
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 420

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

PART II

APPLICATIONS TO THE TRIBUNAL

Compulsion orders and restriction orders

Application under section 191 of the Act by the Scottish Ministers for an order under section 193 of the Act

14.—(1) An application under section 191 of the Act by the Scottish Ministers for an order under section 193 of the Act shall state the matters mentioned in section 191(a) of the Act.

(2) The Clerk shall send a copy of the application and any accompanying documents prescribed by virtue of section 191(b) of the Act to the patient and the patient's named person.

(3) The Clerk shall send notice of the application to the following persons:—

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

(4) Notice under paragraph (3) shall inform the persons—

- (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 the application has been made and the order, or orders, sought in the application;
- (c) of the terms of the existing order;
- (d) of the date, time and place of the hearing, if known;
- (e) that they are being afforded the opportunity—
 - (i) of making representations (whether orally or in writing); and
 - (ii) of leading, or producing, evidence.

(5) If a person mentioned in paragraph (3) wishes to make representations (whether orally or in writing) or to lead or produce evidence, that person shall send a notice of response to the Tribunal within 14 days of receipt of the notice under that paragraph or within such other period specified in that notice.

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

Application by patient etc. under section 192 of the Act for order under section 193 of the Act

15.—(1) An application under section 192 of the Act for an order under section 193 of the Act shall be made in writing and 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;
- (d) where the patient is detained, the name and address of the hospital where the patient is detained;
- (e) where the patient is required to reside at a specified place, the address of that specified place;
- (f) the name of the patient’s responsible medical officer;
- (g) the order sought; and
- (h) a brief statement of the reasons for the application.

(2) The applicant shall sign the application.

(3) The Clerk shall send a copy of the application to the patient’s responsible medical officer and the Scottish Ministers.

(4) The Clerk shall send notice of the application to the following persons:—

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

(5) Notice under paragraph (4) shall inform the persons—

- (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 the application has been made and the order sought in the application;
- (c) of the terms of the existing order;
- (d) of the date, time and place of the hearing;
- (e) that they are being afforded the opportunity—
 - (i) of making representations (whether orally or in writing); and

(ii) of leading, or producing, evidence.

(6) If a person mentioned in paragraph (4) wishes to make representations (whether orally or in writing) or to lead or produce evidence, that person shall send a notice of response to the Tribunal within 14 days of receipt of the notice under that paragraph or within such other period specified in that notice.

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