

S.I. 75 of 2021**MENTAL HEALTH CARE ACT, 2020***(Act 26 of 2020)***Mental Health Care Tribunal (Rules and Procedure) Regulations, 2021**

In exercise of the powers conferred by section 53 read with section 49 of the Mental Health Care Act, the Minister responsible for Health matters hereby makes the following regulations —

Citation

1. These regulations may be cited as the Mental Health Care Tribunal (Rules and Procedure) Regulations, 2021.

Interpretation

2. In these regulations —

“Act” means the Mental Health Care Act, 2020;

“Appeals” means an appeal from the Tribunal to the Supreme Court;

“Secretary” means the Secretary to the Tribunal appointed under section 51 of the Act;

Jurisdiction

3. The Tribunal shall have exclusive jurisdiction to hear and determine any matter pertaining to the mental health of any person including —

(a) an appeal by person with mental illness against a facilitated admission pursuant to section 24 of the Act;

(b) an appeal on renewal or extension of facilitated admission pursuant to section 25(4) of the Act;

- (c) complaints regarding violation of rights of persons with mental illness;
- (d) persons detained pursuant to section 136,138 or 275 of the Criminal Procedure Code; or
- (e) any complaints in regards to any decision, action or omission taken by any person or Authority in relation to the mental health of a person.

Application to the Tribunal

4.(1) An application to the Tribunal on the grounds listed under regulation (3) shall as far as practicable be made in the form specified in the First Schedule.

(2) The application under subsection (1) shall be filed with the Secretary of the Tribunal.

(3) The Secretary shall register the application and forthwith without delay deliver the application to the Chairperson of the Tribunal.

Commencement of Proceedings

5.(1) The Chairperson shall, upon examination of the application cause the Secretary to issue to the parties in the application a Notice of Application in the form specified in the Second Schedule.

(2) The Secretary shall issue the necessary summons to the parties whose attendance is required at the hearing before the Tribunal in the form specified in the Third Schedule.

Hearings before the Tribunal

6.(1) At a hearing before the Tribunal, the Chairman shall take evidence on oath and for that purpose shall administer oaths.

(2) A hearing before the Tribunal shall be open to the public.

- (3) A hearing under subregulation (2) may be heard in private —
- (a) whenever the circumstances so warrant; or
 - (b) whenever the Tribunal considers it appropriate.

Evidence rules

7. The rules of evidence which apply in criminal cases before the Supreme Court shall apply in all matters before the Tribunal.

Arguments or submissions before the Tribunal

8.(1) Any party to hearing proceedings before the Tribunal, or the authorised representative of that party shall declare to the Board at the earliest opportunity whether it intends to make oral or written submissions during the course of the proceedings.

(2) Where a party to the proceedings or his authorised representatives has chosen to file written submissions, it shall arrange to submit copies thereof to the Secretary of the Tribunal at least 14 working days before the hearing before the date fixed for consideration of the matter by the Tribunal.

Proceedings in absence of a party

9. Where on a date fixed for any particular matter before the Tribunal, any party to the proceeding who was present when the date was fixed or was properly served with summons, does not appear, the proceeding may be continued in the absence of that party and the Chairman may issue an Order, Direction or Notice as he or she shall consider appropriate.

Minutes and Records of Proceedings

10.(1) The Secretary shall keep record of any oral evidence given at the hearing before the Tribunal and the record shall be signed by the Chairperson.

Decisions of the Tribunal

11.(1) Section 49 and 50 shall apply to a decisions of the Tribunal.

(2) Every decision of the Tribunal shall be signed and dated by the Chairman and at least two other members.

(3) The Tribunal shall treat an application with the urgency that it requires and as far as practicable a decision shall be issued within 14 days from the date of conclusion of the final arguments.

(4) A certified copy of the decision shall be served on the parties to the proceedings within 7 days from date that the decision is made.

FIRST SCHEDULE

APPLICATION TO THE MENTAL HEALTH CARE TRIBUNAL

Mental Health Care Act, 2020

An application must be completed according to the Procedure Rules.

1. What type of application are you applying for?
 - (a) an appeal by person with mental illness against a facilitated admission pursuant to section 24 of the Act;
 - (b) an appeal on renewal or extension of facilitated admission pursuant to section 25(4) of the Act;
 - (c) complaints regarding violation of rights of persons with mental illness;
 - (d) persons detained pursuant to section 136,138 or 275 of the Criminal Procedure Code; or
 - (e) any complaints in regards to any decision, action or omission taken by any person or Authority in relation to the mental health of a person.

2. What is the patient's full name?

3. What is the patient's date of birth?

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

4. Under what Section is the patient detained?

5. What is the date of detention if any?

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

6. Where does the patient currently live?

In hospital

In the community

7. What is the name and address of Hospital responsible for care of the patient?

Name of Hospital

Address

8. What is the patient's full address?

9. What is the full name and address identifying Medical Practitioner?

Name of Hospital:

Address:

Nearest relative details Non-restricted cases only

10. Full name of nearest relative?

11. Full address of nearest relative?

12. What is the relationship to the patient?

13. Does the patient object to the nearest relative being informed about the case?

Yes

No

Legal representative's details

14. Do you have a legal or nominated representative acting for you

Yes - complete questions 15-17

No:

I intend to appoint a legal representative

I would like a legal representative to be appointed on my behalf

I do not wish to appoint a legal representative

15. What is the legal representative's name or nominated representative's name?

16. What is the name and address of the legal representative's firm?

Name of legal representative's firm:

Address:

17. What is the legal representative's secure email address?

Special requirements

18. Do you require an interpreter?

Yes - I need an interpreter
for language dialect

No

Declaration

- 19. This application is submitted by the
Parent
Nearest relatives

OR

- Submitted on behalf of the
Parents
Nearest relatives

Who has personally authorised me to submit this application on their behalf

Signature:

Date:

--	--	--

Print Name

What to do when you have completed your application

Ensure the form is complete and the information given is correct

Only information given on the form will be registered

Where to send your completed application

By Email:

Address:

SECOND SCHEDULE

[Regulation 5(1)]

Court No.

THE MENTAL HEALTH CARE TRIBUNAL

..... **Applicant**

Versus

..... **Respondent**

Cs No.....

TAKE NOTICE that the above case will be mentioned on the
at am/pm.

You are hereby required to appear before the Mental Health Care Tribunal,
located in the Magistrates Court building at Ile Du Port on the above mentioned
date and time.

Dated this day of 20

SECRETATRY OF THE MENTAL HEALTH CARE TRIBUNAL

To be served on: 1. XXXX

THIRD SCHEDULE

Application to the Mental Health Care Tribunal

[Regulation 2]



Summons to Witness

IN THE MENTAL HEALTH CARE TRIBUNAL

X

Applicant

VERSUS

Respondent

x

To: **x**

(To give evidence and to produce medical certificate report.)

You are hereby required to attend at the Mental Health Care Tribunal, Magistrate's Court Building, Ile Du Port

On the day of 20..... at the hour of o'clock in the forenoon, to give evidence in the above mentioned cause on behalf of the **Applicant**.

Given, under the seal of the Supreme Court, this day of 20.....

SECRETARY OF THE TRIBUNAL

MADE this 2nd day of September, 2021.

**PEGGY VIDOT
MINISTER OF HEALTH**
