
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 420

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

PART II

APPLICATIONS TO THE TRIBUNAL

Informal patients

Application to Tribunal under section 291 of the Act in relation to unlawful detention

18.—(1) An application to the Tribunal under section 291 for an order requiring the managers of the hospital to cease to detain the patient shall be made in writing.

(2) The application shall state—

- (a) the name and address of the applicant;
- (b) the name and address of the patient;
- (c) the name and address of the patient's named person, if known;
- (d) the name and address of the hospital where the patient is apparently detained; and
- (e) a brief statement of the reasons for the application.

(3) The applicant shall sign the application.

(4) The Clerk shall send a copy of the application to the hospital managers and the patient.

(5) The Clerk shall notify the hospital managers—

- (a) of the case number of the application (which must from then on be referred to in all correspondence relating to the application);
- (b) that an application has been made;
- (c) of the date, time and place of the hearing;
- (d) that they are being afforded the opportunity—
 - (i) of making representations at the hearing (whether orally or in writing); and
 - (ii) of leading, or producing, evidence.

(6) If the hospital managers wish to make representations (whether orally or in writing) or lead or produce evidence, they shall send a notice of response to the Tribunal as soon as reasonably practicable or within such other period specified in that notice.

(7) The Clerk shall send a copy of the notice of response to each party.

Notice of response under Part II

19. A notice of response by any of the persons who are given notice under this Part shall be made in writing and shall state—

- (a) the name and address of the person;
- (b) the case reference number;
- (c) whether the person wishes to make representations, either orally or in writing; and
- (d) whether the person wishes to lead, or produce, evidence.

Withdrawal of application

20.—(1) Where an application is made to the Tribunal under section 50, 63, 99, 100, 120, 163, 164, 192 or 214 of the Act, an applicant may withdraw that application—

- (a) at any time before the hearing of the application by sending to the Clerk a notice signed by the applicant; or
- (b) at the hearing on the application.

(2) On receipt of any such notice, the Clerk shall send a copy to the relevant persons.

(3) Where an applicant gives notice under paragraph (1), the Tribunal may terminate the proceedings without making any order.

Amendment of application or notice of response

21.—(1) A relevant person may, at any time before notification of the date of the hearing of the application, amend the application or the notice of response by sending notice of any amendment to the Clerk.

(2) A relevant person may amend the application 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 the parties.