



Mental Health Act 1983

1983 CHAPTER 20

PART III

PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

Remands to hospital

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
 - [^{F1}(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;]^{F2} 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 [^{F3}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 [^{F4}responsible clinician] , that a further remand is warranted.

Changes to legislation: *Mental Health Act 1983, Section 36 is up to date with all changes known to be in force on or before 01 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (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 [^{F5}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 [^{F6}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.

Textual Amendments

- F1** 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.](#))
- F2** 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.](#))
- F3** 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.](#))
- F4** 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.](#))
- F5** 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)
- F6** 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)

- C1** 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](#)

Changes to legislation:

Mental Health Act 1983, Section 36 is up to date with all changes known to be in force on or before 01 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- s. 36(1) modified (temp.) by [2020 c. 7 Sch. 8 para. 6](#)
- s. 36(6) words omitted (temp.) by [2020 c. 7 Sch. 8 para. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1996 c. 46 Sch. 2 para. 9](#)(replacing 1968 c 20 s. 23) (Act applied (prosp.) by 1968 c. 20, s. 23(4) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2, para. 9 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))
- Act applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing 1957 c 53 s. 63) (Act applied (prosp.) by 1957 c. 53, s. 63C(6) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2, para. 4 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 19 s. 116) (Act applied (prosp.) by 1955 c. 19, s. 116C(6) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2 para. 1 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 18 s 116) (Act applied (prosp.) by 1955 c. 18, s. 116C(6) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2 para. 1 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))
- Act power to applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing 1957 c 53 s. 63) (Act: Power to apply conferred (prosp.) by 1957 c. 53, s. 63B(4)(c) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2, para. 4 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 19 s. 116) (Act: Power to apply conferred (prosp.) by 1955 c. 19, s. 116B(4)(c) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2, para. 1 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 18 s 116) (Act: Power to apply conferred (prosp.) by 1955 c. 18, s. 116B(4)(c) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2 para. 1 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 74(8) inserted by [2015 c. 2 Sch. 3 para. 3\(3\)](#)