
STATUTORY INSTRUMENTS

2012 No. 500

The Tribunal Procedure (Amendment) Rules 2012

Amendments to the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008

3.—(1) The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008(1) are amended as follows.

(2) In rule 32 (procedure in mental health cases)—

- (a) in paragraph (2)(a), for “name and address” substitute “name, address and date of birth”;
- (b) in paragraph (2)(c)—

- (i) before “a community patient” insert “or”; and
 - (ii) omit “or subject to after-care under supervision”;

(c) after paragraph (2), insert—

“(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.”;

(d) for paragraphs (4) to (7), substitute—

“(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⁽²⁾ (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⁽³⁾ (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.”;

(e) in paragraph (8), after “Mental Health Act 1983” insert “(removal of alien patients)”.

(3) In rule 35 (no disposal of proceedings without a hearing)—

- (a) for the title of that rule, substitute “Restrictions on disposal of proceedings without a hearing”;
- (b) for paragraph (1), substitute—

(2) 1983 c.20. Section 66 was amended by the Mental Health (Patients in the Community) Act 1995 (c.52), the Mental Health Act 2007 (c.12), and the [Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#).

(3) Section 75 was amended by the Crime (Sentences) Act 1997 (c.43), the Mental Health Act 2007 and the [Transfer of Tribunal Functions Order 2008](#).

“(1) Subject to the following paragraphs, the Tribunal must hold a hearing before making a decision which disposes of proceedings.”

(c) after paragraph (2), insert—

“(3) The Tribunal may make a decision on a reference under section 68 of the Mental Health Act 1983 (duty of managers of hospitals to refer cases to tribunal) without a hearing if the patient is a community patient aged 18 or over and either—

- (a) the patient has stated in writing that the patient does not wish to attend or be represented at a hearing of the reference and the Tribunal is satisfied that the patient has the capacity to decide whether or not to make that decision; or
- (b) the patient’s representative has stated in writing that the patient does not wish to attend or be represented at a hearing of the reference.

(4) The Tribunal may dispose of proceedings without a hearing under rule 8(3) (striking out a party’s case).”