
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 420

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

PART VII

GENERAL RULES

Curator *ad litem*

55.—(1) Where the circumstances in paragraph (2) apply, the Tribunal or a Convener shall appoint a curator *ad litem* for the patient.

(2) Those circumstances are—

- (a) that the patient is incapable of understanding the proceedings and their possible consequences and of adequately representing the patient's own interests in proceedings before the Tribunal;
- (b) that where the Tribunal or a Convener has made a decision not to disclose a document or report or part of it to the patient under rule 47, and the patient does not have a representative to represent their interests; or
- (c) that the patient has been excluded from any hearing or part of it under rule 68 or 69 and the patient does not have a representative to represent their interests.

(3) The Tribunal or the Convener, as the case may be, may appoint a person having appropriate skills or experience to—

- (a) assess whether the circumstances in paragraph (2) may apply; and
- (b) provide a report on the matter.

(4) The Tribunal shall pay to an expert appointed under paragraph (3) such an amount in respect of necessary expenses incurred in preparing and producing any report, as the President shall direct.

(5) The Tribunal shall provide all necessary information to a curator *ad litem* appointed to enable the curator *ad litem* to represent the patient's interests in proceedings before the Tribunal.

(6) The patient, or where appropriate the Tribunal, shall make such allowances and meet any necessary expenses incurred by a curator *ad litem* appointed under this rule, as the President shall direct.