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STATUTORY INSTRUMENTS

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**2000 No. 2025**

**MENTAL HEALTH, ENGLAND AND WALES**

**The Court of Protection (Amendment) Rules 2000**

*Made* - - - - *25th July 2000*  
*Laid before Parliament* *26th July 2000*  
*Coming into force* - - *1st September 2000*

The Lord Chancellor, in exercise of the powers conferred on him by sections 106 and 108 of the Mental Health Act 1983(1), and with the consent of the Treasury, makes the following Rules:

**Citation and commencement**

1. These Rules may be cited as the Court of Protection (Amendment) Rules 2000 and shall come into force on 1st September 2000.

**Interpretation**

2. The Court of Protection Rules 1994(2) shall be amended in accordance with these Rules and a reference to a rule by number alone is a reference to the rule so numbered in, and a reference to the Appendix is a reference to the Appendix to, those Rules.

**Amendments to the Court of Protection Rules 1994**

3. For rule 79 there shall be substituted the following rule—

“79. 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.”.

4. In rule 80—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) An annual administration fee shall be payable on the first and on every subsequent anniversary of the date of the appointment of a receiver until the termination of the proceedings.”;

(b) paragraph (3) shall be omitted;

(c) for paragraph (5) there shall be substituted the following paragraph—

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(1) 1983 c. 20.  
(2) S.I.1994/3046; amended by 1999/2504.

“(5) In any case in which it appears to the Public Trustee that the amount of the fee certified under this rule has been wrongly assessed, he may direct that the fee is to be adjusted at such time as appears to him to be convenient.”; and

(d) paragraph (6)(b) shall be omitted.

**5. In rule 81—**

(a) in paragraph (1), after the words “in respect of any order or direction made” there shall be inserted the words “or, as the case may be, any application for an order or direction to be made,”;

(b) after paragraph (1) the following paragraph shall be inserted—

“(1A) A transaction fee shall be payable in respect of an application for authorisation of a person under section 20 of the Trusts of Land and Appointment of Trustees Act 1996(3).”;

(c) for paragraph (3) there shall be substituted the following paragraph—

“(3) Where a transaction is to be approved under an order or direction mentioned in paragraph (1) above, or authorisation is to be given as mentioned in paragraph (1A), the fee shall be taken—

(a) in a special case, upon the approval of the transaction;

(b) otherwise, upon the making of the application for the order, direction or authorisation

and the Public Trustee shall issue a certificate stating the amount payable.”;

(d) after paragraph (3) the following paragraphs shall be inserted—

“(3A) A transaction fee as specified in paragraph 3(4) of the Appendix shall be payable on application for the appointment of a new receiver.

(3B) A transaction fee as specified in paragraph 3(5) of the Appendix shall be payable upon the making of the application for an order or direction to be made in exercise of the specific powers conferred by paragraph (b) of section 96(1) of the Act, ordering or authorising the sale of any land as defined in the Law of Property Act 1925(4).”;

(e) after paragraph (5) there shall be inserted the following paragraph—

“(6) In this rule, references to an application for an order or direction include (without limitation) an application for an order or direction made at the same time as a first application for the appointment of a receiver or other originating process.”.

**6. In rule 83—**

(a) in paragraph (2) the words “in respect of the clear annual income at the disposal of the patient” shall be omitted;

(b) in paragraph (3)—

(i) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) at such time as the Public Trustee shall consider to be convenient”;

and

(ii) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) as set out in paragraph 6 of the Appendix;”;

(c) paragraph (4) shall be omitted.

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(3) 1996 c. 47.

(4) 1925 c. 20. The definition of “land” in section 205(1)(ix) was amended by Schedule 4 to the Trusts of Land and Appointment of Trustees Act 1996 (c. 47).

7. In rule 84 for the words “in cases where the Public Trustee has been appointed receiver” there shall be substituted the words “in cases where a receiver has been appointed”.

8. For the Appendix there shall be substituted the following—

**“APPENDIX  
COURT OF PROTECTION FEES**

Column 1	Column 2
<i>Commencement fee (rule 79)</i>	
1. On the first application for the appointment of a receiver or other originating process.	£230.00
<i>&gt;Annual administration fee (rule 80)</i>	
2. Annually from the appointment of a receiver	£205.00
<i>&gt;Transaction fee (rule 81)</i>	
3.—(1) On any order (or, as the case may be, on any approval given by the court under an order) or, as the case may be, on any application for such an order or approval, made by the court in the exercise of powers conferred by:—	£50.00 or, in a “special case”, ¼% of the pecuniary consideration as defined in rule 81 if greater than £50.00
(i) the following paragraphs of section 96(1) of the Act:—	
(d) (settlement or gift of property)	
(h) (carrying out of contract) or	
(ii) section 1(3) of the Variation of Trusts Act 1958 (variation of trusts for the benefit of patient)	
provided that no fee under subparagraph (i) or (ii) shall be taken if the property is worth less than £50.00 and no such fee shall exceed £500.00	£50.00
(iii) section 100 of the Act (vesting of stock in curator appointed outside England and Wales)	
(iv) section 96(1)(k) of the Act (exercise of powers)	£110.00

Column 1	Column 2
(v) section 54 of the Trustee Act 1925 (concurrent jurisdiction with High Court over trusts)	£110.00
(vi) section 20 of the Trusts of Land and Appointment of Trustees Act 1996 (authorisation of person to act as trustee).	£110.00
(2) On an application for an order or direction to be made by the court in exercise of the powers conferred by section 36(9) of the Trustee Act 1925 (appointment of trustees)	£110.00
(3) On an application for an order or authority to be made by the court under section 96(1)(e) of the Act (execution of will).	£475.00
(4) On the application for the appointment of a new receiver.	£175.00
(5) On an application for an order or direction under section 96(1)(b) of the Act ordering or authorising the sale of any land.	£145.00
<i>Detailed assessment of costs (rule 82)</i>	
4.—(1) On the filing of a request for a detailed assessment of costs.	£160.00
(2) On an appeal against a decision made in a detailed assessment of costs or on an application to set aside a default costs certificate.	£50.00
<i>&gt;Receivership fees (rule 83)</i>	
5. On the appointment of the Public Trustee as receiver.	£250.00
6. Annual administration fee.	£1,750.00
<i>&gt;Winding up fee (rule 84)</i>	
7. On the death of a patient:—	£1,015.00
(a) where the Public Trustee has been appointed receiver.	
(b) otherwise.	£125.00”.

22nd July 2000

Irvine of Lairg, C.

We consent

25th July 2000

*Jim Dowd*  
*David Jamieson*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These rules amend the Court of Protection Rules (“1994 Rules”) in relation to fees. The principal amendments are summarised below.

(1) The commencement fee payable under rule 79 of the 1994 Rules is increased from £200 to £230, and the reference in rule 79 to “other originating process (i.e. other than a first application for appointment of a receiver)” is reinstated.

(2) The annual administration fee payable under rule 80 of the 1994 Rules, in cases where the Public Trustee is not acting as receiver, is changed to a flat fee of £205. The annual administration fee was previously charged according to the patient’s clear annual income, on a scale ranging from a fee of £100 for an income up to £2,000, to £1,750 for an income over £25,000.

(3) Changes are made to transaction fees payable under rule 81 of the 1994 Rules:

- (a) except in the special cases defined in rule 81(5) of the 1994 Rules, transaction fees are payable upon application for an order or direction, instead of on the making of the order or direction.
- (b) the following fees are increased from £50 to £110:
  - (i) in relation to the exercise of powers vested in a patient, under section 96(1)(k) of the Mental Health Act 1983;
  - (ii) in relation to an order under section 54 of the Trustee Act 1925, under the Court of Protection’s concurrent jurisdiction with the High Court; and
  - (iii) in relation to an order approving the appointment of trustees under section 36(9) of the Trustee Act 1925;
- (c) the fee in relation to an order or authority under section 96(1)(e) of the Mental Health Act 1983 (execution of will) is increased from £100 to £475;
- (d) the following new transaction fees are payable:
  - (i) application for appointment of a new receiver—£175;
  - (ii) application for order or direction ordering or authorising sale of land—£145;
  - (iii) application for approval of a person to be appointed as trustee under section 20 of the Trusts of Land and Appointment of Trustees Act 1996—£110.

(4) A flat annual fee of £1,750 is payable under rule 83(2) of the 1994 Rules, in cases where the Public Trustee is acting as receiver. The annual fee was previously charged according to the patient’s clear annual income, on a scale ranging from a fee of £200 for an income up to £2,000, to £4,600 for a income over £25,000.

(5) The winding up fee payable under rule 84 of the 1994 Rules is—

- (a) increased, in cases where the Public Trustee is acting as receiver, from £300 to £1,015;
- (b) extended to cases where the Public Trustee is not acting as receiver, in which case a fee of £125 is payable.