
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 420

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

**PART I
INTRODUCTION**

Citation and commencement

1. These Rules may be cited as the Mental Health Tribunal for Scotland (Practice and Procedure) Rules 2005 and shall come into force on 5th October 2005.

Interpretation

2.—(1) In these Rules—

“the Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003;

“appellant” means a person who appeals to the Tribunal under or by virtue of any of the sections of the Act specified in Part III of these Rules;

“applicant” means a person who makes an application to the Tribunal under the Act;

“Clerk” means a member of staff of the Tribunal employed to carry out the administration of the Tribunal or to act as clerk at a hearing of the Tribunal;

“Convener” means the President or a person selected by the President from the panel mentioned in paragraph 1(1)(a) or 2 of schedule 2 to the Act;

“electronic communication” has the meaning given to it by section 15(1) of Electronic Communications Act 2000(1) and “electronic signature” has the same meaning as in section 7 of that Act;

“hearing” means a sitting of the Tribunal for the purpose of enabling the Tribunal to take a decision on any matter relating to the case before it;

“notice” means notice in writing;

“the overriding objective” means the overriding objective described in rule 4;

“party” means—

- (a) the person who initiated the proceedings before the Tribunal;
- (b) the patient to whom the proceedings relate;
- (c) the named person of the patient to whom the proceedings relate;
- (d) any person whose decision (which shall include any direction or order, determination or grant of a certificate, but does not include a decision by a court) is the subject of the proceedings before the Tribunal; and

(e) any person added as a party under rule 48;

“patient” means the patient to whom the proceedings relate;

“relevant person” means any party and any other person who sends a notice of response under Part II, IV or V of these Rules indicating a wish to make representations or to lead or produce evidence;

“President” means the President of the Tribunal;

“referee” means a person who makes a reference to the Tribunal under the Act;

“respondent” means the person who made the decision which is the subject of appeal under or by virtue of Part III of these Rules;

“Tribunal” means the Mental Health Tribunal for Scotland and “tribunal” means a tribunal constituted under sub-paragraph (1) of paragraph 7 of schedule 2 to the Act to discharge the functions of the Tribunal; and

“working day” means a day which is not–

(a) a Saturday;

(b) a Sunday; or

(c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(2).

(2) Any reference in these Rules to a rule is a reference to a rule in these Rules, and in any rule a reference to a paragraph or sub-paragraph is, unless otherwise expressly provided, a reference to a paragraph or sub-paragraph in the rule.

(3) Where the time specified by these Rules for doing any act ends on a Saturday, Sunday or a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971 that act is done in time if it is done on the next day which is not a Saturday, Sunday or bank holiday.

Scope of the Rules

3. These Rules apply to the following proceedings:–

(a) applications to the Tribunal;

(b) references to the Tribunal;

(c) appeals to the Tribunal;

(d) reviews by the Tribunal; and

(e) cases remitted to the Tribunal under section 324(5)(b)(ii) of the Act.

The overriding objective

4. The overriding objective of these Rules is to secure that proceedings before the Tribunal are handled as fairly, expeditiously and efficiently as possible.