

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Part 2 is up to date with all changes known to be in force on or before 26 April 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 2 **S** THE MENTAL HEALTH TRIBUNAL FOR SCOTLAND

PART 2 **S**

ORGANISATION AND ADMINISTRATION OF THE TRIBUNAL

Organisation and administration of the functions of the Tribunal

- 7 (1) The functions of the Tribunal shall be discharged by such number of tribunals as may be determined from time to time by the President.
- (2) The Tribunal shall sit at such times and in such places as the President may determine.
- (3) Subject to sub-paragraph (4) below, and to any rules made under paragraph 10(1) below, a tribunal constituted under sub-paragraph (1) above shall consist of—
- (a) a convener who shall be—
 - (i) the President; or
 - (ii) a member selected by the President from the panel mentioned in paragraph 1(1)(a) above; and
 - (b) a member selected by the President from each of the panels mentioned in paragraph 1(1)(b) and (c) above.
- (4) In relation to [^{F1}proceedings [^{F2}(other than excepted proceedings)] before the Tribunal in relation to a patient subject to a compulsion order and a restriction order, a hospital direction or a transfer for treatment direction], the convener shall be—
- (a) the President; or
 - (b) a person selected by the President from the panel mentioned in paragraph 2 above.
- [^{F3}(4A) For the purpose of sub-paragraph (4) above, the following are excepted proceedings—
- (a) proceedings relating solely to an application under section 255 or 256 of this Act, or
 - (b) proceedings relating to an application for a compulsory treatment order in respect of a patient subject to—
 - (i) a hospital direction, or
 - (ii) a transfer for treatment direction.]
- (5) Subject to the provisions of this Act, regulations made under section 21 of this Act and rules made under paragraph 10 below, the President shall secure that the functions of the Tribunal are discharged efficiently and effectively.
- (6) The President may—
- (a) give such directions; and
 - (b) issue such guidance,
- about the administration of the Tribunal as appear to the President to be necessary or expedient for the purpose of securing that the functions of the Tribunal are discharged efficiently and effectively.

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Textual Amendments

- F1** Words in sch. 2 para. 7(4) substituted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(26)(a)**
- F2** Words in sch. 2 para. 7(4) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 35(2)(a)**, 61(2); [S.S.I. 2017/197](#), art. 2, **sch.** (with art. 17)
- F3** Sch. 2 para. 7(4A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 35(2)(b)**, 61(2); [S.S.I. 2017/197](#), art. 2, **sch.** (with art. 17)

Modifications etc. (not altering text)

- C1** Sch. 2 para. 7(1) power to delegate functions conferred (28.9.2004) by [Mental Health Tribunal for Scotland \(Delegation of the President's Functions\) Regulations 2004 \(S.S.I. 2004/373\)](#), regs. 1(1), **2(1)(a)**
- C2** Sch. 2 para. 7(2) power to delegate functions conferred (28.9.2004) by [Mental Health Tribunal for Scotland \(Delegation of the President's Functions\) Regulations 2004 \(S.S.I. 2004/373\)](#), regs. 1(1), **2(1)(b)**
- C3** Sch. 2 para. 7(3)(a)(ii) power to delegate functions conferred (28.9.2004) by [Mental Health Tribunal for Scotland \(Delegation of the President's Functions\) Regulations 2004 \(S.S.I. 2004/373\)](#), regs. 1(1), **2(1)(c)**
- C4** Sch. 2 para. 7(3)(b) power to delegate functions conferred (28.9.2004) by [Mental Health Tribunal for Scotland \(Delegation of the President's Functions\) Regulations 2004 \(S.S.I. 2004/373\)](#), regs. 1(1), **2(1)(d)**
- C5** Sch. 2 para. 7(4)(a) power to delegate functions conferred (28.9.2004) by [Mental Health Tribunal for Scotland \(Delegation of the President's Functions\) Regulations 2004 \(S.S.I. 2004/373\)](#), regs. 1(1), **2(2)**
- C6** Sch. 2 para. 7(4)(b) power to delegate functions conferred (28.9.2004) by [Mental Health Tribunal for Scotland \(Delegation of the President's Functions\) Regulations 2004 \(S.S.I. 2004/373\)](#), regs. 1(1), **2(1)(e)**
- C7** Sch. 2 para. 7(6) power to delegate functions conferred (28.9.2004) by [Mental Health Tribunal for Scotland \(Delegation of the President's Functions\) Regulations 2004 \(S.S.I. 2004/373\)](#), regs. 1(1), **2(1)(f)**

Commencement Information

- I1** Sch. 2 para. 7 in force at 3.5.2004 by [S.S.I. 2004/153](#), art. 3, **Sch. 2**

Staff and accommodation

8 ^{F4}(1)

^{F4}(2)

(3) The persons mentioned in sub-paragraph (4) below shall, in so far as it is reasonably practicable to do so, provide, in response to a request by the President, accommodation for the holding of hearings by the Tribunal.

(4) The persons referred to in sub-paragraph (3) above are—

- (a) a Health Board;
- (b) the State Hospitals Board for Scotland;
- (c) a local authority.

Textual Amendments

- F4** Sch. 2 para. 8(1)(2) repealed (1.4.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), **sch. 4 para. 5**; [S.S.I. 2015/77](#), art. 2(2)(3), **sch.**

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Modifications etc. (not altering text)

- C8** Sch. 2 para. 8(3) power to delegate functions conferred (28.9.2004) by [Mental Health Tribunal for Scotland \(Delegation of the President's Functions\) Regulations 2004 \(S.S.I. 2004/373\)](#), regs. 1(1), **2(1)(g)**

Commencement Information

- I2** Sch. 2 para. 8 in force at 3.5.2004 by [S.S.I. 2004/153](#), art. 3, **Sch. 2**

Finance

- 9 Such expenses of the Tribunal as the Scottish Ministers may determine shall be defrayed by the Scottish Ministers.

Commencement Information

- I3** Sch. 2 para. 9 in force at 3.5.2004 by [S.S.I. 2004/153](#), art. 3, **Sch. 2**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)