

**JM301**

**CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS) ACT 1996**

**CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS)  
REGULATIONS 1997**

Made by the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Criminal Law (Mentally Impaired Defendants) Regulations 1997*.

**Commencement**

2. These regulations come into operation on the day on which the *Criminal Law (Mentally Impaired Defendants) Act 1996* comes into operation.

**Court to provide documents to Board (s. 25)**

3. (1) When a court makes a custody order the Registrar or clerk of the court is to —

- (a) immediately notify the Board that the order has been made; and
- (b) within 2 working days after the order is made give to the Board copies of the documents listed in subsection (2).

(2) The documents to be provided to the Board are —

- (a) the custody order;
- (b) the complaint or indictment;
- (c) either —
  - (i) the statement of facts by the prosecutor;
  - (ii) if there is no statement of facts, a copy of the relevant parts of the transcript of proceedings; or
  - (iii) if there is no transcript or it will not be available in time, a written summary of the facts prepared by the judicial officer who made the order;
- (d) the offender's criminal record (if tendered to the court);
- (e) any pre-sentence reports;
- (f) any other reports considered by the court when making the custody order; and
- (g) either —
  - (i) the written reasons for making the custody order;
  - (ii) if written reasons are not given or they will not be available in time, a copy of the relevant parts of the transcript of proceedings; or
  - (iii) if there is no transcript or it will not be available in time, a written summary of the reasons prepared by the judicial officer who made the order.

**Absence without leave — prescribed persons (s. 31)**

4. A person is qualified for the purposes of section 31 (3) of the Act if the person is a mental health practitioner as defined in the *Mental Health Act 1996*.

**Forms**

5. (1) The forms set out in Schedule 1 are prescribed in relation to the matters specified in those forms.

(2) Subject to section 74 of the *Interpretation Act 1984*, if a form is prescribed in relation to a matter, the matter is to be done, effected or set out in that form.

## SCHEDULE 1 — FORMS

## Form 1 — Arrest Warrant

WESTERN AUSTRALIA <i>Criminal Law (Mentally Impaired Defendants) Act 1996, ss. 37, 49</i> <b>ARREST WARRANT</b>		CWI Warrant No.:	
<b>To</b>	All police officers		
<b>Defendant</b>	Name:	Date of birth:	
<b>Reasons for issue</b>	The defendant was charged with the offences set out below and was released on a release order. That order has now been cancelled.		
<b>Command</b>	You are commanded to arrest the defendant and take him or her to the place of custody set out below.		
<b>Offences</b>	Charge/indict no.	Offence	
<b>Release order</b>	Date of order:	Date release:	
	Date order cancelled:		
<b>Place of custody</b>			
<b>Issuing officer</b>	Name:		Date:
	Office:		
	Signature:		
<b>Details of arrest</b> <small>(To be completed by police officer)</small>	Date:		Time:
	Place:		
	Police officer (name)		
	Station/division:		No.:
	Signature:		Date:

## Form 2 — Custody Order

<p>WESTERN AUSTRALIA</p> <p><i>Criminal Law (Mentally Impaired Defendants) Act 1996,</i> ss. 16, 19, 21, 22</p> <p><b>CUSTODY ORDER</b></p>	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <input type="checkbox"/> Supreme Court         </div> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <input type="checkbox"/> District Court         </div> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <input type="checkbox"/> Court of Petty Sessions         </div> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <input type="checkbox"/> Children's Court         </div> <div style="margin-top: 5px;">At:</div> </div>	
<b>To</b>	All police officers Persons in charge of an authorized hospitals Chief executive officers under the <i>Prisons Act 1981</i> or the <i>Young Offenders Act 1994</i> .	
<b>Defendant</b>	Name:	Date of birth:
<b>Command</b>	The defendant has been charged with the offences set out below. You are ordered to take the defendant to the place of custody set out below and detain him or her there until a determination is made by the Board under section 25 of the <i>Criminal Law (Mentally Impaired Defendants) Act 1996</i> .	
<b>Reasons for issue</b>	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="display: flex; align-items: flex-start; margin-bottom: 10px;"> <input type="checkbox"/> Unfit to stand trial —           <div style="margin-left: 10px;"> <input type="checkbox"/> in court of summary jurisdiction (s. 16)  <input type="checkbox"/> in superior court (s. 19)           </div> </div> <div style="display: flex; align-items: flex-start;"> <input type="checkbox"/> Acquitted on account of unsoundness of mind —           <div style="margin-left: 10px;"> <input type="checkbox"/> in superior court (s. 21)  <input type="checkbox"/> in court of summary jurisdiction (s. 22)           </div> </div> </div>	
<b>Offences</b>	Charge/indict no.	Offence
<b>Place of custody</b>		
<b>Issuing officer</b>	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="flex: 1;">Name:</div> <div style="flex: 1;">Date:</div> </div> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="flex: 1;">Judicial officer (s) / Clerk of Arraignment</div> <div style="flex: 1;"></div> </div> <div style="display: flex; align-items: center;"> <div style="flex: 1;">Signature:</div> <div style="flex: 1;"></div> </div> </div>	

## Form 3 — Hospital Order

WESTERN AUSTRALIA

*Criminal Law (Mentally Impaired Defendants) Act 1996, ss. 5, 14***HOSPITAL ORDER**

- ☐ Supreme Court  
☐ District Court  
☐ Court of Petty Sessions  
☐ Children's Court

At:

<b>To</b>	All police officers Persons in charge of an authorized hospitals Chief executive officers under the <i>Prisons Act 1981</i> or the <i>Young Offenders Act 1994</i> .
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<b>Defendant</b>	Name:	Date of birth:
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<b>Order</b>	<p>The defendant has been charged with the offences set out below.</p> <p>You are ordered to take the defendant to the authorized hospital set out below for examination by a psychiatrist to determine if he or she should be made an involuntary patient.</p> <p>If the defendant is made an involuntary patient, you must detain him or her in an authorized hospital until the appearance date when you must bring him or her to court.</p> <p>If the defendant is not made an involuntary patient, he or she is to be detained in custody in prison or a detention centre (as the case may be) until the appearance date.</p>
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Offences	Charge/indict no.	Offence

<b>Authorized hospital</b>	
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<b>Appearance</b>	Date:	Time:
	Place:	

<b>Issuing officer</b>	Name:	Date:
	Judicial officer (s) / Clerk of Arraignment	
	Signature:	

<b>Results of assessment by psychiatrist</b>	I have examined the defendant and — <input type="checkbox"/> have <input type="checkbox"/> have not made him or her an involuntary patient.	
	Name of psychiatrist:	Date:
	Signature:	

## Form 4 — Release Order

WESTERN AUSTRALIA

*Criminal Law (Mentally Impaired Defendants) Act 1996, s. 35***RELEASE ORDER**

<b>Defendant</b>	Name:	Date of birth:
	Address:	

Offences	Charge/indict no.	Offence

<b>Reason for order</b>	<p>The defendant was charged with the offences set out above. A custody order was made against the defendant because he or she was —</p> <p><input type="checkbox"/> Unfit to stand trial —</p> <p style="padding-left: 20px;"><input type="checkbox"/> in court of summary jurisdiction</p> <p style="padding-left: 20px;"><input type="checkbox"/> in superior court</p> <p><input type="checkbox"/> Acquitted on account of unsoundness of mind —</p> <p style="padding-left: 20px;"><input type="checkbox"/> in superior court</p> <p style="padding-left: 20px;"><input type="checkbox"/> in court of summary jurisdiction.</p>
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<b>Release order</b>	<p>The defendant is to be released —</p> <p style="padding-left: 40px;"><input type="checkbox"/> unconditionally</p> <p>or</p> <p style="padding-left: 40px;"><input type="checkbox"/> on the following conditions:</p> <p>Date defendant to be released: _____</p> <p>Date of expiry of order (if any): _____</p>
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<b>Governor</b>	Name:	Date:
	Signature:	

<b>NOTE TO THE DEFENDANT</b>	<b>If this release order is subject to conditions and you breach those conditions, the release order may be cancelled. If this happens the custody order made against you by the court will come back into force.</b>
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By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.