
STATUTORY INSTRUMENTS

2008 No. 2699

**The Tribunal Procedure (First-tier Tribunal)
(Health, Education and Social Care Chamber) Rules 2008**

PART 4

Proceedings before the Tribunal in mental health cases

CHAPTER 1

Before the hearing

Procedure in mental health cases

- 32.**—(1) An application or reference must be—
- (a) made in writing;
 - (b) signed (in the case of an application, by the applicant or any person authorised by the applicant to do so); and
 - (c) sent or delivered to the Tribunal so that it is received within the time specified in the Mental Health Act 1983 or the Repatriation of Prisoners Act 1984.
- (2) An application must, if possible, include—
- (a) the [^{F1}name, address and date of birth] of the patient;
 - (b) if the application is made by the patient's nearest relative, the name, address and relationship to the patient of the patient's nearest relative;
 - (c) the provision under which the patient is detained, liable to be detained, subject to guardianship, [^{F2}or] a community patient ^{F3}...;
 - (d) whether the person making the application has appointed a representative or intends to do so, and the name and address of any representative appointed;
 - (e) the name and address of the responsible authority in relation to the patient.
- [^{F4}(2A) A reference must, if possible, include—
- (a) the name and address of the person or body making the reference;
 - (b) the name, address and date of birth of the patient;
 - (c) the name and address of any representative of the patient;
 - (d) the provision under which the patient is detained, liable to be detained, subject to guardianship or a community patient (as the case may be);
 - (e) whether the person or body making the reference has appointed a representative or intends to do so, and the name and address of any representative appointed;
 - (f) if the reference is made by the Secretary of State, the name and address of the responsible authority in relation to the patient, or, in the case of a conditionally discharged patient,

the name and address of the responsible clinician and any social supervisor in relation to the patient.]

(3) Subject to rule 14(2) (withholding evidence likely to cause harm), when the Tribunal receives a document from any party it must send a copy of that document to each other party.

[^{F5}(4) If the patient is a conditionally discharged patient—

- (a) upon being notified by the Tribunal of an application, the Secretary of State must immediately provide to the Tribunal the names and addresses of the responsible clinician and any social supervisor in relation to the patient; and
- (b) upon being notified by the Tribunal of an application or reference, the responsible clinician and any social supervisor named by the Secretary of State under this rule must send or deliver the documents specified in the relevant practice direction to the Tribunal so that they are received by the Tribunal as soon as practicable and in any event within 3 weeks after the notification.

(5) In proceedings under section 66(1)(a) of the Mental Health Act 1983 (application in respect of an admission for assessment), on the earlier of receipt of the copy of the application or a request from the Tribunal, the responsible authority must immediately send or deliver to the Tribunal a copy of—

- (a) the application for admission; and
- (b) the written medical recommendations on which that application was founded;

and must as soon as practicable send or deliver to the Tribunal the documents specified in the relevant practice direction.

(6) If neither paragraph (4) nor (5) applies, the responsible authority must send or deliver the documents specified in the relevant practice direction to the Tribunal so that they are received by the Tribunal as soon as practicable and in any event within 3 weeks after the responsible authority made the reference or received a copy of the application or reference.

(7) If the patient is a restricted patient, a person or body providing a document to the Tribunal in accordance with paragraph (4)(b) or (6) must also send or deliver a copy of the document to the Secretary of State.

(7A) The Secretary of State must send the information specified in paragraph (7B) and any observations the Secretary of State wishes to make to the Tribunal as soon as practicable and in any event—

- (a) in proceedings under section 75(1) of the Mental Health Act 1983 (reference concerning a conditionally discharged restricted patient who has been recalled to hospital), within 2 weeks after the Secretary of State received the documents sent or delivered in accordance with paragraph (7);
- (b) otherwise, within 3 weeks after the Secretary of State received the documents sent or delivered in accordance with paragraph (7).

(7B) The information specified in this paragraph is—

- (a) a summary of the offence or alleged offence that resulted in the patient being detained in hospital subject to a restriction order or, in the case of a patient subject to a restriction or limitation direction, that resulted in the patient being remanded in custody, kept in custody or sentenced to imprisonment;
- (b) a record of any other criminal convictions or findings recorded against the patient;
- (c) full details of the history of the patient's liability to detention under the Mental Health Act 1983 since the restrictions were imposed;
- (d) any further information in the Secretary of State's possession that the Secretary of State considers relevant to the proceedings.]

(8) If the Secretary of State wishes to seek the approval of the Tribunal under section 86(3) of the Mental Health Act 1983 [^{F6}(removal of alien patients)], the Secretary of State must refer the patient's case to the Tribunal and the provisions of these Rules applicable to references under that Act apply to the proceedings.

[^{F7}(9) The responsible authority must make records relating to the detention or treatment of the patient and any after-care services available to the Tribunal on request and the Tribunal or an appropriate member of the Tribunal may, before or at the hearing, examine and take notes and copies of such records for use in connection with the proceedings.]

Textual Amendments

- F1** Words in rule 32(2)(a) substituted (6.4.2012) by [The Tribunal Procedure \(Amendment\) Rules 2012 \(S.I. 2012/500\)](#), rules 1(2), **3(2)(a)**
- F2** Word in rule 32(2)(c) inserted (6.4.2012) by [The Tribunal Procedure \(Amendment\) Rules 2012 \(S.I. 2012/500\)](#), rules 1(2), **3(2)(b)(i)**
- F3** Words in rule 32(2)(c) omitted (6.4.2012) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2012 \(S.I. 2012/500\)](#), rules 1(2), **3(2)(b)(ii)**
- F4** Rule 32(2A) inserted (6.4.2012) by [The Tribunal Procedure \(Amendment\) Rules 2012 \(S.I. 2012/500\)](#), rules 1(2), **3(2)(c)**
- F5** Rule 32(4)-(7B) substituted for rule 32(4)-(7) (6.4.2012) by [The Tribunal Procedure \(Amendment\) Rules 2012 \(S.I. 2012/500\)](#), rules 1(2), **3(2)(d)**
- F6** Words in rule 32(8) inserted (6.4.2012) by [The Tribunal Procedure \(Amendment\) Rules 2012 \(S.I. 2012/500\)](#), rules 1(2), **3(2)(e)**
- F7** [Rule 32\(9\)](#) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **17**

Changes to legislation:

There are currently no known outstanding effects for the The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008, Section 32.