STATUTORY INSTRUMENTS

1999 No. 2504

MENTAL HEALTH, ENGLAND AND WALES

The Court of Protection (Amendment) Rules 1999

Made - - -	*7th September 1999*
Laid before Parliament	*8th September 1999*
Coming into force	*1st October 1999*

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

Citation and commencement

1. These Rules may be cited as the Court of Protection (Amendment) Rules 1999 and shall come into force on 1st October 1999.

Interpretation

2. The Court of Protection Rules 1994**(b)** ("the Rules") 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 the Rules and a reference to the Appendix to the Appendix to those Rules.

Amendments to the Court of Protection Rules 1994

3. In rule 9(2)(a) the figure "£10,000" shall be substituted for the figure "£5,000".

4. In rule 21(3) for the words "according to the practice of the Chancery Division, would have been required to be served with the summons if the application had been made in the High Court", substitute "would have been required to be served with the application notice if the application had been made in the High Court".

5. In rule 79 the words "or other originating process" shall be deleted.

6. In rule 80(1) the words "issue of the first application for" and "or other originating process" shall be deleted.

7. For rule 82 substitute:

"**Fee on detailed assessment of costs**

82. A fee is payable in respect of the detailed assessment of costs and on an appeal against a decision made in a detailed assessment of costs."

8. For rule 89 substitute:

"**Civil Procedure rules to apply**

89.(1) Subject to the provisions of these Rules, Parts 43, 44, 47 and 48 of the Civil Procedure Rules 1998**(c)** ("the 1998 Rules") shall apply, with the modifications in paragraph (2) and such other 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 High Court.

(2) The modifications referred to in paragraph (1) are:

(a) 1983 c. 20.
(b) S.I. 1994/3046.
(c) S.I. 1998/3132 as amended by S.I. 1999/1008.

(a) in rule 43.2(1)(c) of the 1998 Rules, costs officer shall include

(i) a judge;

(ii) the Master.

(b) in rule 43.2(1)(d) of the 1998 Rules, authorised court officer shall include an officer of the court;

(c) rule 44.3(2) of the 1998 Rules (costs follow the event) does not apply;

(d) rules 44.9 to 44.12 of the 1998 Rules (costs on small claims and fast tracks and on track allocation or reallocation) do not apply;

(e) rules 48.1 to 48.3 (costs payable by or to particular persons) and 48.7 to 48.10 (costs relating to solicitors and other legal representatives) of the 1998 Rules do not apply.

(3) Where the court orders costs to be assessed by way of detailed assessment, the detailed assessment proceedings will take place in the High Court.".

9. The Appendix shall be amended as follows:

(a) in paragraph 1:

(i) the words "or other originating process" in column 1 shall be deleted;

(ii) the figure "£200" shall be substituted for the figure "£100" in column 2;

(b) for paragraph 4 substitute:

"*Detailed assessment of costs* (rule 82) 4.—(1) On the filing of a request for a detailed assessment of costs	£160
(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"

(c) in column 2 of paragraph 7:

(i) the figure "£300" shall be substituted for the figure "£250"; and

(ii) the figure "£125" shall be substituted for the figure "£100";

(d) for Table 1 (Fee No. 2) substitute:

TABLE 1 (Fee No. 2)

Clear Annual Income

Income Band	Exceeding	Not Exceeding	Fee
(i)		£2,000	£100
(ii)	£2,000	£5,000	£180
(iii)	£5,000	£10,000	£450
(iv)	£10,000	£15,000	£800
(v)	£15,000	£25,000	£1,200
(vi)	£25,000		£1,750

(e) for Table 2 (Fee No. 6) substitute:

TABLE 2 (Fee No. 6)

Clear Annual Income			
Income Band	Exceeding	Not Exceeding	Fee
(i)		£2,000	£200
(ii)	£2,000	£5,000	£600
(iii)	£5,000	£10,000	£1,500
(iv)	£10,000	£15,000	£3,000
(v)	£15,000	£25,000	£3,800
(vi)	£25,000		£4,600

(f) The Note to Tables 1 and 2 shall be deleted and shall be replaced by the following:

"NOTE

In relation to fees 2 and 6, and their respective Tables, where income exceeds the lower limit of a band by less than the difference between the fee for that band and the fee for the next lower band, the fee charged shall be the fee for the lower band.".

Transitional

10.—(1) The fees introduced by rule 7 above apply where a request for a detailed assessment of costs is filed on or after 1st October 1999.

(2) In any other case the fees (including the fee payable on withdrawal of the bill of costs) applicable immediately before that date shall be paid.

(3) Rule 8 above applies to any determination of costs that takes place on or after 1st October 1999, but so that, as a general rule, no costs for work done before that date shall be disallowed if they would have been allowed on taxation before that date.

Signed by the authority of the Lord Chancellor

David Lock
Parliamentary Secretary,
Dated 6th September 1999 Lord Chancellor's Department

We consent

Bob Ainsworth
Jim Dowd
Dated 7th September 1999 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Court of Protection Rules 1994 so as to:

(a) increase the value of a patient's property below which the court may make a short order or direction;

(b) increase some of the fees payable, and the income bands applicable to the annual administration fee and the receivership fee on passing an account (fees numbers 2 and 6), in both cases replacing the variable fee for the highest income band with a fixed fee. The changes are described in the tables below.

(c) reduce (in most cases) the fees charged for an assessment of costs from the current fee of 5% of the bill as allowed to a fixed fee of £160 with a separate fee of £50 if the original assessment is appealed;

(d) remove the annual apportioned administration fee between the date of the application for the appointment of a receiver and the date of the appointment.

The Court of Protection Rules 1994 apply the Rules of the Supreme Court 1965. On 26th April 1999, the Civil Procedure Rules 1998 came into force in respect of civil proceedings and supersede the Rules of the Supreme Court, which cease to have effect. These Rules also provide for the equivalent provisions of the Civil Procedure Rules to apply instead.

Tables

The changes to fees numbers 2 and 6

Fee No. 2

Clear annual income	New fee (£)	Old fee (£)
Up to £1,000	100	50
£1,001–£2,000	100	70
£2,001–£3,000	180	130
£3,001–£5,000	180	200
£5,001–£7,000	450	350
£7,001–£10,000	450	550
£10,001–£15,000	800	800
£15,001–£25,000	1,200	800 plus 5% of income exceeding £15,000
Over £25,000	1,750	ditto

Fee No. 6

Clear annual income	New fee (£)	Old fee (£)
Up to £1,000	200	100
£1,001–£2,000	200	250
£2,001–£3,000	600	525
£3,001–£5,000	600	800
£5,001–£7,000	1,500	1,300
£7,001–£10,000	1,500	1,800
£10,001–£15,000	3,000	2,800
£15,001–£25,000	3,800	2,800 plus 5% of income exceeding £15,000
Over £25,000	4,600	ditto

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