that the said transfer direction shall cease to have effect.

Justice of the Peace
[*or* By order of the Court
Clerk of the Court]

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules amend the Magistrates' Courts (Forms) Rules 1981 (S.I. 1981/553) in consequence of the coming into force of the Mental Health Act 1983 (c.20). Sections 37, 43, 44 and 52(5) came into force on 30th September 1983 in accordance with section 149. Sections 35 and 38 come into force on 1st October 1984 (S.I. 1984/1357). Section 37 provides for hospital orders and guardianship orders. Section 43 empowers a magistrates' court to commit a person in custody to a Crown Court for a restriction order to be made and section 44 empowers the court, in such a case, to direct the person's admission to hospital. Those sections re-enact, with changes, provisions in the Mental Health Act 1959 (c.72) and these rules revise forms 35, 36 and 42 in consequence of those sections. Section 52(5) empowers a magistrates' court to direct that a transfer direction should cease to have effect. Section 35 provides for remand to hospital for a report on an accused's mental condition. Section 38 provides for the making of interim hospital orders. In consequence, the Rules prescribe the following new forms:—

Form 35A	(Order for remand to a hospital for report on mental condition of accused);
Form 35B	(Order for further remand to a hospital for report on mental condition of accused);
Form 35C	(Interim Hospital Order);
Form 35D	(Continuation of Interim Hospital Order);
Form 97A	(Notice of cessation of effect of a transfer direction).

SI 1984/1542
ISBN 0-11-047542-9

