
STATUTORY INSTRUMENTS

1984 No. 2035**MENTAL HEALTH****The Court of Protection Rules 1984**

Made - - - - 18th December 1984
Laid before Parliament 10th January 1985
Coming into Operation 1st February 1985

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PART I

PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Court of Protection Rules 1984 and shall come into operation on 1st February 1985.

Interpretation

2.— (1) In these Rules, unless the context otherwise requires—
expressions used in the Supreme Court Act 1981(c) shall have the same meaning as they have for the purposes of that Act;

“the Act” means the Mental Health Act 1983;

“court” means the Court of Protection;

“entered” means entered in the books of the Court of Protection;

“filed” means filed in the court office;

“judge” means the Lord Chancellor or a nominated judge;

“Master” means the Master of the Court of Protection;

“officer of the court” means an officer of the Court of Protection;

“order” includes a certificate, direction or authority under seal;

“patient” includes a person who is alleged to be or who the court has reason to believe may be incapable by reason of mental disorder of managing and administering the property and affairs;

“receiver” means a receiver appointed under section 99(1) of the Act;

“seal” means an official seal of the Court of Protection and “sealed” shall be construed accordingly;

“stock” includes shares and also any fund, annuity or security transferable in the books kept by any body corporate or unincorporated company or society, or by an instrument of transfer either alone or accompanied by other formalities and “dividends” shall be construed accordingly;

“Visitor” means one of the Lord Chancellor’s Visitors.

(2) Where any discretion, power or other function is (in whatever words) expressed by these Rules to be exercisable by “the court” then subject to the provisions of the Act, that discretion, power or other function may be exercised—

(a) 1983 c. 20.

(b) 1925 c. 19; section 54 was substituted by the Mental Health Act 1959 (c.72), Schedule 7.

(c) 1981 c. 54.

- (a) by a judge;
- (b) by the Master;
- (c) to the extent to which he is authorised to exercise it by and under section 94 of the Act, by any nominated officer.

(3) In these Rules a form referred to by letter means the form so designated in the Schedule 1 to these Rules or a form to the like effect with such variations as the circumstances may require or the court may approve.

Computation of time

3.— (1) Where the time limited by these Rules or any order or direction of the court for doing any act or taking any proceedings is less than six days, Saturday, Sunday, Christmas Day, Good Friday, Tuesday in Easter Week, any bank holiday or day appointed for public thanksgiving or mourning and any other day on which the court office is closed shall not be included in the computation of that time.

(2) Where the time so limited expires on a day on which the court office is closed and by reason thereof the act or proceeding cannot be done or taken on that day, the act or proceeding shall be in time if done or taken on the next day on which the court office is open.

(3) Where the time so limited is a particular number of days not expressed to be clear days, it shall be reckoned exclusively of the first day and inclusively of the last day.

Power to vary time

4. The court may extend or abridge the time limited by these Rules or any order or direction of the court for doing any act or taking any proceeding upon such terms as the court thinks fit and notwithstanding, in the case of an extension, that the time so limited has expired.

PART II

EXERCISE OF JURISDICTION

Exercise of jurisdiction

5. Except where these Rules otherwise provide, the jurisdiction of the court may be exercised—

- (a) without fixing an appointment for a hearing;
- (b) by the court of its own motion or at the instance or on the application of any person interested;
- (c) whether or not any proceedings have been commenced in the court with respect to the patient.

PART III
APPLICATIONS

Forms of application

6.— (1) Subject to the following provisions of this rule, a first application to the court for the appointment of a receiver shall be in Form A and an application to the court respecting the exercise of any of its other jurisdiction in relation to a patient may be by letter unless the court directs that a formal application shall be made, in which case it shall be made in Form B.

(2) On grounds of urgency the court may dispense with the need for an application in writing.

(3) An application relating to the committal of a person for contempt of court shall be made to a judge by motion.

Short procedure

7.— (1) Without prejudice to the generality of rule 5, if it appears to the court that—

- (a) the property of the patient does not exceed £5,000 in value; or
- (b) it is otherwise appropriate to proceed under this rule,

and that it is not necessary to appoint a receiver for the patient, the court may make an order under this rule whether or not an application has been made for the appointment of a receiver for the patient.

(2) An order under this rule is an order directing an officer of the court or some other suitable person named in the order to deal with the patient's property, or any part thereof, or with his affairs, in any manner authorised by the Act and specified in the order.

Date for hearing

8.— (1) Upon receiving an application under rule 6 the court shall fix a date for the hearing of the application unless it considers that the application can properly be dealt with without a hearing, and upon the same ground the court may cancel any hearing fixed under this paragraph.

(2) Where a hearing is fixed under paragraph (1) an officer of the court shall endorse the date and time thereof on the application form, shall seal it and shall retain a copy.

Consolidation of proceedings

9. The court may allow one application to be made in respect of two or more patients or may consolidate applications relating to two or more patients, if in the opinion of the court the proceedings relating to them can be more conveniently dealt with together.

Power to direct application by officer of court or Official Solicitor

10. Where in the opinion of the court an application ought to be made for the appointment or discharge of a receiver or for the exercise of any other power conferred on the court with respect to the property and affairs of a patient, and there appears to the court to be no other suitable person able and willing to make the application, or the court for any other reason thinks fit, the court may direct that the application be made by an officer of the court or, if he consents, by the Official Solicitor.

Representation of patient by receiver

11.— (1) An application on behalf of a patient for whom a receiver has been appointed shall, unless the court otherwise directs, be made by the receiver in his own name.

(2) Subject to any directions given by the court, a patient for whom a receiver has been appointed may be represented by the receiver at any hearing relating to the patient or of which the patient has been given notice.

Representation of patient by Official Solicitor

12. Where in any proceedings the court considers that the interests of a patient for whom a receiver has been appointed are not adequately represented by the receiver, the court may if he consents direct that the Official Solicitor shall act as solicitor for the patient either generally in the proceedings or for any particular purpose connected with the proceedings, so, however, that it shall not be necessary to appoint the Official Solicitor to be receiver or guardian ad litem for the patient.

Persons under disability

13.— (1) In this rule “person under disability” means a minor or a patient for whom no receiver has been appointed.

(2) A person under disability shall not make an application in proceedings relating to another person except by his next friend and shall not resist, or attend the hearing of, an application in any such proceedings except by his guardian ad litem.

(3) Where a person is to be appointed next friend or guardian ad litem of a person under disability in substitution for the person previously acting as next friend or guardian ad litem, the appointment shall be made by the court but, except as aforesaid, an order of the court appointing a next friend or guardian ad litem of a person under disability shall not be necessary.

(4) Before the name of any person is used in any proceedings as next friend or guardian ad litem of a person under disability there shall be filed—

(a) a written consent of the first-mentioned person to act as next friend or guardian ad litem, as the case may be, of the person under disability in the proceedings, and

(b) a certificate by the solicitor acting for the person under disability certifying—

(i) that he knows or believes that the person to whom the certificate

relates is a minor or patient giving (in the case of a patient) the grounds of his knowledge or belief, and

- (ii) except where the person named in the certificate as next friend or guardian ad litem is the Official Solicitor, that the person so named has no interest in the proceedings adverse to that of the person under disability.

Application under section 54 of the Trustee Act 1925

14. An application to the court with respect to the jurisdiction referred to in section 54(2) of the Trustee Act 1925 may be made only by—

- (a) the receiver for the patient, or
- (b) any person who has made an application for the appointment of a receiver which has not yet been determined, or
- (c) a continuing trustee, or
- (d) any other person who, according to the practice of the Chancery Division, would have been entitled to make the application if it had been made to the High Court.

Application under section 36(9) of the Trustee Act 1925

15. No application may be made to the court under section 36(9) of the Trustee Act 1925 for leave to appoint a new trustee in place of a patient unless the person intending to make the appointment is an applicant.

Application under section 96(1)(k) of the Act

16. The provisions of rule 14 shall apply with such modifications as may be necessary to an application under section 96(1)(k) of the Act for an order for the exercise of any power vested in a patient of appointing trustees or retiring from a trust.

Application for settlement or gift of patient's property or for execution of will of patient

17. An application under section 96(1)(d) of the Act for an order for the settlement or gift of any property of a patient, or an application under section 96(1)(e) of the Act for an order for execution for a patient of a will, may be made only by—

- (a) the receiver for the patient, or
- (b) any person who has made an application for the appointment of a receiver which has not yet been determined, or
- (c) any person who, under any known will of the patient or under his intestacy, may become entitled to any property of the patient or any interest therein, or
- (d) any person for whom the patient might be expected to provide if he were not mentally disordered, or
- (e) any other person whom the court may authorise to make it.

PART IV

SERVICE

Notice of hearing

18.— (1) Except where these Rules otherwise provide or the court otherwise directs the applicant shall give notice of the hearing of an application in accordance with the following provisions of this rule.

(2) Where a receiver has been appointed for a patient he shall, unless he is the applicant, be given notice of the hearing of any application relating to the patient.

(3) Where the application is one to which rules 14 or 16 above relate, notice of the hearing of the application shall also be given to every person who, according to the practice of the Chancery Division, would have been required to be served with the summons if the application had been made to the High Court.

(4) Notice of the hearing of the application shall also be given to such other persons who appear to the court to be interested as the court may specify.

(5) Notice of a hearing shall be given—

(a) in the case of a first application for the appointment of a receiver, or an application under rule 15, not less than ten clear days; and

(b) in the case of any other application, not less than two clear days; before the date fixed for the hearing.

(6) For the purposes of this rule notice of a hearing is given if a copy of the sealed application form is served on the person concerned.

Mode of service

19. Except where these Rules otherwise provide, any document required by these Rules to be served on any person shall be served by delivering it to him personally or, if in any particular case or class of case the court so directs, by sending it to him at his last known address.

Service on solicitor

20. Where a solicitor for the person to be served with any document endorses on the document or a copy of it a statement that he accepts service on behalf of that person, the document shall be deemed to have been duly served on that person and to have been served on the date on which the endorsement was made.

Substituted service

21. Where it appears to the court that it is impracticable for any reason to serve a document in accordance with rule 19, the court may make an order for substituted service of the document by taking such steps as the court may direct to bring it to the notice of the person to be served.

Service on person under disability

22.— (1) Unless the court otherwise directs, any document required by these Rules to be served on a person who is a minor or patient (in this rule referred to as a person under disability) shall be served—

- (a) in the case of a minor who is not also a patient, on his parent or guardian or, if he has no parent or guardian, on the person with whom he resides or in whose care he is;
- (b) in the case of a patient, on his receiver or, if he has no receiver, on the person with whom he resides or in whose care he is;

and must be served in the manner required by these Rules.

(2) Notwithstanding anything in the foregoing paragraph, the court may order that any document which has been served on the person under disability or on a person other than a person mentioned in that paragraph shall be deemed to be duly served on the person under disability.

(3) Nothing in this rule shall apply to an order required by rule 41 to be served on a patient.

Notification of application for appointment of receiver, etc.

23.— (1) Subject to paragraph (2) below, where—

- (a) a first application is made for the appointment of a receiver for a patient or for an order authorising a person to do any act or carry out any transaction on behalf of a patient without appointing him receiver, or
- (b) the court proposes to make an order with respect to a patient's property under rule 7;

the patient shall be notified in such manner as the court may direct.

(2) The court may at any time direct that no such notification shall be given if it is satisfied that—

- (a) the patient is incapable of understanding it, or
- (b) such notification would be injurious to the patient's health, or
- (c) for any other reason notification ought to be dispensed with.

(3) Where notification has been dispensed with under paragraph (2) above and the patient is in England or Wales, a Visitor shall, if so requested by the court, visit him and report to the court as to his condition and welfare.

(4) Where the patient is a minor, notification under paragraph (1) of this rule shall be given, whether or not notification to the patient is dispensed with under paragraph (2) and unless the court otherwise directs, to his parent or guardian or, if he has no parent or guardian, to the person with whom he resides or in whose care he is.

Certificate of service or notification

24.— (1) Subject to paragraph (2) below and unless the court otherwise directs, a certificate of service showing where, when, how and by whom service

was effected shall be filed as soon as practicable after service of a document has been effected in accordance with these Rules.

(2) The court may if it thinks fit order that instead of, or in addition to, a certificate of service, an affidavit of service shall be filed.

(3) The provisions of paragraphs (1) and (2) of this rule shall apply to the giving of notification under rule 23 as they apply to the service of documents and references in paragraphs (1) and (2) to service and the effecting of service shall accordingly be construed as including references to notification and the giving of notification respectively.

PART V

EVIDENCE

Affidavit evidence

25.— (1) Except where these Rules otherwise provide, evidence in proceedings under these Rules shall be given by affidavit.

(2) An affidavit for use in proceedings under these Rules may be sworn—

(a) in England or Wales, before any person authorised to take affidavits under the Commissioners for Oaths Acts 1889 and 1891(a) or under the Solicitors Act 1974(b) or before any officer of the court of, or above, the rank of higher executive officer;

(b) outside England and Wales, before any person before whom an affidavit may be sworn for use in the Supreme Court.

Unsworn evidence

26.— (1) Notwithstanding rule 25(1), the court may accept and act upon a statement of facts or such other evidence, whether oral or written, as the court considers sufficient, although not given on oath and whether or not it would be admissible in a court of law apart from this rule.

(2) The court may give directions as to the manner in which a statement of facts or other written evidence under paragraph (1) above is to be given but subject to such directions any such statement or other evidence shall—

(a) be drawn up in numbered paragraphs and dated; and

(b) be signed by the person by whom it is made or given.

Written questions to Visitors

27.— (1) Where a Visitor's report, or information contained in such a report, has been disclosed to any person in pursuance of section 103(8) of the Act, the court may, on the application of any person who appears to the court to be

(a) 1889 c. 10, 1891 c. 50.

(b) 1974 c. 47.

interested, give leave for written questions relevant to the issues before the court to be put to the Visitor by whom the report was made.

(2) The questions sought to be put to the Visitor shall be submitted to the court, which may put them to the Visitor with such amendments, if any, as it thinks fit and the Visitor shall give his replies in writing to the questions so put.

(3) The court may disclose the replies given by a Visitor under this rule to any person who appears to the court to be interested, or to his legal or medical adviser, on such conditions, if any, as it thinks fit.

Cross-examination of deponent

28. Any person who has made an affidavit or given a certificate or other written evidence for use in proceedings under these Rules may be ordered by the court to attend for cross-examination.

Administration of oaths

29. The court may direct that an oath be administered to any witness or interpreter in any proceedings before the court.

Filing of written evidence

30.— (1) Before an affidavit, certificate or other written evidence is used in any proceedings under these Rules it shall be filed but the court may make an order on the basis of such evidence before it is filed if the person tendering it undertakes to file it before the order is drawn up.

(2) There shall be endorsed on every affidavit, certificate or other written evidence the name and address of the solicitor, if any, for the person on whose behalf it is filed.

Use of evidence in subsequent proceedings

31.— (1) Except where the court otherwise directs, evidence which has been used in any proceedings relating to a patient may be used at any subsequent stage of those proceedings or in any other proceedings relating to the same patient or to another member of the patient's family.

(2) Without prejudice to paragraph (1) above, the Master may, upon application being made for the purpose, authorise the use of any such evidence in any legal proceedings that the Master may specify.

Evidence to be filed on a first application for receiver, etc.

32.— (1) On the issue of a first application for the appointment of a receiver for a patient or for an order authorising any person to do any act or carry out any transaction on behalf of a patient without appointing him receiver, the applicant shall, unless the court otherwise directs, file a medical certificate and evidence of family and property.

(2) In this rule—

“a medical certificate” means a certificate by a medical practitioner that the patient is incapable, by reason of mental disorder, of managing and administering his property and affairs; and

“evidence of family and property” means a certificate or, if the court so orders in a particular case, an affidavit, giving particulars of the patient’s relatives, property and affairs and of the circumstances giving rise to the application.

(3) Rule 26(2) above applies to unsworn evidence of family and property as it applies to unsworn evidence generally.

Evidence of patient’s death or recovery

33. Where at any stage of proceedings relating to a patient the court has reason to believe that the patient has died or recovered, the court may require evidence of the death or recovery to be furnished by such person as the court thinks appropriate.

Consent to act as trustee

34. Where in any proceedings it is proposed to appoint a person to act as trustee, a written consent in Form C signed by him and verified by some other person shall be evidence of his consent so to act, but not such consent shall be required where the person to be appointed is an applicant in the proceedings or the proceedings are brought under section 36(9) of the Trustee Act 1925.

Proof of amount due to public authority

35. The amount due to any public authority for the past maintenance of a patient may, unless the court otherwise directs, be proved by the filing of an account certified under the hand of the proper officer of the authority.

PART VI

HEARING OF PROCEEDINGS

Applications to be heard in chambers

36. Every application shall be heard in chambers unless, in the case of an application for hearing by the judge, the judge otherwise directs.

Persons attending hearing

37. The court may determine what persons are to be entitled to attend at any stage of the proceedings relating to a patient.

Representation at hearing

38. Where two or more persons appearing at a hearing are represented by the same legal representative, the court may, if it thinks fit, require any of them to be separately represented.

Reference of proceedings to judge

39. The Master shall, after giving such directions as he thinks fit, refer to the judge any proceedings or any question arising in any proceedings which ought by virtue of any enactment or in the opinion of the Master, to be considered by the judge.

Reference of proceedings to Master

40. The judge may refer any proceedings before him or any question arising therein to the Master for inquiry and report.

PART VII

RECEIVERS

Interim provision

41.— (1) Where in the opinion of the court it is necessary to make immediate provision in relation to the property and affairs of a patient for any of the matters referred to in section 95(1) of the Act, the court may

- (a) by certificate direct or authorise any person named therein to do any act or carry out any transaction specified in the certificate; or
- (b) by order appoint a receiver ad interim for the patient and, subject to any direction given by the court, such appointment shall continue until further order.

(2) An order appointing a receiver ad interim shall, unless the court otherwise directs, be served upon the patient within such time as the order may specify and the patient may, within such further time as the order may specify, apply under rule 54 for the reconsideration of the order by the court or, if the order was made by a judge, apply to have the order set aside.

Remuneration of receiver

42.— (1) Where a receiver is appointed for a patient, the court may, during the receivership, allow the receiver remuneration for his services at such amount or at such rate as the court considers reasonable and proper and any remuneration so allowed shall constitute a debt due to the receiver from the patient and his estate.

(2) No request by a receiver to have the sum payable for his remuneration fixed after the death or recovery of the patient shall be entertained unless the court has during the receivership directed that remuneration be allowed and the request is made within six years from the date of the receiver's discharge.

Appointment of receivers with survivorship

43. Where in the opinion of the court two or more persons ought to be appointed receivers for the same patient and one or more of them ought to continue to act after the death or discharge of any of the others, the court may when appointing them receivers direct that the receivership shall continue in favour of the surviving or continuing receiver or receivers.

PART VIII

ENTRY AND ENFORCEMENT OF ORDERS

Sealing and filing of orders

44. Every order, certificate, direction or authority of the court which is drawn up shall, when entered, be sealed and filed.

Entry of orders after notification to patient

45.— (1) Where—

(a) an order is made on a first application appointing a receiver for a patient or directing or authorising any person to do any act or carry out any transaction on behalf of a patient without appointing him receiver, or

(b) an order with respect to a patient's property is made under rule 7, the order shall not be entered until the expiration of ten clear days after the patient has been notified in accordance with rule 23(1) unless such notification is dispensed with.

(2) Nothing in paragraph (1) above shall prevent the entry of an interim order for the protection of a patient's property or for the application of a patient's property for his benefit.

Enforcement of orders

46. Every writ of execution or other process for the enforcement of an order of the court shall be issued out of the Central Office of the Supreme Court.

PART IX

SUMMONSES AND ORDERS FOR ATTENDANCE OF WITNESSES AND OTHER PERSONS

Summoning of witnesses

47.— (1) In any proceedings under these Rules the court may allow or direct any party or the Official Solicitor to take out a witness summons in Form D requiring the person named therein to attend before the court and give oral evidence or produce any document.

(2) An application by a person to be allowed to take out a witness summons shall be made by filing a statement giving—

(a) the name and address of the person making the application and of his solicitor, if any;

(b) the name, address and occupation of the proposed witness;

(c) particulars of any document which the proposed witness is to be required to produce; and

(d) the grounds on which the application is made.

(3) A witness summons shall be served on the witness personally a reasonable time before the day fixed for his attendance and he shall be entitled to the like conduct money and payment for expenses and loss of time as if he had been summoned to attend the trial of an action in the High Court.

Powers of court where undue delay, etc.

48.— (1) If the court is dissatisfied with the conduct of any proceedings or the carrying out of any order or direction of the court whether by reason of undue delay or otherwise, the court may require the person having the conduct of the proceedings, or any other person appearing to be responsible, to explain the delay or other cause of dissatisfaction, and may thereupon make such order for expediting the proceedings or otherwise as may be appropriate.

(2) For the purpose of the last foregoing paragraph the court may direct any person to make any application and to conduct any proceedings and carry out any directions which the court may specify; and the court may, if it thinks fit, and if he consents appoint the Official Solicitor to act as solicitor for the patient in the proceedings in the place of any solicitor previously acting for him.

Order for examination of patient

49. In any proceedings relating to a patient a judge or the Master may make an order for the patient's attendance at such time and place as he may direct for examination by the Master, a Visitor or any medical practitioner.

PART X

AMENDMENT

Amendment of application

50.— (1) The court may allow or direct an applicant, at any stage of the proceedings, to amend his application in such manner and on such terms as to costs or otherwise as may be just.

(2) The amendment may be effected by making in writing the necessary alterations of the application, but if the amendments are so numerous or of such a nature or length that written alterations would make it difficult or inconvenient to read, a fresh application amended as authorised or directed may be issued.

Clerical mistakes and slips

51. The court may at any time correct any clerical mistakes in an order or any error arising in an order from any accidental slip or omission.

Endorsement of amendment

52. Where an application or order has been amended under rule 50 or 51, a note shall be placed on it showing the date on which it was amended and the alterations shall be sealed.

PART XI

APPEALS

Appeal from Master or a nominated officer

53.— (1) Subject to rule 54, any person aggrieved by an order or decision of the court may, within eight days from the date of entry of the order or, as the case may be, from the date of the decision, appeal therefrom to a nominated judge.

(2) The appellant shall, within the said period of eight days—

(a) serve a notice of appeal in Form E on—

(i) every person who is directly affected by the appeal, being a person who appeared, or was represented before, the court when the order or decision was made or given, and

(ii) any other person whom the court may direct; and

(b) leave a copy of the notice at the court office.

(3) The time and place at which the appeal is to be heard shall be fixed by the court in consultation with the judge, and the court shall cause notice of the time and place so fixed to be sent to the appellant who shall forthwith send notice thereof to every person who has been served with notice of the appeal.

(4) No further evidence shall be filed in support of or in opposition to the appeal without leave of the court.

Appeal from order not made on appointment for a hearing.

54.— (1) No appeal shall lie—

(a) from any order or decision of the court which is not made or given on an appointment for a hearing; or

(b) at the instance of a patient from any order of the court appointing a receiver ad interim for the patient,

except in accordance with the following provisions of this rule.

(2) No appeal shall lie from any decision of the court in relation to the exercise of its powers under rule 83 of these Rules.

(3) Any person who is aggrieved by such an order or decision as is mentioned in paragraph (1)(a), or a patient who is aggrieved by such an order as is mentioned in paragraph (1)(b), may apply to the court to reconsider the order or decision, and the court shall fix an appointment for a hearing.

(4) No further evidence shall be filed in support of or in opposition to the application without the leave of the court.

(5) On the hearing of the application the court may either confirm or revoke its previous order or decision or make or give any other order or decision which it thinks fit.

(6) Any person aggrieved by any order or decision made or given on the

hearing of the application may appeal therefrom to a nominated judge in accordance with rule 52.

PART XII

SECURITY

Receiver to give security

55.— (1) Where an order is made appointing a person other than the Official Solicitor as receiver for a patient—

- (a) the person appointed shall, unless the court otherwise directs, give such security for the due performance of his duties as the court may approve and shall give it before acting as receiver unless the court allows it to be given subsequently; and
- (b) the order shall not be entered until the person appointed has given to the satisfaction of the court any security required to be given by him before acting.

(2) The court may from time to time vary any security required.

Manner of giving security

56.— (1) Subject to any directions of the court, security may be given in any of the following ways or partly in one of those ways and partly in another—

- (a) by a bond approved by the court and given by the person giving security and also by—
 - (i) an insurance company, group of underwriters or bank approved by the court; or
 - (ii) with the approval of the court, two personal sureties; or
- (b) by lodging in court a sufficient sum of money or stock; or
- (c) in such other manner as the court may approve.

(2) A person desiring to give security in whole or in part by lodging money or stock in court shall file a form of request in Form F and the court may thereupon give leave to make the lodgement and direct how any such money is to be invested and how any dividends are to be applied.

Lodgement of security

57. Any security given by lodgement of money or stock shall be dealt with in accordance with the terms of the request filed when the lodgement was made.

Discharge of security where new security given

58. Where a receiver is authorised or directed to give new security, and—

- (a) the new security has been completed, and
- (b) he has paid or secured to the satisfaction of the court any balance due from him,

the former security shall, unless the court otherwise directs, be discharged.

Maintenance of security by bond

59. Every person who has given security by a bond shall, whenever his accounts are passed or the court so directs, satisfy the court—

- (a) that any premiums payable in respect of the bond have been duly paid, or
- (b) if the bond was given by personal sureties, that each surety is living and within the jurisdiction and has neither been adjudicated bankrupt nor compounded with his creditors,

and, if the court is not so satisfied, it may require new security to be given or may give such other directions as it thinks fit.

PART XIII

ACCOUNTS

Passing of accounts

60.— (1) Every receiver shall annually, or at such other intervals as the court may direct, deliver his accounts to the court and attend at or within such time as the court may appoint to have the accounts taken and passed.

(2) On the passing of any accounts the court shall make all proper allowances out of the patient's estate, including an allowance in respect of the reasonable and proper costs of the receiver of passing the accounts and of any other person allowed to attend.

(3) The court may, if it thinks fit, direct that a receiver need not account under this rule or may dispense with the passing of any accounts at any time at which they would otherwise require to be passed.

Application of balance due from receiver

61. The balance found due from a receiver on the passing of his accounts or so much thereof as the court may direct, shall—

- (a) be paid by the receiver into court to the credit of the proceedings and invested in such manner as the court may direct, or
- (b) be invested or otherwise dealt with by the receiver in such manner as the court may direct.

Default by receiver

62. Where a receiver fails to comply with rule 60 or fails to pay into court or invest or otherwise deal with any money in accordance with any direction of the court, the court may disallow any remuneration which would otherwise be due to the receiver and, if he has made default in paying into court or investing or otherwise dealing with any money, may charge him with interest thereon at such rate as the court may fix, for the period of his default.

Payment of maintenance and costs

63. Unless otherwise directed, any money ordered to be paid by a receiver for maintenance shall be paid out of income and any costs ordered to be paid by a receiver may, when taxed or fixed, be paid out of any moneys coming into his hands, after providing for any maintenance and fees payable under these rules.

Final accounts

64.— (1) On the discharge or death of a receiver or on the death or recovery of a patient for whom a receiver has been appointed, the court shall take and pass the accounts of the receiver from the foot of his last account or, if no account of his has previously been passed, from the date of his appointment, unless in the opinion of the court the taking and passing of such accounts may properly be dispensed with.

(2) If a balance is found due from the receiver or his estate, he or his personal representatives, as the case may be, shall pay it into court or otherwise deal with it as the court may direct.

(3) If a balance is found due to the receiver or his estate, it shall be paid to him or his personal representatives, as the case may be, by the patient or out of the patient's estate.

(4) On payment of any balance found due from the receiver, or if no balance is found due from him or the passing of his accounts has been dispensed with under paragraph (1) above, the security of the receiver shall, unless the court otherwise directs, be discharged.

Accounting by other persons

65. Rules 60 to 64 shall also apply, to the extent directed by the court, to any person who is—

- (a) directed to deal with the patient's property or affairs under rule 7;
- (b) directed or authorised to act under rule 41(1)(a); or
- (c) appointed a receiver ad interim under rule 41(1)(b),

as they apply to a receiver.

PART XIV

INQUIRIES

Inquiries as to desirability of appointment of receiver, etc.

66.— (1) Where the court has reason to believe that a receiver should be appointed for a patient or that any other power conferred on the court should be exercised with respect to the property and affairs of a patient, the court may direct—

- (a) an officer of the court or a Visitor or, if he consents, the Official Solicitor to make inquiries and report to the court whether it is

desirable in the interests of the patient that an application should be made for that purpose; or

- (b) a Medical Visitor to visit the patient and report to the court on the capacity of the patient to manage and administer his property and affairs.

(2) On receiving any report pursuant to paragraph (1) above, the court may, if it thinks fit—

- (a) direct an application to be made pursuant to rule 10; or
(b) if the report is by a Medical Visitor and the court is satisfied that the patient is incapable, by reason of mental disorder, of managing and administering his property and affairs, make an order appointing a receiver or exercising any other power conferred on the court with respect to the patient's property and affairs.

Inspection of patient's property

67. For the purpose of any proceedings relating to the property of a patient, the court may if it thinks fit, inspect the property or direct an officer of the court or, if he consents, the Official Solicitor to inspect the property, make any necessary inquiries and report to the court.

Inquiries as to prior dealing with the patient's property

68. In any proceedings relating to a patient the court may make or cause to be made such inquiries as it thinks fit as to any dealing with the patient's property before the commencement of the proceedings and as to the mental capacity of the patient at the time of such dealing.

Inquiries as to testamentary documents executed by patient

69. The court may make or cause to be made inquiries whether any person has in his possession or under his control or has any knowledge of any testamentary document executed by a patient, and may direct that person to answer the inquiries on oath and to produce any such document which is in his possession or under his control and deal with it in such manner as the court may direct.

Power to direct other inquiries

70. The court may make or cause to be made any other inquiries which it may consider necessary or expedient for the proper discharge of its functions under the Act or these Rules.

PART XV

CUSTODY AND DISPOSAL OF FUNDS AND OTHER PROPERTY

Statement of property retained or deposited.

71. Where under a direction of the court any furniture or effects of a patient are allowed to remain in the possession of, or deposited with, any person, that

person shall, unless the court otherwise directs, sign and file a statement of the furniture or effects and an undertaking not to part with them except on a direction under seal.

Stock in name of patient or receiver

72.— (1) Where any stock—

- (a) is standing in the name of a patient beneficiary entitled thereto; or
- (b) is standing in the name of a receiver in trust for a patient, or as part of his property, and the receiver dies intestate or himself becomes incapable by reason of mental disorder of acting as receiver, or is out of the jurisdiction of the court, or it is uncertain whether he is still alive, or he neglects or refuses to transfer the stock or to receive and pay over the dividends thereof as the court directs,

the court may order some proper person to transfer the stock into the name of the receiver or, as the case may be a new receiver for the patient or into court or otherwise deal with it as the court may direct and also to receive and pay over the dividends thereof as the court may direct.

(2) Where an order is made under paragraph (1) above or under section 100 of the Act directing stock to be transferred into court, the person required to effect the transfer shall be—

- (a) in the case of stock standing in the stock register kept by the Bank of England or any other bank or by the Crown Agents for Overseas Governments and Administrations, some proper officer of the bank or the Crown Agents;
- (b) in any other case, some proper officer of the company or other body, whose stock is to be transferred;

and the said person shall, if so ordered, receive any sum accrued due before the transfer by way of dividend, bonus or periodical payment in respect of the stock and pay it into court to the general account of the patient or to a separate account or otherwise deal with it as the court may direct.

Disposal of property on patient's death or recovery

73.— (1) On the death or recovery of a patient the court may order any money, securities or other property belonging to the patient, or forming part of his estate, or remaining under the control of, or held under the directions of the court, to be paid, transferred, delivered or released to the person who appears to be entitled thereto.

(2) If no grant of representation has been taken out to the estate of a deceased patient and it appears to the court that the assets of the estate, after deduction of debts and funeral expenses, do not exceed £5,000 in value, the court may, if it thinks fit, provide for payment of the funeral expenses out of any funds in court standing to the credit of the deceased and order that any such funds, or the balance thereof, or any other property of the patient remaining under the control, or held under the directions, of the court, be paid, transferred, delivered or released either to the personal representative of the deceased when constituted or to the person who appears to be entitled to apply for a grant of representation to his estate.

(3) The court may at any time, pending notification to the court of the grant of representation to the estate of a patient, direct that any money or securities which belonged to the patient when he died and were not already in court shall be transferred into court.

PART XVI

SETTLEMENT AND APPROVAL OF DEEDS

Documents to be settled by court

74. All mortgages, leases and other dispositions of a patient's land and such other deeds and documents relating to his estate as may be directed shall be settled and approved by the court.

Authentication by seal

75.— (1) The seal of the court on any deed or other document shall be evidence that it has been settled and approved by the court.

(2) Unless otherwise directed, no deed or other document shall be sealed for the purpose aforesaid unless—

- (a) it bears a certificate by the person tendering it that it is an exact copy of a draft settled and approved by the court, and
- (b) in the case of a deed or document containing a recital that any money has been lodged in court, a certificate of the Accountant General is produced stating that the logment has been made.

PART XVII

COPIES OF DOCUMENTS

Copies of documents in court

76.— (1) Any person who has filed an affidavit or other document shall, unless the court otherwise directs, be entitled, on request, to be supplied by the court with a copy of it.

(2) The person having the conduct of any proceedings shall, unless the court otherwise directs, be entitled, on request, to be supplied by the court with a copy of any order, certificate, authority, direction of other document made, given or prepared by the court in the proceedings.

(3) Any other person may, on request, be supplied by the court with a copy of any such document as it mentioned in paragraph (1) or (2), if the court is satisfied that he has good reason for requiring it and that it is not reasonably practicable for him to obtain it from the person entitled to bespeak a copy from the court.

(4) Any copy of a document supplied under paragraph (1), (2) or (3) above shall, if so required, be marked as an office copy.

PART XVIII

FEES

Appendix of fees

77.— (1) The Appendix to these Rules, in this Part of these Rules described as the “Appendix”, shall apply so as to fix the fees payable pursuant to the following provisions of this part of these Rules.

(2) Subject to paragraph (3), the fees set out in column 2 of the Appendix shall be taken in respect of the event referred to in column 1.

(3) The fees prescribed by rules 79 and 80 and the corresponding provisions of the Appendix shall not be payable where an officer of the court has been appointed and is acting as receiver for the patient.

(4) Unless the court otherwise directs, all fees shall be taken in cash.

(5) Subject to paragraph (6) below, the person by whom any fee (other than a fee payable under rule 81) is payable shall, unless the court otherwise directs, make the payment out of the income of the patient or, if he is dead, out of his estate.

(6) Where the court directs that a fee is to be paid by the Accountant General wholly or partly out of funds in court, then, unless the court directs payment to be made out of capital, the Accountant General shall meet the fee out of the income arising from the fund.

Commencement fee

78.— (1) A commencement fee shall be payable on any first application for the appointment of a receiver or other originating process in respect of any patient except where the clear annual income at the patient’s disposal is less than the exemption for small estates specified in item 1 of the Appendix.

(2) An additional fee on commencement shall be payable by personal applicants for the issue of process.

Administration fee

79.— (1) An annual administration fee shall be payable in respect of the clear annual income at the disposal of the patient from the date of issue of the first application for the appointment of a receiver or other originating process until the termination of the proceedings.

(2) The court shall annually, or at such other intervals as may be convenient, issue a certificate in respect of each patient in which there shall be stated—

- (a) the amount of the administration fee payable in respect of the patient at the date of the certificate;
- (b) the period in respect of which the administration fee is payable; and
- (c) the name of the person by whom the payment is to be made.

(3) The court may, if it thinks fit, issue a certificate for the payment of an estimated administration fee.

(4) Upon the issue of a certificate under this rule the amount of the fee shall be charged upon the patient's estate, and the payment shall be made within such time (not exceeding one month from the date of the certificate) as the court may allow.

(5) In any case in which it appears to the court that the amount of the fee certified under this rule has been wrongly assessed, the court may direct that the fee is to be adjusted upon the passing of the receiver's accounts or at such other time as appears to the court to be convenient.

(6) Without prejudice to the generality of rule 83—

(a) no administration fee may be taken where the proceedings are terminated before any order is made, and

(b) the clear annual income at the patient's disposal for the purposes of this rule does not include income which accrued and became payable to him more than six months prior to the date of the first application for the appointment of a receiver or other originating process but which was received after that date.

Transaction fee

80.— (1) A transaction fee shall be payable in respect of any order made in exercise of the specific powers conferred on the court by—

(a) paragraphs (b), (c), (d), (e), (h) and (k) of section 96(1) of the Act;

(b) section 100 of the Act;

(c) sections 36(9) and 54 of the Trustee Act 1925; and

(d) section 1(3) of the Variation of Trusts Act 1958(a)

(2) In a special case, the standard fee payable in accordance with the Appendix shall be increased in accordance with the Appendix where there is readily ascertainable pecuniary consideration in the nature of capital arising to or provided by the patient (otherwise than by way of loan to, or repayment of a loan by, the patient), no account being taken of the possible capitalisation of the value of rents or interest or other income payments.

(3) Where a transaction is to be approved under an order mentioned in paragraph (1) above, the fee shall be taken on the approval of the transaction and the court shall issue a certificate stating the amount payable.

(4) Except where the court otherwise directs, no fee shall be payable under this rule upon the sale or purchase of personal chattels or any investment for the time being authorised by law for the investment of trust property or in securities quoted on any stock exchange in the United Kingdom.

(5) In this rule, "special case" means an order made by the court—

(a) under paragraph (b), (c), (d) and (h) of section 96(1) of the Act;

(a) 1958 c. 53.

- (b) relating to the sale or purchase by a patient in exercise of his powers as a tenant for life under the Settled Land Act 1925(a); or
- (c) under section 1(3) of the Variation of Trusts Act 1958.

Fee on taxation

81.— (1) A fee shall be payable in respect of the taxation of a bill of costs.

(2) On the withdrawal of a bill of costs which has been lodged for taxation there shall be payable such a fee (not exceeding the amount which would have been payable under paragraph (1) above if the bill had been allowed in full) as appears to the taxing officer to be fair and reasonable.

Receivership fees

82.— (1) An appointment fee shall be payable, as set out at paragraph 5 of the Appendix, upon the appointment of an officer of the court as receiver for a patient.

(2) In cases where an officer of the court is receiver an annual fee shall be payable in respect of the clear annual income at the disposal of the patient.

(3) The said annual fee shall be payable—

- (a) upon the annual passing of the account by an officer of the court; and
- (b) on the scale set out at paragraph 6 of the Appendix.

(4) The clear annual income at the patient's disposal for the purpose of this rule does not include income which accrued and became payable to him more than six months prior to the date when the court's jurisdiction was first exercised in relation to him.

(5) No annual fee shall be taken where the proceedings are terminated less than four weeks from the date of issue of the first application for the appointment of a receiver.

Remission, postponement and exemption

83.— (1) The court may remit or postpone the payment of the whole or part of any fee where in its opinion hardship might otherwise be caused to the patient or his dependants or the circumstances are otherwise exceptional.

(2) The court may remit the payment of the whole or part of any fee where the cost of calculation and collection would be disproportionate to the amount involved.

(a) 1925 c. 18.

(3) No fee shall be payable pursuant to rules 78(2), 79 and 82 on any income by way of a war pension or war injuries (civilian) pension in respect of—

- (a) service in the armed forces of the Crown to which section 2 of the War Pensions Act 1920(a) applies; or
- (b) service in the armed forces of the Crown after 2nd September 1939; or
- (c) service before the 15th August 1945 to which the Pensions (Polish Forces) Scheme 1964(b) applies; or
- (d) detention, capture, war injury or war risk injury within the meaning of any scheme (other than that mentioned in paragraph (c) above made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(c), or under that Act as amended and applied by the Pensions (Mercantile Marine) Act 1942(d); or
- (e) war service injury within the meaning of the Personal Injuries (Civilians) Scheme 1983(e) as amended in the case of a civil defence volunteer to whom that Scheme applied.

PART XIX

COSTS

Costs generally

84.— (1) All costs incurred in relation to proceedings under these Rules, and not provided for by way of remuneration under rule 42, shall be in the discretion of the court and the court may order them to be paid by the patient or charged on or paid out of his estate or paid by any other person attending or taking part in the proceedings.

(2) Every order made under the last foregoing paragraph shall be enforceable in the same manner as an order as to costs made by the High Court.

(3) An order that costs incurred during the lifetime of a patient be paid out of or charged on his estate may be made within six years after his death.

-
- (a) 1920 c. 23.
 - (b) S.I. 1964/2007.
 - (c) 1939 c. 83.
 - (d) 1942 c. 26.
 - (e) S.I. 1983/686.

Applications under sections 36(9) and 54 of the Trustee Act 1925

85. The court may make any such order with respect to the costs of an application under section 36(9) or 54 of the Trustee Act 1925 as the High Court could make under section 60 of that Act in relation to any matter mentioned in that section.

Supreme Court costs rules to apply

86. Subject to the provisions of these Rules, Order 62 of the Rules of the Supreme Court 1965 shall apply, with such modifications as may be necessary to costs incurred in relation to proceedings under these Rules as they apply to costs incurred in relation to proceedings in the Chancery Division and may be taxed where required accordingly.

Costs of unnecessary employment of solicitor etc., not to be allowed

87.— (1) No receiver for a patient other than the Official Solicitor, shall, unless authorised by the court, be entitled at the expense of the patient's estate to employ a solicitor or other professional person to do any work not usually requiring professional assistance.

(2) Where two or more persons having the same interest in relation to the matter to be determined attend any hearing by separate legal representatives, they shall not be allowed more than one set of costs of that hearing unless the court certifies that the circumstances justify separate representation.

Costs of Official Solicitor

88. Any costs incurred by the Official Solicitor in relation to proceedings under these Rules or in carrying out any directions given by the court, and not provided for by way of remuneration under rule 42, shall be paid by such person or out of such funds as the court may direct.

Ascertainment of prior costs, etc.

89. Where in proceedings relating to a patient a claim is made against his estate in respect of any costs alleged to have been incurred by him or on his behalf otherwise than in relation to the proceedings, the court may refer the claim to a Taxing Master of the Supreme Court so that the amount due to the claimant may be ascertained by him or under his direction.

PART XX

REVOCATION

Revocation of previous Rules

90. The Court of Protection Rules 1982(a) are hereby revoked.

Dated 17th December 1984.

Hailsham of St. Marylebone, C.

We concur.

Dated 18th December 1984.

*Ian B. Lang,
Donald Thompson,*
Two of the Lord Commissioners of
Her Majesty's Treasury

SCHEDULE

FORMS

FORM A: FIRST APPLICATION FOR THE APPOINTMENT OF A RECEIVER

COURT OF PROTECTION

19 no

Rule 6

IN THE MATTER OF
..... A PATIENT
I.....
of.....

NOTES

Complete EITHER paragraph 1, OR paragraph 2. Delete the one which does not apply.

apply to the Court of Protection for:

- 1. my own appointment as receiver for the patient
a. I am not related to the patient*
b. I am the..... of the patient (state relationship)*

*Delete whichever does not apply.

- 2. the appointment of.....
of.....
..... as receiver for the patient
a. He/She is the of the patient (state relationship)*

DO NOT DELETE paragraph 3.

Where any other order in addition to that at paragraphs 1, 2 and 3 is sought, a general form of application should be used.

OR

- 3. the appointment of some other suitable person.

Applicant's signature.....

Date.....

OR Solicitors for the applicant:

of:

TO BE COMPLETED BY THE COURT,

THE COURT WILL CONSIDER THIS APPLICATION ON THE DAY OF 19..... AT O'CLOCK

FORM B: GENERAL FORM OF APPLICATION

COURT OF PROTECTION

19 no

Rule 6

IN THE MATTER OF A PATIENT

NOTES

Where the application is one to which rules 16 or 17 applies, give details of your authority to make the application e.g. Receiver, Trustee, etc.

Give details of the order you are asking the court to make

I of

apply to the Court of Protection for an order that:

and for any directions which are necessary as a result of my application.

Applicant's signature

Date

OR Solicitors for the applicant:

of:

TO BE COMPLETED BY THE COURT,

THE COURT WILL CONSIDER THIS APPLICATION ON THE DAY OF 19..... AT O'CLOCK

FORM C: CONSENT OF PROPOSED NEW TRUSTEE TO ACT

COURT OF PROTECTION

19 no

Rule 34

IN THE MATTER OF

..... A PATIENT

I

of

.....

give my consent to:

a. act as the trustee of the will of

OR

b.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Signed.....

Date

I

of

.....

certify that the signature written above is the signature of

the person mentioned in the above consent.

Signed.....

Date

NOTE

If paragraph a does not apply delete and give details of what is being consented to in paragraph b.

FORM D: WITNESS SUMMONS

COURT OF PROTECTION

19 no

Rule 47

IN THE MATTER OF
..... A PATIENT

To.....
of.....
.....

You are ordered to attend before

.....
at.....

on the..... day of..... 19.....

at o'clock, to:

- a. give evidence in this matter
- b. bring with you and produce at the hearing the documents listed below:

.....
.....
.....
.....
.....

Date

THIS SUMMONS WAS ISSUED AT THE REQUEST OF

.....
..... SOLICITORS FOR THE

..... of.....
.....
.....

FORM E: NOTICE OF APPEAL

COURT OF PROTECTION

19 no

Rule 53(2)

IN THE MATTER OF A PATIENT

I of

wish to appeal to a Judge against the order/decision* of the Court made in this matter on the day of 19 that:

NOTE

If you are appealing against only part of the order/decision write down which part.

*Delete whichever does not apply

I intend to ask that the order/decision* may be:

- a. discharged*
b. varied in the following way*

Give details of new order/decision you are asking to be made

YOU WILL BE SENT NOTICE OF THE TIME, DATE AND PLACE OF THE HEARING OF THIS APPEAL

Signed..... Appellant

Date

Solicitors for the Appellant

of

FORM F: REQUEST FOR LEAVE TO GIVE SECURITY BY LODGMENT IN COURT.

COURT OF PROTECTION

19 no

Rule 56(2)

IN THE MATTER OF

..... A PATIENT

I..... Receiver

for the above named patient, of

.....

.....

ask the court to allow me to give my security to the court

a. in the sum of £.....

b.

.....

.....

.....

.....

.....

.....

I agree that if the court decides that I have failed to pay

or account to the patient's estate for any money or

security which I have received on his/her behalf in

carrying out my duties as receiver, the money or security

I have lodged with the court may immediately be

transferred to the patient's account, or used as the court

decides for the benefit of the patient; but if I prove that

the loss, including any costs, is smaller than the amount

of money or the value of the securities originally lodged,

the balance will be returned to me.

Signed

Receiver

Date

NOTE

If the security is not money, give details of what it is, and its value

APPENDIX

COURT OF PROTECTION FEES

Rule 77

Column 1	Column 2
Item	Fee
Commencement fee (rule 78)	
1.— (1) On a first application for the appointment of a receiver or other originating process, except where it appears that the patient's clear annual income is less than £1,000	£50.00
(2) On commencement pursuant to a request by a personal applicant, in addition to Fee (1) above, for every £100 or fraction of £100 above £1,000 of the income which the patient's estate might be expected to yield if duly administered by the court.	£4.00 but not exceeding a total of £50.00
Annual administration fee (rule 79)	
2. On a certificate issued by the court	In accordance with Table 1
Transaction fee (rule 80)	
3.— (1) On any order (or, as the case may be, on any approval given by the court under an order) made by the court in the exercise of powers conferred by—	
(i) section 96(1)—	
(b) (sale, exchange, etc. of property)	
(c) (acquisition of property)	
(d) (settlement or gift of property)	
(h) (carrying out of contract) or	
(k) (exercise of powers as guardian or trustee)	
of the Act;	
(ii) section 100 of the Act (vesting of stock in curator appointed outside England and Wales);	
(iii) section 36(9) of the Trustee Act 1925 (appointment of new trustee);	£50.00 or, in a "special case", $\frac{1}{4}\%$ of the pecuniary consideration as defined in rule 80 if greater than £50
(iv) section 54 of the Trustee Act 1925 (concurrent jurisdiction with High Court over trusts);	
(v) section 1(3) of the Variation of Trusts Act 1958 (variation of trusts for benefit of patient), provided that no fee under this item shall be taken if the property is worth less than £50.00 and no such fee shall exceed £500.00.	

APPENDIX (*continued*)

COURT OF PROTECTION FEES

Column 1	Column 2
Item	Fee
(2) On the making by the court of any order or authority under section 96(1)(e) of the Act (execution of will)	£100.00
Taxation (rule 81)	
4. On the taxation of a bill of costs, for every £1 or fraction of £1 allowed.	£0.05
Receivership fees (rule 82)	
5. On the appointment of an officer of the court as receiver, except where it appears that the patient's clear annual income is less than £1,000	£150.00
6. On passing an account	In accordance with Table 2

TABLE 1 (Fee No. 2)

Income Band	Clear Annual Income		Fee
	Exceeding	Not exceeding	
(i)		£ 1,000	None
(ii)	£ 1,000	£ 2,000	£ 75
(iii)	£ 2,000	£ 3,000	£150
(iv)	£ 3,000	£ 5,000	£225
(v)	£ 5,000	£ 7,000	£375
(vi)	£ 7,000	£10,000	£600
(vii)	£10,000	£15,000	£850
(viii)	£15,000		£850 plus 5% of income exceeding £15,000

TABLE 2 (Fee No. 6)

Income Band	Clear Annual Income		Fee
	Exceeding	Not exceeding	
(i)		£ 1,000	None
(ii)	£ 1,000	£ 2,000	£ 200
(iii)	£ 2,000	£ 3,000	£ 400
(iv)	£ 3,000	£ 5,000	£ 600
(v)	£ 5,000	£ 7,000	£1,000
(vi)	£ 7,000	£10,000	£1,475
(vii)	£10,000	£15,000	£2,100
(viii)	£15,000		£2,100 plus 5% of income exceeding £15,000

NOTES

1. In relation to fees numbers 2 and 6, and their corresponding Tables, where income exceeds the lower limit of a band by less than the difference between the fees for that band and the next lower band, the fee charged shall be the fee for the lower band plus the amount by which the income exceeds the upper limit of that band. For example, in calculating fee No. 2 on a clear annual income of (£2,050 (which exceeds the lower limit (£2,000) on Band (iii) by less than the difference (£75) between the fee (£150) on Band (iii) and the fee (£75) on Band (ii)), the fee payable is—

£ 75	(the fee on Band (ii))
+ £ 50	(the amount by which the income exceeds £2,000)
<hr/>	
£125	
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2. In accordance with rule 77(3), fees numbers 2 and 3 are not payable where an officer of the court is acting as receiver for the patient.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules consolidate with a substantial number of amendments the existing Rules relating to the management of the property and affairs of patients and the fees to be taken in the Court of Protection. The main changes are:—

(1) The manner in which the Court of Protection's powers under the Mental Health Act may be exercised is made clearer (rule 5), and the provisions for the making of applications are shortened and clarified (Part III of the Rules).

(2) The provisions for the giving of notice of hearings are set out in a single rule (rule 18) and the minimum notice required for the hearing of a first application for the appointment of a receiver is extended from seven to ten days.

(3) Modifications are made to take account of the transfer from the Official Solicitor to the Management Division of the Court of the responsibility of acting as receiver for the majority of those patients for whom no other suitable receiver can be found who is able and willing to act.

(4) Where certain kinds of application to the court are made (rule 23) the patient will in future be given informal notification by letter instead of formal notice.

(5) The usual form of written evidence as to:—

(a) service of process; and

(b) family and property

will be in future be by signed certificate rather than by affidavit and the requirements as to the form of certificate and certain other documents are less closely defined; but the court will retain a discretion to order an affidavit in a particular case if it thinks fit.

(6) Rule 49 enables the Master of the Court of Protection as well as a judge to order the attendance of a patient for examination.

(7) No appeal shall lie against the decision of the Chief Clerk of the Court under rule 83 as to whether to remit or postpone payment of any court fee.

(8) The rule (rule 73) enabling the Court to take certain steps in relation to the estate of a deceased patient even if no grant of representation is taken out is updated by increasing from £1,500 to £5,000 the maximum value of estates to which it applies. This is in line with the changes made in April 1984 by the Administration of Estates (Small Payments) (Increase of Limit) Order 1984 (S.I. 1984/539).

(9) The new Appendix of Fees makes certain changes to the court fees payable. In particular:—

(a) annual fees are introduced in respect of the services of the Principal of the Management Division of the Court as receiver;

- (b) fees for copies of documents are abolished;
- (c) the requirement of the Rules that documents be marked when fees are taken is abolished.

(10) References to the Mental Health Act 1959 are replaced by references to the Mental Health Act 1983 and various drafting improvements are made, in particular to omit obsolete and unnecessary material and to modernise the wording of the forms prescribed in the Schedule.

SI 1984/2035
ISBN 0-11-048035-X



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