
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 420

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

PART V

REVIEWS

Scope of this Part

34. This Part applies to reviews by the Tribunal under section 101(2) (review of determination extending compulsory treatment order under section 86 of the Act) and 165(2) (review of determination by responsible medical officer extending compulsion order under section 152 of the Act) of the Act.

Notice of review

35.—(1) Where the Tribunal intend to review a determination under section 101(2) or 165(2) of the Act, the Clerk shall send notice of review to the following persons:—

- (a) the patient;
- (b) the patient's named person;
- (c) any guardian of the patient;
- (d) any welfare attorney of the patient;
- (e) the mental health officer;
- (f) the patient's responsible medical officer;
- (g) the patient's primary carer;
- (h) any curator *ad litem* appointed in respect of the patient by the Tribunal; and
- (i) any other person appearing to the Tribunal to have an interest in the determination.

(2) The notice shall inform the persons—

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

Notice of response

36.—(1) If any person mentioned in rule 35(1) wishes to make representations (whether orally or in writing) or lead or produce evidence, that person shall send a notice of response to the Tribunal within 21 days of receipt of the notice under that rule or within such other period specified in that notice.

- (2) The notice of response shall state—
 - (a) the name and address of the person making the response;
 - (b) the case reference number;
 - (c) whether the person wishes to make representations, either orally or in writing;
 - (d) whether the person wishes to lead, or produce, evidence;
 - (e) a statement of the facts and contentions on which the person intends to rely.
- (3) The Clerk shall send a copy of each notice of response to each party.

Withdrawal of notice of response

37.—(1) A person who has sent a notice of response under rule 36 may withdraw their notice of response—

- (a) at any time before the hearing by sending to the Clerk a notice signed by the person; or
 - (b) at the hearing.
- (2) On receipt of any such notice, the Clerk shall send a copy to each party.

Amendment of notice of response

38.—(1) A person who has sent a notice of response under rule 36 may, at any time before notification of the date of the hearing, amend the notice of response by sending notice of any amendment to the Clerk.

(2) Such a person may amend 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 each party.