

Index of MHRT cases reported by NZLII at August 2015

Abnormal state of mind:

- Causative connection with second limb: 05/133
- Intermittency: 10/073
- Should be apparent to clinicians: 09/130, 10/073
- What it may comprise: 05/133, 09/130
- Whether must comprise delusions or one of the 4 disorders: 05/133

Acquittal on grounds of insanity: AM2011, 11/126, 12/017, 12/071

Adversarial process:

- Not followed by Tribunal: 13/012

Applicants:

- Process where the patient is not the applicant: 13/012
- Who is entitled to apply: 13/012

Applications:

- Grounds on which an application may be deemed invalid: Process where the patient is not the applicant: 13/012
- Process where the patient is not the applicant: 13/012
- Signed by someone other than the patient: 13/012

Asperger's syndrome: 09/032

Assessment: (see also compulsory assessment and treatment)

- What amounts to assessment pursuant to section 5: 14/047
- Assessment may have different meanings: 14/047

Attorney-General:

- Application by: 11/026, 14/028

Bell and Brookbanks: 08/102

Burden of proof:

- Not applicable in inquisitorial process: 14/008

Capacity of self care: See: Seriously diminished capacity of self care

Care of child: X2011

Causation of illness:

- Need not be known for mental disorder definition to be met: 12/064, 14/008
- Difficulty in establishing: 14/008

Chronicity of illness; relevance to special patient status: 12/071

Clinical reviews:

- Pre-condition for Tribunal review: 13/047
- Timing and number: 13/047

Complaint investigations:

- Alternative remedies to Tribunal investigation: 09/117
- As an alternative to section 79 applications: 13/012
- Decided cases: 09/070, 09/117, 14/047
- Jurisdiction only if there is dissatisfaction with district inspector investigation: 09/070
- Must relate to Part 6 rights: 09/070, 09/117, 14/047
- Must relate to patients, not those of others: 09/070
- No jurisdiction to investigate whether compulsory assessment procedures properly commenced: 09/117, 14/047
- Procedural difference between investigations and reviews: 09/070
- Procedural safeguards contained in assessment procedures: 09/117

- Progress; inability to report “progress”: 09/117
- Section 5 assessment; what it comprises: 14/047
- Tribunal has jurisdiction only if district inspector had jurisdiction to investigate: 09/117
- Tribunal only has jurisdiction in relation to matters investigated by district inspector: 09/117

Compliance with treatment: 11/019, 15/075

Compulsory assessment and treatment:

- Procedures outlined: 09/070, 09/117, 13/047
- Safeguards embodied in the procedures: 09/117
- No right to complain to Tribunal about initiation of assessment procedures: 09/117
- Proper duration cannot be determined with precision: 13/122
- What amounts to section 5 assessment: 14/047

Commissions of Inquiry: 12/075

Condition: Meaning of: 12/017

Co-opted members of Tribunal:

- Jewish: 08/184

Criminal Procedure (Mentally Impaired) Persons Act 2003: (See also “Special patients” and “Section 80”)

- Entry and exit criteria for special patient status: AM2011,
- Order for compulsory treatment under section 25 when defendant already subject to compulsory treatment: 12/032
- Mental impairment compared with mental disorder: 12/017

Conventional and unconventional treatment: 12/148

Dangerousness: See: Serious danger

Dawson (Professor): 09/102

Delusions:

- Word in ordinary use: 09/130, 10/073
- Distinguished from delusion-like ideas and overvalued ideas: 10/073

Denial of illness by a parent: 11/143

Diagnosis:

- Clear diagnosis not required for finding of mental disorder: 13/068
- Decision making in the face of unclear diagnosis: 14/008

Diesfeld (Professor): Research on insight: KJ[2012]

Diminished capacity of self care: see Seriously Diminished Capacity of Self Care

Disorder of cognition:

- Word in ordinary use: 09/130, 10/073
- Example: 10/073

Disorder of mood:

- Word in ordinary use: 09/130, 10/073

Disorder of perception:

- Word in ordinary use: 09/130, 10/073

Disorder of volition:

- Word in ordinary use: 09/130, 10/073

Duly authorised officer: 09/070

Duration of compulsory treatment orders:

- 08/184, 11/019, 11/126,
- Proper duration cannot be determined with precision: 13/122

Epilepsy:

- Interrelationship with psychiatric illness: 12/064

- Relevance to dangerousness and capacity of self care: 12/064

Erotomania: 09/102

Evidence:

- Assessing and weighing up conflicting evidence from a variety of sources: 12/148
- Standard of proof: 14/008
- Burden of proof: 14/008
- Evidential burden: 14/008
- Quality of evidence: 14/008

Excusing or excluding patients from hearings: 12/075

Expertise of Tribunal to assess evidence: 12/148

Factitious disorder: 09/130

Families:

- Importance of evidence from: 12/148
- Support from family tipped balance in favour of release: 13/160

First limb: see “Mental Disorder”

Fitness to be released:

- A matter of judgement: 08/184, 09/130, 13/122, 14/008
- Cases where Tribunal has found patient fit to be released: 08/184, 09/032, 11/126, 12/020, 13/160, 15/075
- Clear diagnosis not required for finding of mental disorder: 13/068
- Considerations to be taken into account: 08/184, 11/019, 13/122, 15/075
- Six circumstances and features often associated with findings of not fit to be released: 15/075

- Duration of compulsory treatment orders when illness continues: 08/184, 11/019, 11/126, 12/020,13/122
- Insight: KJ[2012]
- Insight not necessarily required: 15/075
- Orders not to be regarded as backups: 12/020
- Three key questions: 13/068
- Weighing up the considerations: 08/184, 11/019,13/122
- Four factors in combination favouring release: 13/160
- Example of how Tribunal makes the determination: 13/122

Fitness to stand trial: (see “Unfit to stand trial”)

Friends:

- Importance of evidence: 14/008

Further assessment under section 13: 13/012

Hearings:

- By telephone conference: 10/070A
- By video conference: 10/070A
- Time limits as to when can be held: 11/143

Hebephrenia: 13/068

Hospital: Definition of: 12/071

Human Rights: see “Rights”

Inquisitorial process: 13/012

Intellectual disability: 05/133, 09/130

Insight:

- Full discussion about the meaning of: KJ[2012]

- Referred to: 09/127, 11/019, KJ[2012]
- Not necessarily required for a finding of fitness to be released: 15/075

Intermittent:

- Meaning of abnormal state of mind of intermittent nature: 10/073
- Patient may be currently well but still mentally disordered: 13/122
- In assessing capacity of self care it is legitimate to project into the future: 14/101

Judicial decisions:

- Whether perceived shortcomings result in nullity: 09/032
- Whether Tribunal can question validity or soundness of compulsory treatment orders:
 - 09/032

La belle indifférence: 13/068

Lawyers:

- Can sign applications on behalf of clients: 13/012

Leave of special patients:

- System explained: 12/071

Masochism: 10/073

Medication:

- Applicant not receiving medication: 13/068
- Issue of medication not a grounds for review by the Tribunal: 13/012
- Tribunal has no power to determine treatment: Process where the patient is not the applicant: 13/012

Mental disorder: [see also Fitness to be released]

- A matter of judgement: 09/130, 13/122
- First limb disorders themselves need not cause second limb consequences: 05/133

- Cause of the first limb disorders need not be known to meet definition: 12/064
- Clear diagnosis not required for finding of mental disorder: 13/068
- Duration of mental disorder: 11/019, 11/126, 12/020, 13/122
- Dynamic interrelationship between first and second limbs: 09/130
- Nature of definition, legal not clinical: 05/133, 11/126, 13/122
- New Zealand Law Journal article referred to: 08/184
- Rights implicit in definition: 12/020
- Steps for determining whether definition met: 09/130, 10/073, 12/020
- Three key questions: 13/068
- Words in ordinary use: 09/130, 10/073
- Purpose of definition to determine who should or should not be subject to compulsion: 13/122

Multiple applications: 10/070A, G[2012]

Necessity for compulsory treatment:

- Connection with dangerousness and capacity of self care: 08/184
- Not a formal criterion for release: 08/184
- Requirement for orders to be made: 09/130
- Whether and how Tribunal can have regard for necessity: 08/184
- Six considerations often present where not fit to be released: 15/075

Need for compulsory treatment: see Necessity for compulsory treatment.

Negative and positive symptoms of illness: 11/019

New Zealand Bill of Rights Act 1990:

- Section 5: 09/102
- Section 9: 09/117

- Section 11: 09/102, AM2011, 13/122
- Section 17: 09/117
- Section 18: AM2011
- Section 22: AM2011

Orthomolecular psychiatry: 12/148

Own motion hearings: 13/012

Paedophilia: 05/133

Paraphilia: 10/073

Part 6 rights: 09/102, 09/117

Periodicity of illness; relevance to special patient status: 12/071

Personality disorder: 09/130, 10/073, 12/017, 13/068

Psychiatry:

- Not a precise science: 08/184

Psychopathic personality: 12/017

Positive and negative rights and liberty: 09/102, 09/117

Positive and negative symptoms of illness: 11/019

Power of Tribunal to regulate own procedures: 12/075

Principal caregiver:

- Meaning of: 13/012
- Right to apply to Tribunal: 13/012

Procedural powers of Tribunal: 12/075

Procedure:

- Inquisitorial process: 13/012, 14/008

- Usual format: 13/012
- Where patient is not the applicant: 13/012

Proximity of illness; relevance to special patient status: 12/071

Powers of Tribunal:

- Do not include power to determine treatment: 13/012

Progress

- Whether meaningful to report progress when waiting to see whether symptoms might emerge: 14/047

Psychopathy: 10/073,13/068

Publication of decisions: 12/168

Reassessment under section 13: See Further assessment

Repeat applications: 10/070A, G[2012]

Reports:

- Requested by Tribunal under Schedule 1: 11/143

Restricted patient orders: 10/073

Rights:

- Implicit in mental disorder definition: 12/020
- See New Zealand Bill of Rights Act
- See Part 6 rights
- Rights of patients versus rights of community: 11/019
- Considerable infringement of liberties; compulsion not to be continued lightly: 13/160
- Compulsion should be no longer than legally justified: 13/122

Right to refuse treatment:

- Overridden by section 59: 09/102, 13/122

Right to treatment: 09/102, 09/117

Risk assessment: See also serious danger and seriously diminished capacity of self care

- Standard of proof does not apply to the assessment: 14/008

Sadism: 10/073

Second limb: see mental disorder

Section 4:

- Connection to mental disorder: 05/133
- Meaning of “by reason only”: 05/133, 13/068, 14/008
- Purpose: 05/133
- Sexual preferences, substance abuse and intellectual disorder can form part of mental disorder: 05/133, 13/068

Section 5: 14/047

Section 8: 09/070, 09/117

Section 8A: 09/070, 09/117

Section 8B: 09/070, 09/117

Section 9: 09/070, 09/117

Section 10: 09/070, 09/117

Section 13: 13/047

Section 14: 13/047

Section 29: 13/012

Section 42: 10/073

Section 43: 10/073

Section 50: 12/071

Section 51: 12/071

Section 52: 12/071

Section 55: 10/073

Section 59:

- Whether second opinion should be undertaken by former responsible clinician: 09/032
- Appropriateness of second opinion not directly relevant to Tribunal decision making: 09/032
- Overrides right to refuse treatment: 09/102
- Positive and negative liberty: 09/102

Section 66:

- Right to treatment related to compulsory treatment: 09/102

Section 75:

- Process and jurisdiction: 09/070, 09/117, 14/047
- May be appropriate alternative to section 79 application: 13/012

Section 76:

- Pre-condition for Tribunal review: 13/047
- Timing of reviews: 13/047
- Whether process deficiencies nullified compulsory treatment order: 09/032

Section 79:

- Changes of circumstance looked for in repeat applications: G[2012]
- Implications if time limits not complied with: 11/143
- Issue of medication not a grounds for review: 13/012
- No power to determine treatment: 13/012
- Not a complaint process: 13/012
- Not for regularly checking up on clinicians: G[2012]

- Own motion hearings: 13/012
- Patient must be subject to an order: 13/047
- Purpose of applications: 13/012
- Requirement for hearings no later than 21 days from application: 11/143
- Who can apply: 13/012

Section 80:

- Acquittal on grounds of insanity: AM2011, 11/026, 12/017, 12/071, 13/173
- Case law on unfit to stand trial referred to: 11/026, 14/028
- Case law on insanity patients referred to: 13/173
- Criteria for tests in relation to insanity patients: 13/173
- Decided cases: 09/103, 11/026, AM2011, 12/017, 12/071, 14/028, 13/173
- Effect of certificates: 09/103, 14/028
- Legislative provisions explained: 09/103, 12/017, 14/028
- Relevance of entry criteria to exit criteria: AM2011, 12/071

Section 81: 10/073

Section 84: 09/117

Section 95: 09/117

Section 104: 12/075

Schedule 1:

- Clause 2: Excusing attendance of patient at hearing: 12/075
- Clause 3: Excluding a patient from the hearing: 12/075
- Clause 4: Tribunal may call for a report; timing and frequency: 11/143
- Clause 7: Who may be present in hearings: 12/168

- Clause 8: Publication of proceedings: 12/168

Self care: See: Seriously diminished capacity of self care

Serious danger:

- Can sometimes equally be characterised as seriously diminished capacity of care: 11/143
- Common considerations with seriously diminished capacity of self care: 11/143
- Considerations of gravity, likelihood, proximity and frequency: 08/114, 11/040, X2011, 11/126
- Imminence: 11/040
- Indicators and contra indicators: 11/040
- May result from an accumulation of factors and combined effect: 08/114
- Need to balance harm against proposed intervention: 08/114
- Relapses, relevance to dangerousness: 08/114, 11/040, 11/126
- Standard of proof does not apply to the assessment: 14/008
- Suicide risk: 15/075
- Whether can exist in absence of past physical violence or criminal record: 11/040
- Whether can exist when patient currently well: 11/040
- Whether can exist when potential victims are at a distance: 11/040
- Whether has to be of a specific nature: 08/114

Seriously diminished capacity of self care:

- Balancing right to health and right to self determination: 14/101
- Broad and narrow senses: 11/139, 12/020, 14/101
- Can sometimes equally be characterised as serious danger: 11/143

- Common considerations with serious danger: 11/143
- Excessive paternalism to be avoided: 14/101
- Expected quality of life for that individual a consideration: 11/139, 14/101
- Intrinsic and extrinsic considerations: 11/139, 14/101
- Standard of proof does not apply to the assessment: 14/008, 14/101
- Subjective and objective tests: 11/139, 14/101
- Reliance on others an indicator: 11/139, 14/101
- Seriousness refers both to the extent of the diminution and the consequences of the diminution: 14/101
- An objective test not possible: 14/101
- Uniqueness to the individual: 11/139
- Useful questions to ask to ascertain whether test met: 14/101

Seriousness of illness; relevance to special patient status: 12/071

Special patients:

- Application by Attorney General: 11/026, 14/028
- Case law on insanity patients referred to: 13/173
- Contrast with ordinary patients of some relevance: 13/173
- Criteria for tests in relation to insanity patients: 13/173
- Chronicity, seriousness, periodicity and proximity: 12/071
- Criteria for change of status: 12/071, 13/173
- Insanity: AM2011, 11/026, 12/017, 12/071, 13/173
- P v Police and (Ngatayi v R) referred to: 11/026, 14/028
- Reasons for special patient status: AM2011, 12/071, 13/173
- Relevance of entry criteria to exit criteria: AM2011, 12/071

- Solicitor-General v Dougherty referred to: 11/026, 14/028
- Unfit to stand trial: 09/103, 11/026, 14/028

Standard of proof

- On balance of probabilities: 14/008
- Does not apply to risk assessment and ultimate decision: 14/008, 14/101

Strands analysis: 05/133

Suicide risk:

- Example of release from compulsory status despite risk: 15/075

Support people in hearings: 12/168

Symptoms:

- Positive and negative: 11/019

Telephone conference:

- Hearing conducted by: 10/070A, G[2012]

Treatment:

- Cannot refuse: 09/102
- Conventional and unconventional: 12/148
- Positive and negative liberty: 09/102
- Right to: 09/102
- Tribunal has no power to determine: 13/012
- What is appropriate: 09/102

Unconventional and conventional treatment: 12/148

Unfit to stand trial:

- Decided cases: 09/103, 11/026, 14/028
- Legislation explained: 09/103, 14/028

- Case law referred to: 11/026, 14/028

Video conference: 10/070A, G[2012]

Waitemata Health v AG and MHRT and H discussed: 09/130, 10/073, 12/017, 12/020, 13/068

Whanau:

- Importance of evidence: 12/148
- Principal caregivers: 13/012