



Queensland

*Supreme Court of Queensland Act 1991*

# **General (Appeals Against Decisions of the Mental Health Tribunal) Rules 1986**

**Current as at 6 June 1996—revised version**

## **Reprint note**

Redundant endnotes tables have been omitted from this reprint to reflect current styles.

This version was produced on 6 August 2015.

This is the last reprint before repeal. Repealed on 24 August 2018 by 2018 SL No. 127 s 78.

© State of Queensland 2018



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

# General (Appeals Against Decisions of the Mental Health Tribunal) Rules 1986

## Contents

---

	Page
1 Citation .....	3
2 Forms .....	3
3 Appeal from decision of Mental Health Tribunal .....	3
4 Hearing of appeal .....	4
5 Secretary to tribunal to furnish material .....	4
6 Abandonment of appeal .....	4
7 Witnesses .....	5
8 Notification of result of appeal .....	5
9 Application of Criminal Practice Rules .....	5
<b>Schedule</b> .....	6



---

# **General (Appeals Against Decisions of the Mental Health Tribunal) Rules 1986**

## **General rules for the purposes of appeals from the Mental Health Tribunal to the Court of Appeal**

### **1 Citation**

These rules may be cited as the *General (Appeals Against Decisions of the Mental Health Tribunal) Rules 1986*.

### **2 Forms**

- (1) The forms set forth in the schedule, with such modifications as circumstances in a particular case require, are the forms to be used for the purposes of these rules and shall be used for the purposes for which they are respectively expressed to be applicable.
- (2) A modification of a form, not being in a matter of substance, shall not affect the validity of the proceedings in question.

### **3 Appeal from decision of Mental Health Tribunal**

- (1) For the purposes of the *Mental Health Act 1974*, section 43A, a notice of appeal from a decision of the Mental Health Tribunal shall—
  - (a) be in form 1 of the schedule; and
  - (b) set forth accurately and completely the required particulars and grounds of appeal; and
  - (c) be signed by the appellant, the appellant's solicitor or another person authorised to act on the appellant's behalf.
- (2) The appellant, upon filing the notice of appeal, shall serve on the secretary to the Mental Health Tribunal a copy thereof.

#### **4 Hearing of appeal**

An appeal instituted under section 3 shall be set down for hearing in accordance with order 9 rule 3 of the Criminal Practice Rules 1900.

#### **5 Secretary to tribunal to furnish material**

Upon receipt by the secretary of a copy of the notice of appeal filed in accordance with section 3 the secretary to the Mental Health Tribunal shall furnish to the registrar of the Court of Appeal—

- (a) originals of documents or writings containing evidence given and notes taken and exhibits produced at the proceedings before the tribunal out of which the appeal arose and the decision of the tribunal in those proceedings;
- (b) sufficient true copies of the material specified in paragraph (a) certified as such by the secretary to the tribunal;
- (c) such other documents or writings relevant to the appeal in the possession or under the control of the tribunal as are required (generally or in a particular case) by the registrar and notified by the registrar to the secretary to the tribunal.

#### **6 Abandonment of appeal**

- (1) A person appealing against a decision of the Mental Health Tribunal may at any time after the appellant has duly filed the notice of appeal in accordance with section 3 abandon his or her appeal by giving to the registrar of the Court of Appeal notice of abandonment thereof in form 3 of the schedule and serving a copy of the notice on the secretary to the Mental Health Tribunal.
- (2) Thereupon it shall be deemed that the appeal has been dismissed by the Court of Appeal.

## **7 Witnesses**

An order for the attendance of a witness before it in an appeal against a decision of the Mental Health Tribunal may be made by the Court of Appeal on form 2 of the schedule on the application at any time of a person who is a party to such appeal or by the person's solicitor or a person authorised by the person to act on his or her behalf.

## **8 Notification of result of appeal**

Upon the final determination of an appeal to which these rules relate, the registrar of the Court of Appeal shall give notification of the determination in form 4 of the schedule to the appellant or the appellant's solicitor or other person authorised to act on the appellant's behalf and to the director of psychiatric services.

## **9 Application of Criminal Practice Rules**

Where these rules do not provide or do not sufficiently provide in respect of a matter or in relation to the circumstances of a particular case, such of the rules set forth in the Criminal Practice Rules 1900 as may reasonably be applied in respect of that matter or those circumstances shall with all necessary adaptations apply and extend to an appeal to which these rules relate.

## Schedule

### section 2

#### Form 1

#### IN THE COURT OF APPEAL

In the matter of the *Mental Health Act 1974*; and in the matter of an appeal by  
against a decision of the Mental Health Tribunal

#### NOTICE OF APPEAL

Whereas the Mental Health Tribunal on the                      day of                      , 19                      , made a  
decision relating to the mental condition of                      namely—

An whereas I,

am                      \* a person                      aggrieved by the said decision.  
                    \* a Crown law officer

Now therefore I, the said

Give to you notice that I desire to appeal to the Court of Appeal against the said  
decision.

The grounds of the appeal are—

Dated at                      , the                      day of                      , 19                      .

Appellant

To: The registrar of the

Court of Appeal

---

\* Strike out whichever is not applicable.

\* In relation to the appeal, I furnish relevant answers to the following questions—

- (a) What is the name of the hospital or other place in which you are detained?
- (b) If not detained in hospital what is your present address?
- (c) Do you desire to be present when the court considers your case?

\* In the case of an appeal by a Crown law officer particulars (a) and (b) should be furnished with respect to the person whose mental conditions was the subject of a finding by the Mental Health Tribunal.

Form 2

IN THE COURT OF APPEAL

In the matter of the *Mental Health Act 1974*; and in the matter of an appeal  
by against a decision of the Mental Health  
Tribunal

ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION

Whereas on good cause shown to the Court of Appeal you have been ordered to attend and be examined as a witness before that court upon the appeal of the abovenamed

Now take notice that you are required to attend before the Court of Appeal  
at , on , the day of , 19 ,  
at a.m./p.m.

You are required to have with you at that time and place any books, papers, documents, writings or other things relating to the appeal with respect to such notice to produce has been given to you.

Dated at , the day of , 19 .

registrar of the Court of Appeal

to:

of:

Form 3

IN THE COURT OF APPEAL

In the matter of the *Mental Health Act 1974*; and in the matter of an appeal  
by against a decision of the Mental Health  
Tribunal

NOTICE OF ABANDONMENT OF APPEAL

Whereas the Mental Health Tribunal on the                      day of                      19                      ,  
made a decision relating to the mental condition of namely

And whereas a notice of appeal against the said decision was on the  
day of                      , 19                      , filed with you by

Now take notice that I,                      do not intend further to  
prosecute the appeal and that I abandon all further proceedings in regard  
thereto on and from the date hereof.

Dated at                      , this                      day of                      , 19                      .

Witness                      Appellant

To: The registrar of the Court of Appeal

Form 4

IN THE COURT OF APPEAL

In the matter of the *Mental Health Act 1974*; and in the matter of an appeal  
by against a decision of the Mental Health  
Tribunal

NOTIFICATION TO APPELLANT OF RESULT OF APPEAL

Take notice that the Court of Appeal having considered the matter of your appeal has finally determined it and has this day given judgment to the effect following namely—

Dated at , this day of , 19 .

To: registrar of the Court of Appeal