

MENTAL HEALTH COURT

Practice Note No 1 of 2003 - Applications to Withdraw References

1. Chapter 7 part 5 of the *Mental Health Act 2000* provides for the withdrawal of references to the Mental Health Court.
2. An application made by filing a notice with the registrar pursuant to s 261(2)(a) should be accompanied by evidence whether the person the subject of the reference is subject to an involuntary treatment order or a forensic order.
3. The Mental Health Court may decide an application to withdraw a reference on the papers without an oral hearing.
4. Within 7 days after the notice is filed, the registrar will write to the parties to the proceeding -
 - (a) enclosing copies of the application and the said evidence;
 - (b) advising the parties of their rights to produce evidence and to make submissions on the application;
 - (c) inquiring whether any party opposes the application;
 - (d) inquiring whether the parties consent to the application being decided on the papers without an oral hearing;
 - (e) advising the parties they should write to the registrar informing the Court of their consent to the application being decided without an oral hearing and enclosing any evidence and submissions on which they rely within 7 days of receiving the registrar's letter;
 - (f) advising the parties that if any of them objects to the application being decided on the papers it will be set down for oral argument before the Court on a date to be fixed and notified to the parties.
5. Upon receiving the parties' responses to the registrar's letter, the Court will determine whether to decide the application on the papers.
6. The registrar will notify the parties of the Court's decision.


JUSTICE MARGARET WILSON

Date: 30 July 2003