



Mental Health Act 1983

1983 CHAPTER 20

PART V

MENTAL HEALTH REVIEW TRIBUNALS

General

78 Procedure of [^{F1}Mental Health Review Tribunal for Wales].

- (1) The Lord Chancellor may make rules with respect to the making of applications to [^{F2}the Mental Health Review Tribunal for Wales] and with respect to the proceedings of [^{F3}that tribunal] and matters incidental to or consequential on such proceedings.
- (2) Rules made under this section may in particular make provision—
 - (a) for enabling [^{F4}the tribunal], or the [^{F5}President] of [^{F4}the tribunal], to postpone the consideration of any application by or in respect of a patient, or of any such application of any specified class, until the expiration of such period (not exceeding 12 months) as may be specified in the rules from the date on which an application by or in respect of the same patient was last considered and determined [^{F6}under this Act by the tribunal or the First-tier Tribunal];
 - [^{F7}(b) for the transfer of proceedings to or from the Mental Health Review Tribunal for Wales in any case where, after the making of the application, the patient is moved into or out of Wales;]
 - (c) for restricting the persons qualified to serve as members of [^{F4}the tribunal] for the consideration of any application, or of an application of any specified class;
 - (d) for enabling [^{F4}the tribunal] to dispose of an application without a formal hearing where such a hearing is not requested by the applicant or it appears to the tribunal that such a hearing would be detrimental to the health of the patient;
 - (e) for enabling [^{F4}the tribunal] to exclude members of the public, or any specified class of members of the public, from any proceedings of the tribunal, or to

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- prohibit the publication of reports of any such proceedings or the names of any persons concerned in such proceedings;
- (f) for regulating the circumstances in which, and the persons by whom, applicants and patients in respect of whom applications are made to [F⁴the tribunal] may, if not desiring to conduct their own case, be represented for the purposes of those applications;
 - (g) for regulating the methods by which information relevant to an application may be obtained by or furnished to the tribunal, and in particular for authorising the members of [F⁴the tribunal], or any one or more of them, to visit and interview in private any patient by or in respect of whom an application has been made;
 - (h) for making available to any applicant, and to any patient in respect of whom an application is made to [F⁴the tribunal], copies of any documents obtained by or furnished to the tribunal in connection with the application, and a statement of the substance of any oral information so obtained or furnished except where the tribunal considers it undesirable in the interests of the patient or for other special reasons;
 - (i) for requiring [F⁴the tribunal], if so requested in accordance with the rules, to furnish such statements of the reasons for any decision given by the tribunal as may be prescribed by the rules, subject to any provision made by the rules for withholding such a statement from a patient or any other person in cases where the tribunal considers that furnishing it would be undesirable in the interests of the patient or for other special reasons;
 - (j) for conferring on the [F⁸tribunal] such ancillary powers as the Lord Chancellor thinks necessary for the purposes of the exercise of [F⁹its] functions under this Act;
 - (k) for enabling any functions of [F⁴the tribunal] which relate to matters preliminary or incidental to an application to be performed by the [F¹⁰President] of the tribunal.
- (3) Subsections (1) and (2) above apply in relation to references to [F¹¹the Mental Health Review Tribunal for Wales] as they apply in relation to applications to [F¹²that tribunal] by or in respect of patients.
 - (4) Rules under this section may make provision as to the procedure to be adopted in cases concerning restricted patients and, in particular—
 - (a) for restricting the persons qualified to serve as [F¹³chairman] of [F¹⁴the tribunal] for the consideration of an application or reference relating to a restricted patient;
 - [F¹⁵(b) for the transfer of proceedings to or from the tribunal in any case where, after the making of a reference or application in accordance with section 71(4) or 77(4) above, the patient begins or ceases to reside in Wales.]
 - (5) Rules under this section may be so framed as to apply to all applications or references or to applications or references of any specified class and may make different provision in relation to different cases.
 - (6) Any functions conferred on the [F¹⁶President] of [F¹⁷the Mental Health Review Tribunal for Wales] by rules under this section may [F¹⁸. . .] be exercised by another member of that tribunal appointed by him for the purpose.
 - (7) [F¹⁹The Mental Health Review Tribunal for Wales] may pay allowances in respect of travelling expenses, subsistence and loss of earnings to any person attending the

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tribunal as an applicant or witness, to the patient who is the subject of the proceedings if he attends otherwise than as the applicant or a witness and to any person (other than ^{F20}[an authorised person (within the meaning of Part 3)]) who attends as the representative of an applicant.

(8) ^{F21}.....

(9) ^{F22}[Part I of the Arbitration Act 1996] shall not apply to any proceedings before ^{F23}[the Mental Health Review Tribunal for Wales] except so far as any provisions of that Act may be applied, with or without modifications, by rules made under this section.

Textual Amendments

- F1** Words in s. 78 heading substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(1\)](#)
- F2** Words in s. 78(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(2\)\(a\)](#)
- F3** Words in s. 78(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(2\)\(b\)](#)
- F4** Words in s. 78(2) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(3\)\(a\)](#)
- F5** Word in s. 78(2)(a) substituted (1.12.2017) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 38\(3\)\(a\)](#), 56(1); [S.I. 2017/1038](#), art. 2
- F6** Words in s. 78(2)(a) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(3\)\(b\)](#)
- F7** S. 78(2)(b) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(3\)\(c\)](#)
- F8** Word in s. 78(2)(j) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(3\)\(d\)\(i\)](#)
- F9** Word in s. 78(2)(j) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(3\)\(d\)\(ii\)](#)
- F10** Word in s. 78(2)(k) substituted (1.12.2017) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 38\(3\)\(a\)](#), 56(1); [S.I. 2017/1038](#), art. 2
- F11** Words in s. 78(3) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(4\)\(a\)](#)
- F12** Words in s. 78(3) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(4\)\(b\)](#)
- F13** Word in s. 78(4)(a) substituted (1.12.2017) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 38\(3\)\(d\)](#), 56(1); [S.I. 2017/1038](#), art. 2
- F14** Words in s. 78(4) substituted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(5\)\(a\)](#)
- F15** S. 78(4)(b) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(5\)\(b\)](#)
- F16** Word in s. 78(6) substituted (1.12.2017) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 38\(3\)\(a\)](#), 56(1); [S.I. 2017/1038](#), art. 2
- F17** Words in s. 78(6) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(6\)](#)
- F18** Words in s. 78(6) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 38\(3\)\(e\)](#), 55, 56, [Sch. 11 Pt. 6](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(m\)\(p\)](#) (with art. 3, [Sch.](#))
- F19** Words in s. 78(7) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 59\(7\)](#)
- F20** Words in s. 78(7) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), [ss. 208](#), 211, [Sch. 21 para. 60](#) (with [ss. 29](#), 192, 196); [S.I. 2009/3250](#), [art. 2\(h\)](#) (subject to arts. 6, 9)

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- F21** S. 78(8) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, **Sch. 3 para. 59(8)**
- F22** Words in s. 78(9) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3**, para. 40; S.I. 1996/3146, **art. 3** (subject to savings in art. 4, Sch. 2)
- F23** Words in s. 78(9) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, **Sch. 3 para. 59(9)**

Modifications etc. (not altering text)

- C1** S. 78 functions transferred (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **20**

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Changes and effects yet to be applied to :

- s. 78(2)(a) words substituted by [2007 c. 12 s. 38\(3\)\(b\)](#) (This amendment is not applied to legislation.gov.uk. S. 38(3)(b) repealed (3.11.2008) without ever being in force by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 228(p))
- s. 78(2)(b) words substituted by [2007 c. 12 s. 38\(3\)\(c\)](#) (This amendment is not applied to legislation.gov.uk. S. 38(3)(c) repealed (3.11.2008) without ever being in force by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 228(p))
- s. 78(4)(b) words substituted by [2007 c. 12 s. 38\(3\)\(c\)](#) (This amendment is not applied to legislation.gov.uk. S. 38(3)(c) repealed (3.11.2008) without ever being in force by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 228(p))

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)))
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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\(3\)](#)