EXPLANATORY NOTE

(This note does not form part of the Order, but is intended to indicate its general purport.)

This Order replaces the Tuberculosis (Movement of Cattle) (No. 2) Order (Northern Ireland), 1960, as amended by the Tuberculosis (Movement of Cattle) (No. 2) (Amendment) Order (Northern Ireland), 1961. It also replaces the Tuberculosis (Entry of Attested Animals) Order (Northern Ireland), 1961. It restricts the movement of cattle from the Republic of Ireland and the shipment of cattle to Great Britain to fully attested cattle accompanied by the proper documents. It also schedules the places and times at which such cattle may be brought into Northern Ireland from the Republic of Ireland.

1962. No. 69 **[C]**

MENTAL HEALTH

Mental Health Review Tribunal for Northern Ireland

RULES, DATED 5TH APRIL, 1962, MADE BY THE LORD CHIEF JUSTICE UNDER SECTION 79 OF THE MENTAL HEALTH ACT (NORTHERN IRELAND), 1961.

I, the Right Honourable John Clarke, Baron MacDermott, Lord Chief Justice of Northern Ireland, in exercise of the powers conferred on me by Section 79 of the Mental Health Act (Northern Ireland), 1961(a), and of all other powers enabling me in that behalf do hereby make the following rules:—

PART I

INTRODUCTORY

Title and commencement

1. These Rules may be cited as the Mental Health Review Tribunal (Northern Ireland) Rules, 1962, and shall come into operation on the 9th day of April, 1962.

Interpretation

2. In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them:—

"the Act" means the Mental Health Act (Northern Ireland), 1961.

"applicant" means a person who under the Act is entitled to apply, or being so entitled has applied to the tribunal; and "application" shall be construed accordingly.

"the tribunal" in relation to an application means the Mental Health Review Tribunal for Northern Ireland.

"displaced relative" means the nearest relative of the patient whose functions under the Act are exercisable by another person in pursuance of an order made under sections 41 or 42 of the Act.

(a) 1961. c. 15.

"reference" includes a reference by the persons or Ministry mentioned in section 45 and by the Minister of Home Affairs under section 54 of the Act.

"responsible management committee" means, in relation to a person detained or liable to be detained under the Act in a hospital, the management committee of that hospital and, in relation to a person subject to guardianship under the Act, the management committee to which the application for guardianship was made.

FORMS TO BE USED

3. In so far as practicable, the forms in the Schedule shall be used wherever appropriate in connection with procedures under these Rules.

PART II

PRELIMINARY PROCEDURE

Method of making application

4.—(1) In so far as practicable, an application shall be made by an applicant, or any person authorised by him to apply on his behalf, on the appropriate form of application set out in the Schedule to these Rules and shall be sent to the tribunal.

(2) The tribunal or the responsible management committee shall on request supply the appropriate form of application to an applicant.

(3) The applicant shall state in his application whether he requests a formal hearing.

Power to postpone consideration of application

5.—(1) Where an application by or in respect of a patient has been considered and determined by the tribunal, the tribunal or the chairman of the tribunal or any member thereof appointed for the purpose by the chairman may, subject to the provisions of this rule, postpone the consideration of a further application by or in respect of that patient until such time as they or he may direct, not being later than the expiration of the period of twelve months from the date on which the previous application was determined.

(2) The power of postponement conferred by the last foregoing paragraph shall not apply to—

(*a*) any application if the previous application was determined before a break or change in the authority for the patient's detention or guardianship within the meaning of this rule,

(*b*) an application under section 28 of the Act (which relates to the reclassification of mental disorder),

(*c*) an application under section 32 of the Act in respect of the first renewal of authority for detention of the patient for a period of one year,

(*d*) an application under paras. 4 or 5 of the Fourth Schedule to the Act in respect of the renewal of authority for detention,

(*e*) an application under section 36 of the Act (which imposes restrictions on discharge by the nearest relative).

(3) For the purposes of this rule a break or change in the authority for the detention or guardianship of a patient shall be deemed to have occurred only—

(*a*) on his admission to hospital in pursuance of an application for admission 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 application to him of the provisions of Part II or Part III 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 section 31 of the Act.

(4) Where the consideration of an application is postponed, the tribunal or the chairman of the tribunal or any member thereof appointed for the purpose by the chairman shall so inform the applicant and any other person to whom a copy or a notice of the application has been sent.

(5) Where the consideration of an application is postponed, any action which may have been taken on the application under the provisions of rules 6 to 9 shall be disregarded, and consideration of the application shall proceed as if the application had been made at the expiration of the period of postponement, unless before that date the application has been withdrawn or is deemed to be withdrawn in accordance with the provisions of rule 17, or has been determined in accordance with the next following paragraph.

(6) Where a new application is made in respect of a patient and is not postponed under this rule the tribunal or the chairman of the tribunal or any member thereof appointed for the purpose by the chairman 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.

Notice to responsible management committee

6. The tribunal shall on receipt of an application or, where the consideration of the application has been postponed, at the end of the period of postponement send a copy of the application to the responsible management committee.

Management Committee's statement

7.—(1) The responsible management committee shall send to the tribunal as soon as practicable and in any case within three weeks of the receipt by them of the copy of the application, a statement (in these Rules called "the management committee's statement") containing the information so far as known to the committee referred to in form No. 3 in the Schedule, so, however, that any part of the management committee's statement which in their opinion should be withheld from the applicant on the grounds that its disclosure would be undesirable in the interests of the patient or for other special reasons shall be made in a separate document and the management committee shall specify in such document their reasons for not wishing the information contained in it to be disclosed to the applicant.

(2) The tribunal shall on receipt of the management committee's statement send to the applicant a copy of the statement excluding any part thereof which is contained in a separate document in accordance with the last foregoing paragraph.

(3) The tribunal shall inform the management committee of any comments on the management committee's statement which they may receive from the applicant and shall give the management committee an opportunity of considering any such comments and shall, if the management committee so request, supply them with a copy thereof.

Notice to other persons interested

8. The tribunal shall on receipt of the management committee's statement give notice of the application—

(*a*) where the patient is subject to the guardianship of a person other than a management committee, to the guardian;

(*b*) where the applicant is the patient or the displaced relative, to the person named in the management committee's statement as exercising the functions of the nearest relative; and

shall inform the person to whom notice is given, in the form No. 4 set out in the Schedule to these Rules or a form substantially to the like effect, of the arrangements which will be made for determining the application.

Appointment of tribunal

9.—(1) The chairman or deputy chairman appointed in accordance with paragraph 3 of the Third Schedule to the Act shall, on receipt of the management committee's statement, or on receipt of a reference from the Minister of Home Affairs, appoint the members of the tribunal to consider and determine or advise on the application or reference unless it belongs to a class or group of proceedings for which members have already been appointed.

(2) A person shall not be qualified to serve as a member of a tribunal to consider an application or reference where—

(*a*) he has any interest or bias in or regarding the proceedings; or

(*b*) he is a member or officer of the management committee concerned in the proceedings.

Two or more pending applications

10. 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.

PART III

GENERAL PROVISIONS AS TO PROCEDURE

Representation

11.—(1) The applicant, the responsible management committee and any person to whom notice of the application has been given under the provisions of rule 8 may be represented by any person authorised in that behalf, not being a person liable to be detained or subject to guardianship under the Act or a person receiving treatment for mental disorder at the same hospital as the patient by or in respect of whom the application is made.

(2) An authorised 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.

(3) Unless the tribunal otherwise direct, a patient or other person appearing before the tribunal may be accompanied by such other person or persons as he wishes.

Medical Examination

12. The medical member of the tribunal appointed to consider the application shall, or where there is more than one medical member, the medical members may and one shall, examine the patient or take such other steps as he or they consider necessary to form an opinion of the patient's mental condition; and for this purpose the patient may be seen in private and his medical records examined.

Interview with Patient

13.—(1) The tribunal may at any time before determining the application interview the patient and shall interview him if he so requests, and such interview may take place in private or in the presence of the applicant or any other person as the tribunal think fit.

(2) Where they think it appropriate, the tribunal may authorise any one or more of their members to visit and interview the patient in private.

Disclosure of Information

14.—(1) Except in so far as the tribunal consider it undesirable to do so in the interests of the patient or for other special reasons, they shall make available to the applicant any part of the management committee's statement which has been withheld from him under the provisions of rule 7 and shall on request make available to the applicant and the responsible management committee copies of any other documents obtained by or furnished to the tribunal for the purposes of the application and a statement of the substance of any oral information so obtained or furnished, and may if so requested adjourn the hearing of the application so far as may in the opinion of the tribunal be necessary to enable the applicant or the responsible management committee to consider any document or information made available under this paragraph:

Provided that the tribunal may refuse to supply copies of any document or any part of any document, or a statement of any oral information which appears to them not to be relevant for the purposes of the application.

(2) The tribunal may disclose to any person any information withheld under the provisions of these Rules on terms that the information shall not be disclosed to the applicant or the patient or to any other person or be used otherwise than in connection with the application.

Evidence

15.—(1) For the purposes of obtaining information, the tribunal may take evidence on oath or affirmation and any witness may be subpoenaed to appear before them or to produce documents; and the chairman of the tribunal shall accordingly have the powers of a party to a reference under an arbitration agreement conferred by section 14 of the Arbitration Act (Northern Ireland), 1937(**a**); provided, however, that (*a*) no person shall be compelled to give any evidence

(**a**) 1 Edw. 8 & 1 Geo. 6. c. 8 (N.I.).