SCOTTISH STATUTORY INSTRUMENTS

2004 No. 402

MENTAL HEALTH

The Mental Health Tribunal for Scotland (Disciplinary Committee) Regulations 2004

Made - - - -	*15th September 2004*
Laid before the Scottish Parliament - - - -	*17th September 2004*
Coming into force - -	*9th October 2004*

The Scottish Ministers, in exercise of the powers conferred by paragraph 5(4) of schedule 2 to the Mental Health (Care and Treatment) (Scotland) Act 2003(**1**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mental Health Tribunal for Scotland (Disciplinary Committee) Regulations 2004 and shall come into force on 9th October 2004.

(2) In these Regulations–

"the Act" means the Mental Health (Care and Treatment) (Scotland) Act 2003;

"investigation" means an investigation carried out under paragraph 5(2) of schedule 2 to the Act;

"member of the Tribunal" means the member of the Tribunal who is the subject of the investigation; and

"disciplinary committee" means the disciplinary committee constituted under paragraph 5(3) of schedule 2 to the Act.

Commencement of investigation

2. Prior to an investigation by the disciplinary committee, the disciplinary committee shall give the member of the Tribunal written notice of the investigation and of the reasons for requiring the investigation.

(**1**) 2003 asp 13.

Change in membership of the disciplinary committee

3.—(1) This regulation shall apply where, after commencement of an investigation, any member of the disciplinary committee–

(a) dies;

(b) resigns; or

(c) is, in the opinion of the Lord President of the Court of Session, unable to act.

(2) Subject to paragraph (3), the Lord President of the Court of Session shall appoint a new member of the disciplinary committee from the same category of persons listed in paragraph 5(3) of schedule 2 to the Act as the member referred to in paragraph (1).

(3) Where the member referred to in paragraph (1) is not the person presiding over the disciplinary committee, a new member of the disciplinary committee need not be appointed under paragraph (2) unless the member of the Tribunal so wishes.

(4) Where a member of the disciplinary committee is appointed under paragraph (2), the disciplinary committee shall, if requested by the member of the Tribunal, commence the investigation anew.

Procedure – further provisions

4.—(1) The disciplinary committee may receive oral or written evidence from such persons as it thinks fit.

(2) The disciplinary committee shall give the member of the Tribunal the opportunity to make written and oral representations regarding the matters which are the subject of the investigation.

(3) Representations under paragraph (2) may be made by the member of the Tribunal personally or by anyone acting on his or her behalf.

(4) The disciplinary committee shall sit in private and no member shall disclose information received in the course of an investigation other than for the purposes of carrying out the functions conferred on the disciplinary committee by the Act and these Regulations.

Suspension

5.—(1) At any time during an investigation, the disciplinary committee may suspend the member of the Tribunal from office.

(2) A suspension imposed under paragraph (1) shall terminate–

(a) on the disciplinary committee deciding not to order removal of the member of the Tribunal from office; or

(b) before then, on the disciplinary committee deciding to bring the suspension to an end.

(3) If the disciplinary committee so directs, a member of the Tribunal suspended under this regulation may remain in office as a member of the Tribunal but only for the purpose of continuing to deal with proceedings of the Tribunal commenced prior to the suspension taking effect.

Draft findings to be sent to member of the Tribunal

6.—(1) The disciplinary committee shall send to the member of the Tribunal a draft of its findings and shall give the member of the Tribunal an opportunity to make comments on the draft by such date as the disciplinary committee may specify.

(2) The disciplinary committee shall have regard to any comments made under paragraph (1), but need not give the member of the Tribunal an opportunity to comment on any alterations made to the draft prior to submission of the final report under regulation 7.