

**2006 No. 653**

**MENTAL HEALTH, ENGLAND AND WALES**

**The Court of Protection (Amendment) Rules 2006**

*Made* - - - - *9th March 2006*

*Laid before Parliament* *10th March 2006*

*Coming into force* - - *1st April 2006*

The Lord Chancellor makes the following Rules in exercise of the powers conferred by sections 106 and 108 of the Mental Health Act 1983(a), with the consent of the Treasury as required by section 106(5) of that Act:

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Court of Protection (Amendment) Rules 2006 and shall come into force on 1st April 2006.

(2) In these Rules, a reference to a rule by number alone means the rule so numbered in the Court of Protection Rules 2001(b) and a reference to the Appendix means the Appendix to those Rules.

**Amendments to the Court of Protection Rules 2001**

2.—(1) The Appendix shall be amended in accordance with the following paragraphs of this rule.

- (2) In column 2, in paragraph 1, for “£240.00” substitute “£250.00”.
- (3) In column 2, in paragraph 1A, for “£315.00” substitute “£330.00”.
- (4) In column 2, in paragraph 2(1), for “£240.00” substitute “£250.00”.
- (5) In column 2, in paragraph 2(2), for “£190.00” substitute “£200.00”.
- (6) In column 2, in paragraph 2A, for “£100.00” substitute “£105.00”.
- (7) In column 2, in paragraph 2B, for “£100.00” substitute “£105.00”.
- (8) In column 2, in paragraph 3(1)(iv), for “£130.00” substitute “£135.00”.
- (9) In column 2, in paragraph 3(1)(v), for “£130.00” substitute “£135.00”.
- (10) In column 2, in paragraph 3(1)(vi), for “£130.00” substitute “£135.00”.
- (11) In column 2, in paragraph 3(2), for “£130.00” substitute “£135.00”.
- (12) In column 2, in paragraph 3(3), for “£540.00” substitute “£560.00”.
- (13) In column 2, in paragraph 3(4), for “£200.00” substitute “£210.00”.
- (14) For paragraph 3(5), substitute—

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(a) 1983 c.20.

(b) S.I. 2001/824; amended by S.I. 2001/2977, S.I. 2002/833, S.I. 2003/1733, S.I. 2004/1291 and S.I. 2005/667.

|   |          |
|---|----------|
| “(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.      | £200.00  |
| “(5A) On an application for an order or direction under section 96(1)(c) of the Act ordering or authorising the purchase of any land. | £250.00” |

(15) In column 2, in paragraph 3(6), for “£170.00” substitute “£175.00”.

(16) In column 2, in paragraph 4B, for “£1,000.00” substitute “£1,035.00”.

(17) In column 2, in paragraph 4C, for “£4,500.00” substitute “£4,725.00”.

(18) In column 2, in paragraph 7(1)(i), for “£885.00” substitute “£915.00”.

(19) In column 2, in paragraph 7(1)(ii), for “£290.00” substitute “£300.00”.

(20) In column 2, in paragraph 7(2), for “£150.00” substitute “£155.00”.

3.—(1) For rule 78(1) and (1A), substitute—

“(1) Paragraphs (1A) to (1D) apply in relation to proceedings for—

- (a) the appointment of a receiver; or
- (b) subject to paragraph (1E), a short order or direction to deal with a patient’s property or affairs under rule 8,

until the termination of such proceedings.

(1A) An administration fee shall be payable on the first or any subsequent anniversary of any such appointment, short order or direction where that anniversary falls within the period beginning with 1st April 2006 and ending on 31st March 2007.

(1B) At the end of the period mentioned in paragraph (1A) above, an administration fee in respect of any such appointment, short order or direction shall be payable on 31st March 2007 and on the same date in each year thereafter.

(1C) But in any case the court may direct that an administration fee is payable at any other time during those proceedings or at their termination.

(1D) Where the period for which the administration fee is payable is less than one year, the amount of the fee payable shall be such proportion of the full fee as that period bears to one year.

(1E) Where the proceedings are terminated less than six months from the date of the short order or the direction mentioned in paragraph (1)(b), the fee payable under paragraph (1B) shall be refunded if it has been paid or, if it has not been paid, it shall cease to be payable.”

4. For rule 80A(3)(a) and (b), substitute—

“(3) Paragraphs (3A) to (3F) apply where an officer of the court has been appointed receiver for a patient until the termination of such proceedings.

(3A) A fee as set out in paragraph 4B of the Appendix shall be payable in respect of completing an Inland Revenue tax return on behalf of the patient.

(3B) A receivership administration fee as set out in paragraph 4C of the Appendix shall be payable on the first or any subsequent anniversary of any such appointment where that anniversary falls within the period beginning with 1st April 2006 and ending on 31st March 2007.

(3C) At the end of the period mentioned in paragraph (3B) above, a receivership administration fee in respect of any such appointment shall be payable on 31st March 2007, and on the same date in each year thereafter.

(3D) But in any case the court may direct that a receivership administration fee is payable at any other time during those proceedings or at their termination.

(3E) Where the period for which the administration fee is payable is less than one year, the amount of the fee payable shall be such proportion of the full fee as that period bears to one year.”

5. In rule 80A(3)(c), for “(c)”, substitute “(3F)”.

6. For rule 82, substitute—

“(1) Subject to paragraphs (2) and (3), in cases where a receiver has been appointed a winding up fee shall be payable—

- (a) on the death of a patient; and
- (b) on every subsequent anniversary of that death.

(2) The winding up fee mentioned in paragraph (1)(b) shall be payable until—

- (a) the date the court receives the grant of representation from the personal representatives of the patient;
- (b) the date the receiver lodges his final account; or
- (c) the date the court directs that the final account may be dispensed with as the case may be,

whichever is the later.

(3) Where no grant of representation is required, the winding up fee mentioned in paragraph (1)(b) shall be payable until—

- (a) the date the court receives notification from the person who appears to have a prior right to a grant of administration to the estate of the deceased;
- (b) the date the receiver lodges his final account; or
- (c) the date the court directs that the final account may be dispensed with as the case may be,

whichever is the later.”

Signed by authority of the Lord Chancellor

*Cathy Ashton*  
Parliamentary Under Secretary of State,  
Department for Constitutional Affairs

Dated 9th March 2006

We consent

*Joan Ryan*  
*Vernon Coaker*

Dated 9th March 2006

Two of the Lord Commissioners of Her Majesty’s Treasury

## EXPLANATORY NOTE

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

These Rules make various amendments to the Court of Protection Rules 2001 (SI 2001/824).

(1) The amounts of various fees are amended, as follows—

| Fees   | Old Fee | New Fee |
|--|---------|---------|
| Commencement fee (rule 77)   | £240    | £250    |
| Receivership appointment fee (rule 77A)  | £315    | £330    |
| Administration fee (rule 78):  |         |         |
| —Annually from the appointment of a receiver until the proceedings are concluded                         | £240    | £250    |
| —Annually from the making of a short order or direction under rule 8 until the proceedings are concluded | £190    | £200    |
| Account fee (rule 78A)   | £100    | £105    |
| Estate account fee (rule 78B)  | £100    | £105    |
| Transaction fee (rule 79):   |         |         |
| Applications for orders etc under—   |         |         |
| —Mental Health Act 1983, s96(1)(k) (exercise of powers)  | £130    | £135    |
| —Trustee Act 1925, s54 (trusts)  | £130    | £135    |
| —Trusts of Land and Appointment of Trustees Act 1996, s20 (authorisation of person to act as trustee)    | £130    | £135    |
| —Trustee Act 1925, s36(9) (appointment of trustees)  | £130    | £135    |
| —Mental Health Act 1983, s96(1)(e) (execution of will)   | £540    | £560    |
| —Mental Health Act 1983, s96(1)(b) (ordering or authorising the sale of any land)                        | £170    | £200    |
| —Mental Health Act 1983, s96(1)(c) (ordering or authorising the purchase of any land)                    | £170    | £250    |
| —Mental Health Act 1983, s96(1)(a) or (b) (authorising management and letting of property)               | £170    | £175    |
| Application for the appointment of a new receiver  | £200    | £210    |
| Where an officer of the court appointed receiver (rule 80A):   |         |         |
| —on appointment of an officer of the court as receiver   | £1,000  | £1,035  |

|  |        |        |
|--|--------|--------|
| —receivership administration fee where an officer of the court has been appointed receiver   | £4,500 | £4,725 |
| Winding up fee (rule 82):  |        |        |
| —on the death of a patient where an officer of the court has been appointed as receiver  | £885   | £915   |
| —on the death of a patient where a receiver has been appointed   | £290   | £300   |
| —on each anniversary of the death of the patient until the court receives the grant of representation from the personal representatives of the patient or the receiver lodges his final account or the court directs the final account may be dispensed with | £150   | £155   |

(2) Rules 78(1), (1A) and 80A(3) are amended to change the point at which the annual administration fee becomes payable. From the 31st March 2007, the fee owing (or the portion of the fee owing on that date) will be payable on that date on an annual basis thereafter. However during the period from the 1st April 2006 to the 31st March 2007 the annual administration fee will continue to be payable on the first or subsequent anniversary of the appointment of the receiver or the making of a short order under rule 8. Rule 78(1) is also amended to provide that the administration fee in cases where the court makes an order or direction under rule 8 is payable on the anniversary of the court making the order or direction (and not upon the making of the order or direction). The fees are set at £250.00 where the court appoints a receiver and £200.00 where the court makes a short order or direction under rule 8, and £4,725.00 where an officer of the court has been appointed receiver.

(3) Rule 82 is amended to change the point until which the winding up fee is payable. The winding up fee will be payable until whichever is the later of three possible events. These are the receipt by the court of the grant of representation from the personal representatives of the patient, the receiver lodging his final account and the court directing that the final account may be dispensed with. Where no grant of representation is required, the fee will be payable until whichever is the later of three other possible events. These are the court receiving notification from the person who appears to have a prior right to a grant of administration in the estate of the deceased, the lodging of the account and the court dispensing with the account. On the death of a patient where an officer of the court has been appointed as receiver the fee is set at £915.00. On the death of a patient where a receiver has been appointed the fee is set at £300.00. The fee payable on the anniversary of the death of the patient is set at £155.00.

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**The Court of Protection (Amendment) Rules 2006**

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