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STATUTORY INSTRUMENTS

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**1996 No. 314**

**MENTAL HEALTH**

**The Mental Health Review Tribunal (Amendment) Rules 1996**

*Made* - - - - *15th February 1996*  
*Laid before Parliament* *15th February 1996*  
*Coming into force* - - *1st April 1996*

The Lord Chancellor in exercise of powers conferred on him by section 78(1), (2), (3) and (5) of the Mental Health Act 1983(1) and of all other powers enabling him in that behalf, and after consulting with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(2) hereby makes the following Rules:—

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Mental Health Review Tribunal (Amendment) Rules 1996 and shall come into force on 1st April 1996.

(2) In these Rules, “the principal Rules” means the Mental Health Review Tribunal Rules 1983(3).

(3) In these Rules unless the context otherwise requires, a reference to a numbered rule or Schedule is a reference to the rule or Schedule bearing that number in the principal Rules.

**Amendment of rule 2 of the principal Rules**

2. Paragraph (1) of rule 2 (interpretation) shall be amended by—

(a) inserting in the definition of “decision with recommendations” the words “or (3A)(a)”(4) after the words “section 72(3)(a)”;

(b) inserting after the definition of “health authority” the following definition—

““National Health Service trust” means a body established under section 5(1) of the National Health Service and Community Care Act 1990(5)

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(1) 1983 c. 20.

(2) 1992 c. 53.

(3) S.I. 1983/942.

(4) Subsection (3A) of section 72 was inserted in the Mental Health Act 1983 (c. 20) (“the Act”) by paragraph 10(2) of Schedule 1 to the Mental Health (Patients in the Community) Act 1995 c. 52 (“the 1995 Act”).

(5) 1990 c. 19.

(c) inserting in the definition of “responsible authority” after sub-paragraph (b), the word “and” and a new sub-paragraph—

“(c) in relation to a patient subject to after-care under supervision, the Health Authority which has the duty under section 117 of the Act to provide after-care services for the patient.”;

(d) inserting in the definition of “tribunal” after the word “guardianship” the words “or is (or is to be) subject to after-care under supervision”.

### **Amendment of rule 3 of the principal Rules**

3. Rule 3 (making an application) shall be amended by inserting after paragraph (2)(e) the following sub-paragraph—

“(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 to be 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.”.

### **Amendment of rule 6 of the principal Rules**

4. In rule 6 (statements by the responsible authority and the Secretary of State) after paragraph (3) there shall be inserted the following paragraph—

“(3A) Where the patient is (or is to be) subject to after-care under supervision paragraph (1) shall not apply and the responsible authority shall send a statement to the tribunal as soon as practicable, and in any case within 3 weeks of the responsible authority’s receipt of the notice of application, and this statement shall contain—

- (a) the information specified in Part E of Schedule 1 to these Rules, in so far as it is within the knowledge of the responsible authority;
- (b) the reports specified in Part F of that Schedule;
- (c) the details of the after-care services being (or to be) provided under section 117 of the Act; and
- (d) details of any requirements imposed (or to be imposed) on the patient under section 25D of the Act<sup>(6)</sup>;

and shall be accompanied by copies of the documents specified in paragraph 3 of Part E of that Schedule.”.

### **Amendment of rule 7 of the principal Rules**

5. In rule 7 (notice to other persons interested)—

(a) after paragraph (b) there shall be inserted the following paragraph—

“(bb) where the patient is, or will upon leaving hospital be, subject to after-care under supervision, to the person who appears to be the patient’s nearest relative, and the persons who are, or will be, the patient’s supervisor and community responsible medical officer

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<sup>(6)</sup> Section 25D was inserted in the Act by section 1(1) of the 1995 Act.

and 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 Schedule 1 to these Rules;”;

(b) in paragraph (e) after the words “health authority” there shall be inserted the words “or National Health Service trust” and after the words “that authority” there shall be inserted the words “or trust”.

#### **Amendment of rule 8 of the principal Rules**

6. In paragraph (2)(b) of rule 8 (appointment of the tribunal) after the words “health authority” there shall be inserted the words “or National Health Service trust”.

#### **Amendment of rule 9 of the principal Rules**

7. Rule 9 (powers to postpone consideration of an application) shall be amended by—

(a) the insertion in paragraph (3)(a) after the words “section 66(1)(d)” of the words “or (gb)(7)”;

(b) in paragraph (3)(b)—

(i) the insertion after the word “months” of the words “or an application under section 66(1)(gc)(8) of the Act in respect of a report furnished under section 25G(3)(9) concerning renewal of after-care under supervision”; and

(ii) the substitution for the words “or reception into guardianship” of the words “, reception into guardianship or becoming subject to after-care under supervision”;

(c) in paragraph (3)(d) the insertion after the word “guardianship” of the words “or his being (or being about to be) subject to after-care under supervision”;

(d) in paragraph (7)—

(i) the insertion after the word “guardianship” on the first occasion it appears, of the words “or his being (or being about to be) subject to after-care under supervision”; and

(ii) the addition after sub-paragraph (d) of the following sub-paragraph—

“(e) on his ceasing to be subject to after-care under supervision on his reception into guardianship in accordance with section 25H(5)(b)(10).”.

#### **Amendment of rule 10 of the principal Rules**

8. In rule 10(1) (representation, etc.) there shall be inserted after the words “to guardianship” the words “or after-care under supervision”.

#### **Amendment of rule 11 of the principal Rules**

9. At the end of rule 11 there shall be added the words “and in the case of a patient subject to after-care under supervision this rule shall also apply to such other records relating to any after-care services provided under section 117 of the Act.”.

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(7) Section 117 was amended by paragraph 107(8) of Schedule 1 to the Health Authorities Act 1995 (c. 17) and by paragraph 15 of Schedule 1 to the 1995 Act.

(8) Section 25D was inserted in the Act by section 1(1) of the 1995 Act.

(9) Section 25G was inserted in the Act by section 1(1) the 1995 Act.

(10) Section 25F was inserted in the Act by section 1(1) of the 1995 Act.

### **Amendment of rule 19 of the principal Rules**

**10.** In rule 19 (withdrawal of application) there shall be inserted—

- (a) after the words “to guardianship” in paragraph (2) the words “or after-care under supervision”; and
- (b) after paragraph (2) the following paragraph—

“(2A) 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.”.

### **Amendment of rule 23 of the principal Rules**

**11.** In rule 23(2) (decisions) there shall be substituted for the words “or (4)” the words “, (4) or (4A)(11)”.

### **Amendment of Schedule 1 to the principal Rules**

**12.**—(1) In the headings to Parts A and B in Schedule 1 there shall be inserted in each case after the words “(OTHER THAN CONDITIONALLY DISCHARGED PATIENTS)” the words “AND PATIENTS SUBJECT (OR TO BE SUBJECT) TO AFTER-CARE UNDER SUPERVISION”.

(2) At the end of Schedule 1 (statements by the responsible authority and the Secretary of State), there shall be added the following Parts—

## **“PART E**

### **INFORMATION AND DOCUMENTS 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 117(**12**) of the Act, details of any requirements imposed (or to be imposed) under section 25D(1)(**13**) of the Act, a copy of any report furnished under section 25G(3)(b)(**14**) of the Act 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 25F(1)(**15**) of the Act.
- 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.

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(11) Paragraph (gb) of section 66(1) was inserted in the Act by paragraph 7(2) of Schedule 1 to the 1995 Act.

(12) Paragraph (gc) of section 66(1) was inserted in the Act by paragraph 7(2) of Schedule 1 to the 1995 Act.

(13) Section 25G was inserted in the Act by section 1(1) of the 1995 Act.

(14) Section 25H was inserted in the Act by section 1(1) of the 1995 Act.

(15) Subsection (4A) of section 72 was inserted in the Act by paragraph 10(3) of Schedule 1 to the 1995 Act.

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 in the Court of Protection 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."

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Dated 15th February 1996

*Mackay of Clashfern, C*

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Mental Health Review Tribunal Rules 1983 to provide for applications to Mental Health Review Tribunals in respect of patients subject to after-care under supervision under the Mental Health Act 1983 as amended by the Mental Health (Patients in the Community) Act 1995. Rules 2, 7 and 8 of the principal Rules are amended to include reference to National Health Service trusts which were introduced by the National Health Service and Community Care Act 1990 (rules 2(b), 5(b) and 6).