
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 420

**The Mental Health Tribunal for Scotland
(Practice and Procedure) Rules 2005**

PART III

APPEALS TO THE TRIBUNAL

Scope of this Part

22. This Part applies to appeals to the Tribunal under, or by virtue of, the following sections of the Act:—

- (a) 125(2) (appeal where patient subject to compulsory treatment order against transfer to hospital other than state hospital);
- (b) 126(2) (appeal where patient subject to compulsory treatment order against transfer to state hospital);
- (c) 178 (appeal where patient subject to compulsion order against transfers to state hospital or hospital other than state hospital);
- (d) 201(1) (appeal against variations of conditions imposed on conditional discharge);
- (e) 204(1) (appeal against recall from conditional discharge);
- (f) 219(2) (appeal against transfer to hospital other than state hospital);
- (g) 220(2) (appeal against transfer to state hospital); and
- (h) 290(1) (appeal by patient under regulations against proposed removal from Scotland).

Initiating appeals to the Tribunal

23.—(1) An appeal to the Tribunal shall be made in writing and shall state—

- (a) the name and address of the appellant;
 - (b) the name and address of the patient;
 - (c) the name and address of the patient's named person;
 - (d) where the patient is detained, the name and address of the hospital where the patient is detained;
 - (e) where the patient is required to reside at a specified place, the address of that specified place;
 - (f) the matter which is being appealed;
 - (g) a brief statement setting out the reasons for the appeal.
- (2) The appellant shall sign the appeal.

Notice of the appeal

- 24.**—(1) The Clerk shall send a copy of the appeal to—
- (a) the patient;
 - (b) the patient’s named person; and
 - (c) the respondent.
- (2) The Clerk shall send a notice of the appeal to the respondent.
- (3) The notice shall inform the respondent—
- (a) of the case number of the appeal (which must from then on be referred to in all correspondence relating to the appeal);
 - (b) of the date, time and place of the hearing; and
 - (c) that if the respondent wishes to make representations or lead or produce evidence, the respondent should send a notice of response to the Tribunal within the period specified in the notice.

Notice of response under Part III

- 25.**—(1) If the respondent wishes to make representations (whether orally or in writing) or lead or produce evidence, the respondent shall send a notice of response to the Tribunal within 21 days of receipt of the notice by the respondent under rule 24 or within such other period specified in that notice.
- (2) The notice of response shall state—
- (a) the name and address of the respondent;
 - (b) the case reference number;
 - (c) whether the respondent wishes to make representations, either orally or in writing;
 - (d) whether the respondent wishes to lead, or produce, evidence;
 - (e) whether the respondent intends to oppose the appeal and the basis of the opposition.
- (3) The Clerk shall send a copy of the notice of response to parties.

Withdrawal of appeal

- 26.**—(1) An appellant may withdraw their appeal—
- (a) at any time before the hearing of the appeal by sending to the Clerk a notice signed by the appellant; or
 - (b) at the hearing of the appeal.
- (2) On receipt of any such notice, the Clerk shall send a copy to the respondent.
- (3) No further appeal may be brought by the appellant in relation to the decision which was the subject of the appeal withdrawn.

Withdrawal of opposition

- 27.**—(1) The respondent may withdraw their opposition to the appeal—
- (a) at any time before the hearing of the appeal by sending to the Clerk a notice signed by the respondent; or
 - (b) at the hearing on the appeal.
- (2) On receipt of any such notice, the Clerk shall send a copy to the appellant.

Amendment of appeal or notice of response

28.—(1) A party may, at any time before notification of the date of the hearing of the appeal, amend the appeal or the notice of response by sending a notice of any amendment to the Clerk.

(2) A party may amend the appeal or the notice of response with the permission of the Tribunal at any time after receiving notification of the date of the hearing or with the permission of the Convener at the hearing itself.

(3) On receipt of any amendment, the Clerk shall send a copy to any other party.