
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 420

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

PART VII

GENERAL RULES

Miscellaneous

Performance of the Tribunal's functions

74. The President may authorise any member of the staff of the Tribunal to exercise such administrative functions under these Rules as the President shall specify.

Relief from failure to comply with the Rules

75.—(1) Where before the Tribunal has decided a case, a relevant person has failed to comply with any provision of these Rules, which is shown to be due to mistake, oversight or other excusable cause, the Tribunal may—

- (a) relieve the relevant person from the consequences of that failure; and
- (b) give any direction as it thinks fit.

(2) In particular, where it considers that any relevant person may have been prejudiced by such failure, the Tribunal may take any necessary steps including the amendment of any document, the giving of any notice or otherwise, to enable the case to proceed as if the failure to comply with the provision had not occurred.

Signature of documents

76.—(1) Any requirement in these Rules for a document to be signed by a person shall be satisfied, in the case of a document which is transmitted by electronic communication in accordance with these Rules, by electronic signature of the person who is required to sign the document.

(2) Any requirement in these Rules for an application or appeal to be signed by an applicant or appellant shall be satisfied if signed by the legal representative of the applicant or appellant.

Proof of documents

77. Any document purporting to be a document duly executed or issued by the President, or Convener on behalf of the Tribunal shall, unless the contrary is proved, be deemed to be a document so executed or issued as the case may be.

Method of delivering and receipt of notices and documents

78.—(1) Any notice or document required or authorised by these Rules to be sent to the Tribunal, may be sent to or presented at the Office of the Mental Health Tribunal for Scotland, or such other office as may be notified by the Tribunal.

(2) All notices and documents required by these Rules to be sent by the Tribunal or the Clerk or given to any person may—

(a) in the case of a relevant person—

(i) be sent by post or delivered (by courier or otherwise) to the address specified by that relevant person;

(ii) transmitted by fax to a specified fax number, where the relevant person has agreed in writing that the relevant person will accept documents transmitted to that fax number; or

(iii) transmitted by electronic communication to a specified address for such communications where the relevant person has agreed in writing that the relevant person will accept documents transmitted in that manner to that specified address,

(b) in the case of any other person, to the person's last known address or in any manner specified for that purpose by the Tribunal or person to whom the notice or document is directed.

(3) Any notice or document sent to a person in accordance with this rule shall, unless the contrary is proved, be deemed to be received—

(a) where the document is sent by post, on the second day after the day on which it was sent; and

(b) in any other case, on the day on which the document was transmitted or delivered to that person.

(4) A notice or document sent or given to the authorised representative of a relevant person shall be deemed to have been sent or given to that relevant person.

(5) A relevant person may at any time by notice to the Tribunal change the address to which notices and documents are to be sent to the relevant person.

Transfer of case

79.—(1) Where a tribunal is satisfied, in relation to a case which it is hearing that that case could be better considered by a tribunal in another geographical area, it may request the President to arrange for such other tribunal to dispose of the case.

(2) Where the functions of the Tribunal are being discharged by more than one tribunal, the President shall determine by which tribunal any case is to be dealt with.

(3) Where this rule applies, the President shall transfer the case from one tribunal to another where necessary.

(4) Where a case has been transferred in terms of this rule, any matters already decided in the case shall not require to be further considered by the tribunal to which the case is transferred.