1986 No. 193

MENTAL HEALTH

The Mental Health Review Tribunal (Northern Ireland) Rules 1986

Made . . . . . *25th June 1986*

Coming into operation . . . *31st July 1986*

To be laid before Parliament

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The Lord Chancellor, in exercise of the powers conferred on him by Article 83 of the Mental Health (Northern Ireland) Order 1986(**a**) and of all other powers enabling him in that behalf, hereby makes the following Rules:—

PART I

INTRODUCTION

Title and commencement

1. These Rules may be cited as the Mental Health Review Tribunal (Northern Ireland) Rules 1986 and shall come into operation on 31st July 1986.

(**a**) S.I. 1986/595 (N.I. 4)

Interpretation

2. In these Rules—

"the Board's statement" means the statement provided by the responsible Board pursuant to rule 6(1);

"chairman" means the legal member appointed by the Lord Chancellor as chairman of the Mental Health Review Tribunal for Northern Ireland under paragraph (3) of Schedule 3 to the Order;

"the Commission" has the meaning assigned to it by Article 2(2) of the Order;

"conditionally discharged patient" means a patient who is conditionally discharged under Article 48(2), 78 or 79 of the Order;

"decision with recommendations" means a decision with recommendation in accordance with Article 77(2)(*a*) of the Order;

"Department" has the meaning assigned to it by Article 2(2) of the Order;

"nearest relative" means a person who has for the time being the functions under the Order of the nearest relative of a patient who is not a restricted patient or a conditionally discharged patient;

"the Order" means the Mental Health (Northern Ireland) Order 1986;

"party" means the applicant, the patient, the responsible Board and any other person to whom a notice under rule 7 is sent or who is added as a party by direction of the tribunal;

"president" means the president of the tribunal as defined in paragraph (6) of Schedule 3 to the Order;

"private guardian" in relation to a patient means a person, other than a Health and Social Services Board, who acts as guardian under the Order;

"proceedings" includes any proceedings of a tribunal following an application or reference in relation to a patient;

"provisional decision" includes a deferred direction for conditional discharge in accordance with Article 78(7) of the Order and a notification to the Secretary of State in accordance with Article 79(1) of the Order;

"reference" means—

(*a*) in relation to rule 8, a reference by the person or body mentioned in Article 76(1) or (2) or 86(3) of the Order;

(*b*) in relation to rule 9, a reference by any of the persons or bodies mentioned in Article 72(1), 73(1), 76(1) or (2), 80(1) or 86(3) of the Order;

(*c*) in relation to rule 29, a reference by any of the persons or bodies mentioned in Article 72(1), 76(1) or (2), 80(1) or 86(3) of the Order; and

(*d*) in relation to rule 30, a reference by the body mentioned in Article 73(1) of the Order.

"responsible Board" has the meaning assigned to it by Article 2(2) of the Order;

"restricted patient" has the meaning assigned to it by Article 84(1) of the Order;

"the Secretary of State's statement" means a statement provided by the Secretary of State pursuant to rule 6(2) or (3);

"the tribunal" means the Mental Health Review Tribunal for Northern Ireland constituted under Article 70 and Schedule 3 of the Order.

PART II

PRELIMINARY MATTERS

Making an application

3.—(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 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 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 provision of the Order under which the patient is detained, is liable to be detained or is subject to guardianship;

(*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.

(3) If any of the information specified in paragraph (2) is not included in the application, it shall insofar as is practicable be provided by the responsible Board or, in the case of a restricted patient, the Secretary of State, at the request of the tribunal.

Notice of application

4.—(1) On receipt of an application, the tribunal shall send notice of the application to:—

(*a*) the responsible Board;

(*b*) the patient (where he is not the applicant); and

(*c*) if the patient is a restricted patient or a conditionally discharged patient, the Secretary of State.

(2) Paragraph (1) shall apply whether or not power to postpone consideration of the application under rule 9 is exercised.

Preliminary and incidental matters

5. As regards matters preliminary or incidental to an application, the chairman of the tribunal or any member thereof so directed for the purpose by 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.

Statements by the responsible Board and the Secretary of State

6.—(1) The responsible Board shall send a statement to the tribunal and, in the case of a restricted patient, the Secretary of State, as soon as practicable and in any case within 3 weeks of its receipt of the notice of application and such statements shall contain:—

(*a*) the information specified in Part A of the Schedule to these rules insofar as it is within the knowledge of the responsible Board; and

(*b*) the report specified in paragraph 1 of Part B of the said Schedule; and

(*c*) the other reports specified in Part B of the said Schedule insofar as it is reasonably practical to provide them.

(2) Where the patient is a restricted patient, the Secretary of State shall send to the tribunal, as soon as practicable and in any case within 3 weeks of receipt by him of the responsible Board's statement, a statement of such further information relevant to the application as may be available to him.

(3) Where the patient is a conditionally discharged patient, paragraphs (1) and (2) shall not apply and the Secretary of State shall send to the tribunal as soon as practicable, and in any case within 6 weeks of receipt by him of the notice of application, a statement which shall contain:—

(*a*) the information specified in Part C of the Schedule to these rules insofar as it is within the knowledge of the Secretary of State; and

(*b*) the reports specified in Part D of the said Schedule, insofar as it is reasonably practicable to provide them;

(4) Any part of the responsible Board's statement or the Secretary of State's statement, which in the opinion of—

(*a*) (in the case of the responsible Board's statement) the responsible Board; or

(*b*) (in the case of the Secretary of State's statement) the Secretary of State,

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.

(5) On receipt of any statement provided in accordance with paragraph (1), (2) or (3), 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).

Notice to other persons interested

7. On receipt of the responsible Board's statement or, in the case of a restricted patient or a conditionally discharged patient, the Secretary of State's statement, the tribunal shall give notice of the proceedings:—

(*a*) where the patient is subject to the guardianship of a private guardian, to the guardian;

(*b*) where the patient's financial affairs are under the control of the Office of Care and Protection, to the Master (Care and Protection);

(*c*) where any person other than the applicant is named in the responsible Board's statement as the patient's nearest relative or as exercising that function, to that person;

(*d*) to any other person who, in the opinion of the tribunal, should have an opportunity of being heard.

Appointment of tribunal

8.—(1) Unless the application belongs to a class or group of proceedings for which members have already been appointed, the members of the tribunal who are to hear the application shall be appointed by the chairman.

(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 responsible Board; or

(*b*) he has a personal connection with the patient or has recently treated the patient in a professional medical capacity.