



Mental Health Act 1983

1983 CHAPTER 20

PART III

PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

Restriction orders

43 Power of magistrates' courts to commit for restriction order.

- (1) If in the case of a person of or over the age of 14 years who is convicted by a magistrates' court of an offence punishable on summary conviction with imprisonment—
- (a) the conditions which under section 37(1) above are required to be satisfied for the making of a hospital order are satisfied in respect of the offender; but
 - (b) it appears to the court, having regard to the nature of the offence, the antecedents of the offender and the risk of his committing further offences if set at large, that if a hospital order is made a restriction order should also be made,

the court may, instead of making a hospital order or dealing with him in any other manner, commit him in custody to the Crown Court to be dealt with in respect of the offence.

- (2) Where an offender is committed to the Crown Court under this section, the Crown Court shall inquire into the circumstances of the case and may—
- (a) if that court would have power so to do under the foregoing provisions of this Part of this Act upon the conviction of the offender before that court of such an offence as is described in section 37(1) above, make a hospital order in his case, with or without a restriction order;
 - (b) if the court does not make such an order, deal with the offender in any other manner in which the magistrates' court might have dealt with him.
- (3) The Crown Court shall have the same power to make orders under sections 35, 36 and 38 above in the case of a person committed to the court under this section as the Crown

Changes to legislation: *Mental Health Act 1983, Section 43 is up to date with all changes known to be in force on or before 18 December 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*

Court has under those sections in the case of an accused person within the meaning of section 35 or 36 above or of a person convicted before that court as mentioned in section 38 above.

- [^{F1}(4) The powers of a magistrates' court under [^{F2}section 14 [^{F3}, 16 or 16A] of the Sentencing Code] (which enable such a court to commit an offender to the Crown Court where the court is of the opinion, or it appears to the court, as mentioned in the section in question) shall also be exercisable by a magistrates' court where it is of that opinion (or it so appears to it) unless a hospital order is made in the offender's case with a restriction order.]
- (5) The power of the Crown Court to make a hospital order, with or without a restriction order, in the case of a person convicted before that court of an offence may, in the same circumstances and subject to the same conditions, be exercised by such a court in the case of a person committed to the court under section 5 of the ^{M1}Vagrancy Act 1824 (which provides for the committal to the Crown Court of persons who are incorrigible rogues within the meaning of that section).

Textual Amendments

- F1** S. 43(4) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 55\(2\)](#); [S.I. 2012/1320, art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574, art. 4\(2\)](#) and [S.I. 2013/1103, art. 4](#)); [S.I. 2012/2574, art. 2\(2\)\(3\), Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761, art. 2](#)) (with [S.I. 2013/1103, art. 4](#)); [S.I. 2013/1103, art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))
- F2** Words in s. 43(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 74](#) (with [Sch. 24 para. 447, Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F3** Words in s. 43(4) substituted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(1\)\(i\), Sch. 13 para. 15](#)
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Marginal Citations

- M1** 1824 c. 83.

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View outstanding changes

Changes and effects yet to be applied to :

- s. 43(5) repealed by 2003 c. 44 Sch. 37 Pt. 9
- s. 43(5) repealed by 2022 c. 32 s. 81(3)(e)

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))
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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)