
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 132

The Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Amendment Rules 2012

Amendment of the Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Rules 2005

2. For rule 58 of the Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Rules 2005(1) substitute—

“Power to decide a case without a hearing

58.—(1) The Tribunal may decide the case without a hearing where the following conditions are met—

- (a) the Tribunal considers that, having regard to the nature of the issues raised in the case, sufficient evidence is available to enable it to come to a decision without a hearing;
 - (b) to do so will not, in the view of the Tribunal, be contrary to the interests of the patient;
 - (c) the Tribunal has, as soon as reasonably practicable, given notice to those persons who require to be afforded the opportunity of making representations or of leading or producing evidence of its proposal to dispense with oral representations and oral evidence;
 - (d) the patient has not applied for oral representations or oral evidence to be heard;
 - (e) no other person notified under sub-paragraph (c) has, in the opinion of the Tribunal, shown cause why oral representations or oral evidence should be heard; and
 - (f) no application from a person who appears to the Tribunal to have an interest in the proceedings has, in the opinion of the Tribunal, shown cause why oral representations or oral evidence should be heard.
- (2) The notice referred to in paragraph (1)(c) shall state—
- (a) that the Tribunal proposes to invoke this rule;
 - (b) that an application from the patient for oral representations or oral evidence to be heard will be granted;
 - (c) that the Tribunal will consider applications for oral representations or oral evidence to be heard from those persons who require to be afforded the opportunity of making representations or of leading or producing evidence;
 - (d) the latest date by which such applications must be made to the Tribunal; and
 - (e) that the patient is entitled to have access to independent advocacy as provided under section 259 of the Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (3) Applications—
 - (a) from the patient must be in writing; and
 - (b) from other persons must be in writing and give reasons why oral representations or oral evidence should be heard.
- (4) The Tribunal shall, as soon as reasonably practicable, notify those persons who require to be afforded the opportunity of making representations or of leading or producing evidence and any other person who has made an application under this rule as to whether there is to be a hearing or not.”