

Statutory Document No. 2000/0127

*Mental Health Act 1998***MENTAL HEALTH REVIEW TRIBUNAL RULES 2000<sup>1</sup>***Coming into Operation:**1 April 2000*

In exercise of the powers conferred on the Deemsters by section 86 of the Mental Health Act 1998<sup>1</sup>, and of all other enabling powers, the following Rules are hereby made:-.

**PART 1****INTRODUCTION****1 Citation and commencement**

These Rules may be cited as the Mental Health Review Tribunal Rules 2000 and shall come into operation on the 1<sup>st</sup> April 2000.

**2 Interpretation**

(1) In these Rules –

“**the Act**” means the Mental Health Act 1998;

“**admission papers**” means the application for admission under section 2 and the written recommendations of the two registered medical practitioners on which it is founded;

“**assessment application**” means an application by a patient who is detained for assessment and entitled to apply under section 74(1)(a) or who, being so entitled, has applied;

“**the Department’s statement**” means the statement provided by the Department pursuant to rule 6(1);

“**chairman**” means the High Bailiff or such person as he may have appointed under section 86(4) to exercise any functions of his under these Rules;

“**the clerk to the Tribunal**” means such officer of the General Registry as is assigned by the Chief Registrar to carry out the duties of clerk to the Tribunal;<sup>2</sup>

<sup>1</sup> 1998 c.3

**“decision with recommendations”** means a decision with recommendations in accordance with section 80(3)(a) or (4)(a);

**“the Department”** means the Department of Health and Social Security;

**“the Home Department”** means the Department of Home Affairs;

**“the Home Department’s statement”** means a statement provided by the Home Department pursuant to rule 6(2) or (3);

**“nearest relative”** means a person who has for the time being the functions under the Act of the nearest relative of a patient who is not a restricted patient;

**“party”** means the applicant, the patient, the Department, any other person to whom a notice under rule 7 or rule 31(b) is sent or who is added as a party by direction of the Tribunal;

**“private guardian”** in relation to a patient means a person, other than the Department, who acts as guardian under the Act;

**“proceedings”** includes any proceedings of the Tribunal following an application or reference in relation to a patient;

**“provisional decision”** includes a deferred direction for conditional discharge in accordance with section 81(7) and a notification to the Home Department in accordance with section 82(1);

**“reference”** means a reference under section 75(1), 76(1) or (2), 79(1) or (2) or 83(1);

**“the Tribunal”** means the Mental Health Review Tribunal.

- (2) A reference in these Rules to a section by number (without more) is to that section of the Act.

## PART 2

### PRELIMINARY MATTERS

#### 3 Making an application

- (1) An application shall be made to the Tribunal in writing, signed by the applicant or any person authorised by him to do so on his behalf.
- (2) The application shall wherever possible include the following information –
- (a) the name of the patient;
  - (b) the patient’s address, which shall include –
    - (i) the address of the hospital or mental nursing home where the patient is detained; or
    - (ii) the name and address of the patient’s private guardian; or

- (iii) in the case of a conditionally discharged patient or a patient to whom leave of absence from hospital has been granted, the address of the hospital or mental nursing home where the patient was last detained or is liable to be detained;  
together with the patient's current address;
- (c) where the application is made by the patient's nearest relative, the name and address of the applicant and his relationship to the patient;
- (d) the section of the Act under which the patient is detained or is liable to be detained;
- (e) the name and address of any representative authorised in accordance with rule 10 or, if none has yet been authorised, whether the applicant intends to authorise a representative or wishes to conduct his own case;
- (f) in the case of a patient subject (or to be subject) to after-care under supervision –
  - (i) the names of the persons who are (or who are to be) the patient's supervisor and community responsible medical officer;
  - (ii) the name and address of any place at which the patient is (or will be) receiving medical treatment;
  - (iii) where the patient is subject to after-care under supervision his current address, or in the case of a patient who is subject to after-care under supervision upon leaving hospital, the address of the hospital where he is, or was last, detained or is liable to be detained.
- (3) If any of the information specified in paragraph (2) is not included in the application, it shall in so far as is practicable be provided by the Department or, in the case of a restricted patient, the Home Department, at the request of the Tribunal.

#### **4 Notice of application**

- (1) On receipt of an application, the clerk to the Tribunal shall send notice of the application to –
  - (a) the Department;
  - (b) the patient (where he is not the applicant); and
  - (c) if the patient is a restricted patient, the Home Department.
- (2) Paragraph (1) applies whether or not the power to postpone consideration of the application under rule 9 is exercised.

## **5 Preliminary and incidental matters**

As regards matters preliminary or incidental to an application, the chairman may, at any time up to the hearing of an application by the Tribunal, exercise the powers of the Tribunal under rules 6, 7, 9, 10, 12, 13, 14(1), 15, 17, 19, 20, 26 and 28.

## **6 Statements by the Department and the Home Department**

- (1) The Department shall send a statement to the Tribunal and, in the case of a restricted patient, the Home Department, as soon as practicable and in any case within 3 weeks of its receipt of the notice of application; and such statement shall contain —
  - (a) the information specified in Part A of the Schedule, in so far as it is within the knowledge of the Department; and
  - (b) the report specified in paragraph 1 of Part B of the Schedule; and
  - (c) the other reports specified in Part B of the Schedule, in so far as it is reasonably practicable to provide them.
- (2) Where the patient is a restricted patient, the Home Department shall send to the Tribunal, as soon as practicable and in any case within 3 weeks of receipt by it of the authority's statement, a statement of such further information relevant to the application as may be available to it.
- (3) Where the patient is a conditionally discharged patient, paragraphs (1) and (2) shall not apply and the Home Department shall send to the Tribunal as soon as practicable, and in any case within 6 weeks of receipt by it of the notice of application, a statement which shall contain —
  - (a) the information specified in Part C of the Schedule, in so far as it is within the knowledge of the Home Department; and
  - (b) the reports specified in Part D of the Schedule, in so far as it is reasonably practicable to provide them.
- (4) Where the patient is (or is to be) subject to after-care under supervision paragraph (1) shall not apply and the Department shall send a statement to the Tribunal as soon as practicable, and in any case within 3 weeks of the Department's receipt of the notice of application, and this statement shall contain —
  - (a) the information specified in Part E of the Schedule, in so far as it is within the knowledge of the Department;
  - (b) the reports specified in Part F of the Schedule;
  - (c) the details of the after-care services being (or to be) provided under section 115; and
  - (d) details of any requirements imposed (or to be imposed) on the patient under section 31;and shall be accompanied by copies of the documents specified in paragraph 3 of Part E of the Schedule.

- (5) Any part of the Department's statement or the Home Department's statement which, in the opinion of –
- (a) (in the case of the Department's statement) the Department; or
  - (b) (in the case of the Home Department's statement) the Home Department,
- should be withheld from the applicant or (where he is not the applicant) the patient on the ground that its disclosure would adversely affect the health or welfare of the patient or others, shall be made in a separate document in which shall be set out the reasons for believing that its disclosure would have that effect.
- (6) On receipt of any statement provided in accordance with paragraph (1), (2) or (3), the clerk to the Tribunal shall send a copy to the applicant and (where he is not the applicant) the patient, excluding any part of any statement which is contained in a separate document in accordance with paragraph (4).

## **7 Notice to other persons interested**

On receipt of the Department's statement or, in the case of a conditionally discharged patient, the Home Department's statement, the clerk to the Tribunal shall give notice to the proceedings –

- (a) where the patient is subject to the guardianship of a private guardian, to the guardian;
- (b) where the patient is, or will upon leaving hospital be, subject to after-care under supervision, –
  - (i) to the person who appears to be the patient's nearest relative, and
  - (ii) the persons who are, or will be, the patient's supervisor and community responsible medical officer, and
  - (iii) in the case of a patient who has not yet left hospital, the person who has prepared the medical report referred to in paragraph 1 of Part F of the Schedule;
- (c) where a receiver has been appointed in respect of the patient under section 103(1), to the judge (within the meaning of Part 7);
- (d) where any person other than the applicant is named in the Department's statement as exercising the functions of the nearest relative, to that person;
- (e) to any other person who, in the opinion of the Tribunal, should have an opportunity of being heard.

## **8 Appointment of the Tribunal**

- (1) Where an application or reference by or in respect of a patient is made to the Tribunal, the chairman shall give directions as to the members of the Tribunal who are to hear the application or reference.
- (2) A person shall not be qualified to serve as a member of a Tribunal for the purpose of any proceedings where –
  - (a) he is a member or officer of the Department; or
  - (b) he has a personal connection with the patient or has recently treated the patient in a professional medical capacity.

## **9 Powers to postpone consideration of an application**

- (1) The Tribunal may, subject to the provisions of this rule, postpone the consideration of a further application by or in respect of that patient until such date as it may direct, not being later than –
  - (a) the expiration of the period of 6 months from the date on which the previous application was determined; or
  - (b) the expiration of the current period of detention, whichever shall be the earlier.
- (2) The power of postponement shall not be exercised unless the Tribunal is satisfied, after making appropriate inquiries of the applicant and (where he is not the applicant) the patient, that postponement would be in the interests of the patient.
- (3) The power of postponement shall not apply to –
  - (a) an application under section 74(1)(d) or (k);
  - (b) an application –
    - (i) under section 74(1)(f) in respect of a renewal of authority for detention of the patient for a period of 6 months, or
    - (ii) an application under section 74(1)(1) in respect of a report furnished under section 34 concerning renewal of after-care under supervision,  
unless the previous application or reference was made to the Tribunal more than 3 months after the patient's admission to hospital, reception into guardianship or becoming subject to after-care under supervision;
  - (c) an application under section 74(1)(i);
  - (d) any application where the previous application or reference was determined before a break or change in the authority for the patient's detention or guardianship or his being (or being about to be) subject to after-care under supervision as defined in paragraph (7).

- (4) Where the consideration of an application is postponed, the Tribunal shall state in writing the reasons for postponement and the period for which the application is postponed and the clerk to the Tribunal shall send a copy of the statement to all the parties and, in the case of a restricted patient, the Home Department.
- (5) Where the consideration of an application is postponed, the clerk to the Tribunal shall send a further notice of the application in accordance with rule 4 not less than 7 days before the end of the period of postponement and consideration of the application shall proceed thereafter, unless before the end of the period of postponement the application has been withdrawn or is deemed to be withdrawn in accordance with the provisions of rule 19 or has been determined in accordance with paragraph (6).
- (6) Where a new application which is not postponed under this rule or a reference is made in respect of a patient, the Tribunal may direct that any postponed application in respect of the same patient shall be considered and determined at the same time as the new application or reference.
- (7) For the purpose of paragraph (3)(d) a break or change in the authority for the detention or guardianship of a patient, or his being (or being about to be) subject to after-care under supervision, shall be deemed to have occurred only —
  - (a) on his admission to hospital in pursuance of an application for treatment or in pursuance of a hospital order without an order restricting his discharge; or
  - (b) on his reception into guardianship in pursuance of a guardianship application or a guardianship order; or
  - (c) on the application to him of the provisions of Part 2 or Part 3 of the Act as if he had been so admitted or received following —
    - (i) the making of a transfer direction, or
    - (ii) the ceasing of effect of a transfer direction or an order or direction restricting his discharge; or
  - (d) on his transfer from guardianship to hospital in pursuance of regulations under section 19; or
  - (e) on his ceasing to be subject to after-care under supervision on his reception into guardianship in accordance with section 35(4)(b).

## PART 3

### GENERAL PROVISIONS

#### **10 Representations, etc**

- (1) Any party may be represented by any person whom he has authorised for that purpose, not being –
  - (a) a person liable to be detained or subject to guardianship or after-care under supervision under the Act, or
  - (b) a person receiving treatment for mental disorder at the same hospital or mental nursing home as the patient.
- (2) Any representative authorised in accordance with paragraph (1) shall notify the clerk to the Tribunal of his authorisation and postal address.
- (3) As regards the representation of any patient who does not desire to conduct his own case and does not authorise a representative in accordance with paragraph (1) the Tribunal may appoint some person to act for him as his authorised representative.
- (4) Without prejudice to rule 12(3), the Tribunal shall send to an authorised representative copies of all notices and documents which are by these Rules required or authorised to be sent to the person whom he represents and such representative may take all such steps and do all such things relating to the proceedings as the person whom he represents is by these Rules required or authorised to take or do.
- (5) Any document required or authorised by these Rules to be sent or given to any person shall, if sent or given to the authorised representative of that person, be deemed to have been sent or given to that person.
- (6) Unless the Tribunal otherwise directs, a patient or any other party appearing before the Tribunal may be accompanied by such other person or persons as he wishes, in addition to any representative he may have authorised.

#### **11 Medical examination**

- (1) At any time before the hearing of the application, the medical member or, where the Tribunal includes more than one, at least one of them shall examine the patient and take such other steps as he considers necessary to form an opinion of the patient's mental condition.
- (2) For that purpose the patient may be seen in private and all his medical records may be examined by the medical member, who may take such notes and copies of them as he may require, for use in connection with the application.



- (3) In the case of a patient subject to after-care under supervision paragraph (2) also applies to such other records relating to any after-care services provided under section 115.

## **12 Disclosure of documents**

- (1) Subject to paragraph (2), the clerk to the Tribunal shall, as soon as practicable, send a copy of every document he receives which is relevant to the application to –
  - (a) the applicant,
  - (b) where he is not the applicant, the patient,
  - (c) the Department, and
  - (d) in the case of a restricted patient, the Home Department;and any of those persons may submit comments thereon in writing to the Tribunal.
- (2) As regards any documents which have been received by the Tribunal but which have not been copied to the applicant or the patient, including documents withheld in accordance with rule 6, the Tribunal shall consider whether disclosure of such documents would adversely affect the health or welfare of the patient or others and, if satisfied that it would, shall record in writing its decision not to disclose such documents.
- (3) Where the Tribunal is minded not to disclose any document to which paragraph (1) applies to an applicant or a patient who has an authorised representative it shall nevertheless disclose it as soon as practicable to that representative if he is –
  - (a) an advocate;
  - (b) a registered medical practitioner;
  - (c) in the opinion of the Tribunal, a suitable person by virtue of his experience or professional qualification;

provided that no information disclosed in accordance with this paragraph shall be disclosed either directly or indirectly to the applicant or (where he is not the applicant) to the patient or to any other person without the authority of the Tribunal or used otherwise than in connection with the application.

## **13 Directions**

Subject to the provisions of these Rules, the Tribunal may give such directions as it thinks fit to ensure the speedy and just determination of the application.

## **14 Evidence**

- (1) For the purpose of obtaining information, the Tribunal may take evidence on oath and subpoena any witnesses to appear before it or to produce

documents, and the chairman shall have the powers of an arbitrator under section 13(3) of the Arbitration Act 1976<sup>2</sup> and the powers of a party to a reference under an arbitration agreement under section 13(4) of the Act, but no person shall be compelled to give any evidence or produce any document which he could not be compelled to give or produce on the trial of an action.

- (2) The Tribunal may receive in evidence any document or information notwithstanding that such document or information would be inadmissible in a court of law.

## **15 Further information**

- (1) Before or during any hearing the Tribunal may call for such further information or reports as it may think desirable, and may give directions as to the manner in which and the persons by whom such material is to be furnished.
- (2) Rule 12 applies to any further information or reports obtained by the Tribunal.

## **16 Adjournment**

- (1) The Tribunal may at any time adjourn a hearing for the purpose of obtaining further information or for such other purposes as it may think appropriate.
- (2) Before adjourning any hearing, the Tribunal may give such directions as it thinks fit for ensuring the prompt consideration of the application at an adjourned hearing.
- (3) Where the applicant or the patient (where he is not the applicant) or the Department requests that a hearing adjourned in accordance with this rule be resumed, the hearing shall be resumed provided that the Tribunal is satisfied that resumption would be in the interests of the patient.
- (4) Before the Tribunal resumes any hearing which has been adjourned without a further hearing date being fixed the clerk to the Tribunal shall give to all parties and, in the case of a restricted patient, the Home Department, not less than 14 days' notice (or such shorter notice as all parties may consent to) of the date, time and place of the resumed hearing.

## **17 Transfer of proceedings**

Where any proceedings in relation to a patient have not been disposed of by the members of the Tribunal appointed for the purpose, and the chairman is of the opinion that it is not practicable or not possible without undue delay for the

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<sup>2</sup> 1976 c.24

consideration of those proceedings to be completed by those members, he shall make arrangements for them to be heard by other members of the Tribunal.

## **18 Two or more pending applications**

- (1) The Tribunal may consider more than one application in respect of a patient at the same time and may for this purpose adjourn the proceedings relating to any application.
- (2) Where the Tribunal considers more than one application in respect of the patient at the same time, each applicant (if more than one) shall have the same rights under these Rules as he would have if he were the only applicant.

## **19 Withdrawal of application**

- (1) An application may be withdrawn at any time at the request of the applicant provided that the request is made in writing and the Tribunal agrees.
- (2) If a patient ceases to be liable to be detained or subject to guardianship or after-care under supervision in the Island, any application relating to that patient shall be deemed to be withdrawn.
- (3) Where a patient subject to after-care under supervision fails without reasonable explanation to undergo a medical examination under rule 11, any application relating to that patient may be deemed by the Tribunal to be withdrawn.
- (4) Where an application is withdrawn or deemed to be withdrawn, the Tribunal shall so inform the parties and, in the case of a restricted patient, the Home Department.

# **PART 4**

## **THE HEARING**

## **20 Notice of hearing**

The clerk to the Tribunal shall give at least 14 days' notice of the date, time and place fixed for the hearing (or such shorter notice as all parties may consent to) to all the parties and, in the case of a restricted patient, the Home Department.

## **21 Privacy of proceedings**

- (1) The Tribunal shall sit in private unless the patient requests a hearing in public and the Tribunal is satisfied that a hearing in public would not be contrary to the interests of the patient.

- (2) Where the Tribunal refuses a request for a public hearing or directs that a hearing which has begun in public shall continue in private the Tribunal shall record its reasons in writing and shall inform the patient of those reasons.
- (3) When the Tribunal sits in private it may admit to the hearing such persons on such terms and conditions as it considers appropriate.
- (4) The Tribunal may exclude from any hearing or part of a hearing any person or class of persons, other than a representative of the applicant or of the patient to whom documents would be disclosed in accordance with rule 12(3), and in any case where the Tribunal decides to exclude the applicant or the patient or their representatives of the Department, it shall inform the person excluded of its reasons and record those reasons in writing.
- (5) Except in so far as the Tribunal may direct, information about proceedings before the Tribunal and the names of any persons concerned in the proceedings shall not be made public.

## **22 Hearing procedure**

- (1) The Tribunal may conduct the hearing in such manner as it considers most suitable bearing in mind the health and interests of the patient and it shall, so far as appears to it appropriate, seek to avoid formality in its proceedings.
- (2) At any time before the application is determined, the Tribunal or any one or more of its members may interview the patient, and shall interview him if he so requests, and the interview may, and shall if the patient so requests, take place in the absence of any other person.
- (3) At the beginning of the hearing the chairman shall explain the manner of proceedings which the Tribunal proposes to adopt.
- (4) Subject to rule 21(4), any party and, with the permission of the Tribunal, any other person, may appear at the hearing and take such part in the proceedings as the Tribunal thinks proper; and the Tribunal shall in particular hear and take evidence from the applicant, the patient (where he is not the applicant) and the Department who may hear each other's evidence, put questions to each other, call witnesses and put questions to any witness or other person appearing before the Tribunal.
- (5) After all the evidence has been given, the applicant and (where he is not the applicant) the patient shall be given a further opportunity to address the Tribunal.

## PART 5

### DECISIONS, FURTHER CONSIDERATIONS ETC.

#### 23 Decisions

- (1) Any decision of the majority of the members of a Tribunal shall be the decision of the Tribunal and, in the event of an equality of votes, the chairman shall have a second or casting vote.
- (2) The decision by which the Tribunal determines an application shall be recorded in writing; the record shall be signed by the chairman and shall give the reasons for the decision and, in particular, where the Tribunal relies upon any of the matters set out in section 80(1), (5) or (6) or section 81(1) or (2), shall state its reasons for being satisfied as to those matters.
- (3) Paragraphs (1) and (2) shall apply to provisional decisions and decisions with recommendations as they apply to decisions by which applications are determined.

#### 24 Communication of decisions

- (1) The decision by which the Tribunal determines an application may, at the discretion of the Tribunal, be announced by the chairman immediately after the hearing of the case and, subject to paragraph (2), the written decision of the Tribunal, including the reasons, shall be communicated in writing within 7 days of the hearing to all parties and, in the case of a restricted patient, the Home Department.
- (2) Where the Tribunal considers that the full disclosure of the recorded reasons for its decision to the patient in accordance with paragraph (1) would adversely affect the health or welfare of the patient or others, the Tribunal may instead communicate its decision to him in such manner as it thinks appropriate and may communicate its decision to the other parties subject to any conditions it may think appropriate as to disclosure thereof to the patient;

Provided that, where the applicant or the patient was represented at the hearing by a person to whom documents would be disclosed in accordance with rule 12(3), the Tribunal shall disclose the full recorded grounds of its decision to such a person, subject to any conditions it may think appropriate as to disclosure thereof to the patient.

- (3) Paragraphs (1) and (2) shall apply to provisional decisions and decisions with recommendations as they apply to decisions by which applications are determined.
- (4) Where the Tribunal makes a decision with recommendations, the decision shall specify the period at the expiration of which the Tribunal will

consider the case further in the event of those recommendations not being complied with.

## **25 Further consideration**

- (1) Where the Tribunal has made a provisional decision, any further decision in the proceedings may be made without a further hearing.
- (2) Where the Tribunal has made a decision with recommendations and, at the end of the period referred to in rule 24(4), it appears to the Tribunal after making appropriate inquiries of the Department that any such recommendation has not been complied with, the Tribunal may reconvene the proceedings after giving to all parties not less than 14 days' notice (or such shorter notice as all parties may consent to) of the date, time and place fixed for the hearing.

## **26 Time**

- (1) Where the time prescribed by or under these Rules for doing any act expires on a Saturday, Sunday or bank holiday, the act shall be in time if done on the next working day.
- (2) The time appointed by these Rules for the doing of any act may, in the particular circumstances of the case, be extended or, with the exception of the periods of notice specified in rule 16(4), rule 20 and rule 25(2), abridged by the Tribunal on such terms (if any) as it may think fit.

## **27 Service of notices etc**

Any document required or authorised by these Rules to be sent or given to any person may be sent by prepaid post or delivered –

- (a) in the case of a document directed to the Tribunal, to the office of the clerk to the Tribunal;
- (b) in any other case, to the last known address of the person to whom the document is directed.

## **28 Irregularities**

Any irregularity resulting from failure to comply with these Rules before the Tribunal has determined an application shall not of itself render the proceedings void, but the Tribunal may, and shall, if it considers that any person may have been prejudiced, take such steps as it thinks fit before determining the application to cure the irregularity, whether by the amendment of any document, the giving of any notice, the taking of any step or otherwise.

## PART 6

### REFERENCES AND APPLICATIONS BY PATIENTS DETAINED FOR ASSESSMENT

#### 29 References

The Tribunal shall consider a reference as if there had been an application by the patient and the provisions of these Rules shall apply with the following modifications –

- (a) rules 3, 4, 9 and 19 and, in the case of a reference under section 83(1), rule 20 shall not apply;
- (b) the Tribunal shall, on receipt of the reference, send notice thereof to the patient and the Department; provided that where the reference has been made by the Department, instead of the notice of reference there shall be sent to the Department a request for the Department's statement;
- (c) rules 5, 6 and 7 shall apply as if rule 6(1) referred to the notice of reference, or the request for the Department's statement, as the case may be, instead of the notice of application and, in the case of a reference under section 83(1) –
  - (i) rule 6(2) shall apply with the substitution of "2 weeks" for "3 weeks"; and
  - (ii) on receipt of the Department's statement, the clerk to the Tribunal shall give notice of the date, time and place fixed for the hearing to any person whom he notifies of the hearing under rule 7;
- (d) on receipt of a reference under section 83(1) –
  - (i) the chairman shall fix a date for the hearing, being not later than 8 weeks nor earlier than 5 weeks from the date on which the reference was received, and the time and place for the hearing; and
  - (ii) the clerk to the Tribunal shall give notice of the date, time and place of the hearing to the patient, the Department and the Home Department;
- (e) where the Home Department makes a reference in circumstances in which it is not obliged by the Act to make a reference, it may withdraw the reference at any time before it is considered by the Tribunal and, where a reference is so withdrawn, the clerk to the Tribunal shall inform the patient and the other parties that the reference has been withdrawn.

**30 Making an assessment application**

- (1) An assessment application shall be made to the Tribunal in writing signed by the patient or any person authorised by him to do so on his behalf.
- (2) An assessment application shall indicate that it is made by or on behalf of a patient detained for assessment and shall wherever possible include the following information –
  - (a) the name of the patient;
  - (b) the address of the hospital or mental nursing home where the patient is detained;
  - (c) the name and address of the patient's nearest relative and his relationship to the patient;
  - (d) the name and address of any representative authorised by the patient in accordance with rule 10 or, if none has yet been authorised, whether the patient intends to authorise a representative or wishes to conduct this own case.
- (3) If any of the information specified in paragraph (2) is not included in the assessment application, it shall in so far as is practicable be provided by the Department at the request of the Tribunal.

**31 Appointment of a Tribunal and hearing date**

On receipt of an assessment application –

- (a) the chairman shall –
  - (i) fix a date for the hearing, being not later than 7 days from the date on which the application was received, and the time and place for the hearing, and
  - (ii) appoint the members of the Tribunal to deal with the case in accordance with rule 8; and
- (b) the clerk to the Tribunal shall give notice of the application to the patient and notice of the date, time and place fixed for the hearing to –
  - (i) the Department,
  - (ii) the nearest relative (where practicable), and
  - (iii) any other person who, in the opinion of the chairman, should have an opportunity of being heard.

**32 Provision of admission papers, etc**

- (1) On receipt of the notice of an assessment application, or a request from the Tribunal, whichever may be the earlier, the Department shall provide for the Tribunal copies of the admission papers, together with such of the information specified in Part A of the Schedule as is within the knowledge of the Department and can reasonably be provided in the time available



and such of the reports specified in Part B of the Schedule as can reasonably be provided in the time available.

- (2) The Department shall indicate if any part of the admission papers or other documents supplied in accordance with paragraph (1) should, in their opinion, be withheld from the patient on the ground that its disclosure would adversely affect the health or welfare of the patient or others and shall state their reasons for believing that its disclosure would have that effect.
- (3) The Tribunal shall make available to the patient copies of the admission papers and any other documents supplied in accordance with paragraph (1), excluding any part indicated by the Department in accordance with paragraph (2).

### **33 General procedure, hearing procedure and decisions**

Rule 5, rule 8 and Parts 3, 4 and 5 of these Rules shall apply to assessment applications as they apply to applications in so far as the circumstances of the case permit and subject to the following modifications –

- (a) rule 12 shall apply as if any reference to a document being withheld in accordance with rule 6 was a reference to part of the admission papers or other documents supplied in accordance with rule 32 being withheld;
- (b) rule 16 shall apply with the substitution, in paragraph (4), for “not less than 14 days’ notice (or such shorter notice as all parties may consent to)” of “such notice as is reasonably practicable”;
- (c) rule 20 shall not apply;
- (d) rule 24 shall apply with the substitution, in paragraph (1), of “3 days” for “7 days”.

## **PART 8**

### **TRANSITIONAL PROVISION AND REVOCATIONS**

#### **34 Transitional provision**

These Rules apply, so far as practicable, to any proceedings pending at the date on which they come into operation.

#### **35 Revocation**

The Mental Health Review Tribunal Rules 1975<sup>3</sup> are revoked.

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<sup>3</sup> Made 10<sup>th</sup> December 1975

**MADE 31 MARCH 2000**

Rules 6 & 32.

## SCHEDULE

### STATEMENTS BY THE DEPARTMENT AND THE HOME DEPARTMENT

#### PART A

*Information relating to patients (other than conditionally discharged patients and patients subject (or to be subject) to after-care under supervision)*

1. The full name of the patient.
2. The age of the patient.
3. The date of admission of the patient to the hospital or mental nursing home in which the patient is currently detained or liable to be detained, or of the reception of the patient into guardianship.
4. Details of the original authority for the detention or guardianship of the patient, including the Act and the section of that Act by reference to which detention was authorised and details of any subsequent renewal of or change in the authority for detention.
5. The form of mental disorder from which the patient is recorded as suffering in the authority for detention (including amendments, if any, under section 16 of 80(7)). (This paragraph does not apply where the patient has been dealt with pursuant to section 54 of the Criminal Jurisdiction Act 1993<sup>4</sup> by virtue of section 9(9), 21 or 35(1)(a) of that Act.)
6. The name of the responsible medical officer and the period which the patient has spent under the care of that officer.
7. Where another registered medical practitioner is or has recently been largely concerned in the treatment of the patient, the name of that practitioner and the period which the patient has spent under his care.
8. The dates of all previous Tribunal hearings in relation to the patient, the decisions reached at such hearings and the reasons given. (In restricted patient cases this requirement does not relate to decisions before 1<sup>st</sup> October 1986.)
9. Details of any proceedings under Part 7 of the Act and of any receivership order made in respect of the patient.
10. The name and address of the patient's nearest relative or of any other person who is exercising that function.
11. The name and address of any other person who takes a close interest in the patient.

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<sup>4</sup> 1993 c.9

12. Details of any leave of absence granted to the patient during the previous 2 years, including the duration of such leave and particulars of the arrangements made for the patient's residence while on leave.

## PART B

*Reports relating to patients (other than conditionally discharged patients and patients subject (or to be subject) to after-care under supervision)*

1. An up-to-date medical report, prepared for the Tribunal, including the relevant medical history and a full report on the patient's mental condition.
2. An up-to-date social circumstances report prepared for the Tribunal including reports on the following –
  - (a) the patient's home and family circumstances, including the attitude of the patient's nearest relative or the person so acting;
  - (b) the opportunities for employment or occupation and the housing facilities which would be available to the patient if discharged;
  - (c) the availability of community support and relevant medical facilities;
  - (d) the financial circumstances of the patient.
3. The views of the Department on the suitability of the patient for discharge.
4. Any other information or observations on the application which the Department wishes to make.

## PART C

*Information relating to conditionally discharged patients*

1. The full name of the patient.
2. The age of the patient.
3. The history of the patient's present liability to detention including details of offence(s), and the dates of the original order or direction and of the conditional discharge.
4. The form of mental disorder from which the patient is recorded as suffering in the authority for detention. (The paragraph does not apply where the patient has been dealt with pursuant to section 54 of the Criminal Jurisdiction Act 1993 by virtue of section 9(9), 21 or 35(1)(a) of that Act.)
5. The name and address of any medical practitioner responsible for the care and supervision of the patient in the community and the period which the patient has spent under the care of that practitioner.

6. The name and address of any social worker or probation officer responsible for the care and supervision of the patient in the community and the period which the patient has spent under the care of that person.

## PART D

### *Reports relating to conditionally discharged patients*

1. Where there is a medical practitioner responsible for the care and supervision of the patient in the community, an up-to-date medical report prepared for the Tribunal including the relevant medical history and a full report on the patient's mental condition.
2. Where there is a social worker or probation officer responsible for the patient's care and supervision in the community, an up-to-date report prepared for the Tribunal on the patient's progress in the community since discharge from hospital.
3. A report on the patient's home circumstances.
4. The views of the Home Department on the suitability of the patient for absolute discharge.
5. Any other observations on the application which the Home Department wishes to make.

## PART E

### *Information relating to patients subject (or to be subject) to after-care under supervision*

1. The full name, address and age of the patient.
2. The date of the acceptance of the supervision application in respect of the patient.
3. A copy of the original supervision application, details of the after-care services provided (or to be provided) under section 115, details of any requirements imposed (or to be imposed) under section 31(1), a copy of any report furnished under section 34(3)(b) in relation to renewal of the supervision application and a copy of any record of modification of the after-care services provided.
4. Any reclassification of the form of mental disorder from which the patient is recorded as suffering in the supervision application reported in accordance with section 33(1).
5. The name and address of the person who is (or is to be) the community responsible medical officer and the period (if any) during which he has been in charge of the patient's medical treatment.

6. The name and address of the person who is (or is to be) the patient's supervisor.
7. Where a registered medical practitioner other than the community responsible medical officer is or has recently been largely concerned in the treatment of the patient, details of the name and address of that practitioner and the period which the patient has spent under his care.
8. The name and address of any place where the patient (if he has been discharged) is receiving medical treatment.
9. The name and address of the hospital where the patient was detained or liable to be detained when the supervision application was made.
10. The dates of any previous Tribunal hearings in relation to the patient since he became subject to after-care under supervision, the decisions reached at such hearings and the reasons given.
11. Details of any proceedings under Part 7 of the Act and of any receivership order made in respect of the patient.
12. The name and address of the patient's nearest relative or of any other person who is exercising that function.
13. The name and address of any other person who takes a close interest in the patient.

## PART F

### *Reports relating to patients subject (or to be subject) to after-care under supervision*

1. An up-to-date medical report, prepared for the Tribunal by the patient's community responsible medical officer or, if he has not yet left hospital, his responsible medical officer (or, where there is none, his last responsible medical officer), including the relevant medical history and a full report on the patient's mental condition.
2. Where the patient is subject to after-care under supervision an up-to-date report prepared for the Tribunal by the patient's supervisor including reports on the following –
  - (a) the patient's home and family circumstances, including the attitude of the patient's nearest relative or the person so acting and the attitude of any person who plays a substantial part in the care of the patient but is not professionally concerned with any of the after-care services provided to the patient;
  - (b) his progress in the community whilst subject to after-care under supervision including an assessment of the effectiveness of that supervision.
3. Where the patient has not yet left hospital, an up-to-date social circumstances report prepared for the Tribunal by a person professionally

concerned with the nature of the patient's social circumstances including reports on the following –

- (a) the patient's home and family circumstances, including the attitude of the patient's nearest relative or the person so acting;
- (b) the opportunities for employment or occupation and the housing facilities which would be available to the patient upon his discharge from hospital;
- (c) the availability of community support and relevant medical facilities;
- (d) the financial circumstances of the patient.

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.

<sup>2</sup> Definition of “ the clerk to the Tribunal” substituted by SD717/01.