MANAGEMENT

1960 No. 1146 (L. 7)

The Court of Protection Rules, 1960

Made - - - - 6*th July*, 1960
Laid before Parliament 13*th July*, 1960
Coming into Operation 1*st November*, 1960

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I, David, Viscount Kilmuir, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 114 of the Mental Health Act, 1959(a), and section 54 of the Trustee Act, 1925(b), as amended, hereby with the consent of the Treasury so far as is required by subsection (5) of section 112 of the said Act of 1959 make the following Rules :—

I. PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Court of Protection Rules, 1960, and shall come into operation on the first day of November, 1960.

Interpretation

2.—(1) The Interpretation Act, 1889(c), shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(2) In these Rules, unless the context otherwise requires—

"Accountant-General" means the Accountant-General of the Supreme Court, or a deputy appointed by him in writing under his hand;

"the Act" means the Mental Health Act, 1959;

"Assistant Master" means an officer of the Court of Protection nominated by the Lord Chancellor by that description to act for the purposes of Part VIII of the Act;

"Chancery Division" means the Chancery Division of the High Court;

"court" means the Judge or Master;

"court office" means the office of 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, in relation to any functions of the Judge which they are respectively authorised to exercise, the Master of the Court of Protection, the Deputy Master, an Assistant Master and any other officer of the Court nominated by the Lord Chancellor to act for the purposes of Part VIII of the Act;

"Official Solicitor" means the Official Solicitor to the Supreme Court;

"order" includes a certificate, direction or authority under the seal of the court;

"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 his property and affairs;

"receiver" means a receiver appointed under section 105 (1) of the Act;

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

"summons" except in Rule 5 includes originating application;

"Visitor" means one of the Lord Chancellor's Visitors.

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

(a) 7 & 8 Eliz. 2. c. 72. (b) 15 & 16 Geo. 5. c. 19. (c) 52 & 53 Vict. c. 63.

(4) Where by these Rules any jurisdiction of the court is expressed to be exercisable in a summary manner, it may be exercised—

(*a*) without the issue of a summons;

(*b*) by the court of its own motion or at the instance or request of any person interested; and

(*c*) whether or not any proceedings have been commenced in the Court of Protection with respect to the patient.

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 Sunday or other 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 enlarge or abridge 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.

II. Mode of Application

Form of application

5. Except where these Rules otherwise provide, proceedings relating to a patient shall be commenced by originating application in Form B returnable in not less than seven clear days and every subsequent application relating to the patient shall be made in those proceedings by summons in Form C returnable in not less than two clear days unless the court is of opinion that the application can properly be dealt with in a summary manner.

Summary order in small cases

6. Where it appears to the court that the property of a patient does not exceed £500 in value, the court may, if no originating application has been issued, make an order in a summary manner directing one of its officers or some other fit and proper person to deal with the said property, or any part thereof, in any manner authorised by the Act and specified in the order.

Contempt of court

7. Every application to the Judge relating to the attachment or committal of a person for contempt of court shall be made by motion at such time as may be fixed by the Master in consultation with the Judge.

Title of proceedings

8. All proceedings shall be entitled in accordance with such of the headings set out in Form A as may be appropriate.

Issue of summonses

9.—(1) Every summons shall be prepared by or on behalf of the applicant and shall be deemed to be issued on its being sealed by one of the officers of the court.

(2) At the time of tendering the summons for sealing the applicant shall leave a copy at the court office.

Consolidation of proceedings

10. 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 carried on together.

Summonses to be returnable before Master

11. Every summons shall be returnable in the first instance before the Master.

III. PARTIES

Respondents and persons entitled to attend

12.—(1) The court may direct that all or any of the relatives of the patient or any other person who appears to the court to be interested in the relief sought by a summons shall be made a respondent to or be given notice of the summons.

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

Power to direct application by officer of court or Official Solicitor

13. 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 by the Official Solicitor.

Representation of patient by receiver

14.—(1) Except as provided in Rules 18 and 19 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 on any summons to which the patient is a party.

Representation of patient by Official Solicitor

15. 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 direct the Official Solicitor to 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

16.—(1) In this Rule "person under disability" means an infant 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, 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 an infant 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 and that he is a proper person to act as next friend or guardian.

Representation of parties

17.—(1) Where two or more parties to a summons are represented by the same solicitor, the court may, if it thinks fit, require any of them to be separately represented.

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

Applications under s. 54 of Trustee Act, 1925

18.—(1) An application under section 54 (2) of the Trustee Act, 1925, may be made by—

(*a*) the receiver for the patient, or

(*b*) the patient expressed to be acting by his receiver, or

(*c*) any person who has made an application for the appointment of a receiver which has not yet been determined, 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.

(2) Where a receiver has been appointed for the patient, he shall be made a respondent to the application unless he or the patient expressed to be acting by him is the applicant.

(3) Every person who would, according to the practice of the Chancery Division, have been required to be served with the summons if the application

had been made to the High Court shall also be made a respondent to the application, so however that no person who is a patient shall be made a respondent unless and until the court so directs.

Applications under s. 36 (9) *of Trustee Act,* 1925

19.—(1) Where an application is made under section 36 (9) of the Trustee Act, 1925, for leave to appoint a new trustee in place of a patient, the person intending to make the appointment shall be the applicant or one of the applicants.

(2) Where a receiver has been appointed for the patient, the receiver shall, unless he is the applicant, be made a respondent to the application, but except as aforesaid no person shall be made a respondent unless and until the court so directs.

Applications under s. 103 (1) (*j*) *of the Act*

20. The provisions of Rule 18 shall apply with such modifications as may be necessary to an application under section 103 (1) (*j*) 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 of patient's property

21.—(1) An application under section 103 (1) (*d*) of the Act for an order for the settlement of any property of a patient may be made by—

(*a*) the receiver for the patient, or

(*b*) any person who, under any known will of the patient or any codicil thereto or under his intestacy, may become entitled to any property of the patient or any interest therein, or

(*c*) any person for whom the patient might be expected to provide if he were not mentally disordered:

Provided that the application shall be made by a person for whom the benefit of the proposed settlement would enure, unless in the opinion of the court there is sufficient reason for its being made by another of the persons aforesaid.

(2) Where a receiver has been appointed for the patient, the receiver shall, unless he is the applicant, be made a respondent to the application, but except as aforesaid no person shall be made a respondent unless and until the court so directs.

IV. SERVICE

Service of summons

22. Except where these Rules otherwise provide or the court otherwise directs, every respondent to a summons shall be served with a copy of it at least two clear days before the return day.

No service where respondent consents

23. Unless the court otherwise directs, it shall not be necessary to serve a respondent to a summons who consents to the making of the order sought, if a consent signed by him and verified by a solicitor is filed.

Mode of service

24. 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

25. 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

26. Where it appears to the court that it is impracticable for any reason to serve a document in accordance with the provisions of Rule 24, 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

27.—(1) Subject to the following provisions of this Rule, any document required by these Rules to be served on a person who is an infant or patient (in this Rule referred to as a person under disability) shall be served—

(*a*) in the case of an infant who is not also a patient, on his father or guardian or, if he has no father or guardian, on the person with whom he resides or in whose care he is;

(*b*) in the case of a patient, on the person (if any) who is authorised under Part VIII of the Act to conduct in the name of the patient or on his behalf the proceedings in connection with which the document is to be served or, if there is no person so authorised, on the person with whom he resides or in whose care he is;

and must be served in the manner required by these Rules with respect to the document in question.

(2) Notwithstanding anything in the foregoing paragraph, the court may order that any document which has been, or is to be, 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 a notice required by Rule 28 to be served on a patient.

Service of application for appointment of receiver, etc.

28.—(1) Where—

(*a*) an originating 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 in a summary manner under Rule 6,

the patient shall be served with a notice in Form D instead of a copy of the originating application, if any:

Provided that the court may dispense with service of the said notice if it is satisfied—

(*a*) that the patient is incapable of understanding the notice, or

(*b*) that service of the notice would be injurious to the patient's health, or

(*c*) that for any other reason service ought to be dispensed with.

(2) Where service of the said notice has been dispensed with under the proviso to the last foregoing paragraph and the patient is within 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.

Affidavit of service

29. Unless the court otherwise directs, an affidavit of service, showing particularly 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:

Provided that it shall not be necessary to file an affidavit of service—

(*a*) of any document served by an officer of the court, or

(*b*) of Form D if it has been served by a medical practitioner and a certificate of service, signed by him and stating particularly where, when and how he effected service, is filed.

V. EVIDENCE

Evidence generally

30. The court may accept and act upon any evidence notwithstanding that it would not be admissible in a court of law.

Evidence to be by affidavit

31. Except where these Rules otherwise provide, evidence in proceedings under these Rules shall be given by affidavit.

Power to accept unsworn evidence

32. Notwithstanding the provisions of the last foregoing Rule, 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 may give directions as to the manner in which the evidence in any proceedings is to be given.

Cross-examination of deponent

33. Any person who has made an affidavit for use in proceedings under these Rules may be ordered by the court to attend for cross-examination.

Master may administer oaths

34. The Master may administer an oath to any witness or interpreter in any proceedings before him.

Persons before whom affidavits may be sworn

35. 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 to 1891, or, if the affidavit is for use in the Personal Application Branch of the Court of Protection, before any officer of the court of or above the rank of first class clerk;

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

Filing of affidavit

36.—(1) Before an affidavit is used in any proceedings under these Rules it shall be filed, but in case of urgency the court may make an order on an affidavit before it is filed if the party tendering the affidavit undertakes to file it before the order is drawn up.

(2) There shall be endorsed on every affidavit the name and address of the solicitor, if any, for the party on whose behalf it is filed.

Use of evidence in subsequent proceedings

37. 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.

Evidence to be filed on originating application for receiver, etc.

38.—(1) On the issue of an originating 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 an affidavit of kindred and fortune and a medical affidavit or, where either the income of the patient does not exceed £100 per annum or the capital value of the patient's estate does not exceed £1,000, a certificate of kindred and fortune and a medical certificate:

Provided that, where the applicant is the Official Solicitor, no affidavit or certificate of kindred and fortune shall be necessary if—

(*a*) there is filed a certificate by the Official Solicitor that the patient is possessed of property and that the relief asked for is desirable in order to manage or protect that property, or

(*b*) a report to the like effect is made under Rule 76 (1) (*a*).

(2) In this Rule "an affidavit of kindred and fortune" means an affidavit giving particulars of the patient's relatives, property and affairs and of the circumstances giving rise to the application and "a medical affidavit" means an affidavit containing medical evidence that the patient is incapable, by reason of mental disorder, of managing his property and affairs; and the expressions "a certificate of kindred and fortune" and "a medical certificate" shall be construed accordingly.

Statement of facts

39. Every statement of facts for use under Rule 32 shall—

(*a*) be drawn up in numbered paragraphs and set out the relevant facts clearly and concisely;

(*b*) so far as is practicable comply with the provisions of Rule 36 as if it were an affidavit, and

(*c*) be dated and signed by the person by whom it is made.

Evidence of patient's death or recovery

40. 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 party to the proceedings as the court thinks appropriate.

Consent to act as trustee

41. Where in any proceedings it is proposed to appoint a person to act as trustee, a written consent in Form E signed by him and verified by a solicitor shall be evidence of his consent so to act, but no 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

42. 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.

Requirements as to preparation of documents

43.—(1) Subject to the provisions of these Rules, Order LXVI of the Rules of the Supreme Court, 1883(a), shall apply, with such modifications as may be necessary, to proceedings in the Court of Protection as it applies to proceedings in the Supreme Court.

(2) In any document for use in the Court of Protection numbers shall be denoted by figures and not by words.

VI. Hearing of Proceedings

Summonses to be heard in chambers

44. Every summons shall be heard in chambers unless, in the case of a summons for hearing by the Judge, the Judge otherwise directs.

Reference of proceedings to Judge

45. 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

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

VII. Receivers

Interim provision

47.—(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 102 (1) of the Act, the court may in a summary manner—

(*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 63 for the reconsideration of the order by the Master or, if the order was made by the Judge, apply to have the order set aside.

Order without appointing a receiver

48. The court may, if it thinks fit, instead of appointing a receiver for a patient, by order direct or authorise any person named in the order to deal with the patient's property, or any part thereof, in any manner authorised by the Act and specified in the order.

Accountability of person authorised

49. Any person directed or authorised to do any act or carry out any transaction under Rule 47 or 48 shall render accounts to the court at such time and in such manner as the court may direct.

Remuneration of receiver

50.—(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,

(a) Rev., 1903, XII, Supreme Ct., E., p. 54.

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

51. 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.

VIII. Entry and Enforcement of Orders

Sealing and filing of orders

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

Entry of order on originating application

53.—(1) Where—

(*a*) an order is made on an originating 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 in a summary manner under Rule 6,

the order shall not be entered until the expiration of seven clear days after service of Form D on the patient, unless such service is dispensed with.

(2) Nothing in the last foregoing paragraph 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.

Entry of orders in Chancery Division

54. Where in any proceedings under these Rules an order is made by the Judge in the exercise of the jurisdiction of the Chancery Division, the Master shall cause a copy of the order to be sent to the Chief Chancery Registrar for entry in that Division.

Enforcement of orders

55. 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.

IX. Summonses and Orders for Attendance of Witnesses and Other Persons

Summoning of witnesses

56.—(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 F requiring the person named therein to attend before the court and give oral evidence or produce any document.

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

(*a*) the name and address of the party 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 he 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.

(4) Where the Official Solicitor is required to take out a witness summons under paragraph (1) of this Rule, the court may also direct him to conduct any proceedings and carry out any other directions which the court may specify.

Powers of court where undue delay, etc.

57.—(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 party 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 party or the Official Solicitor to take out any summons and to conduct any proceedings and carry out any directions which the court may specify; and the court may, if it thinks fit, 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

58. In any proceedings relating to a patient the Judge 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.

X. AMENDMENT

Amendment of summons

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

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

Clerical mistakes and slips

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

Endorsement of amendment

61. Where a summons or order has been amended under either of the last two foregoing Rules, a note shall be placed on it showing the date on which it was amended and the alterations shall be sealed.

XI. APPEALS

Appeal from Master

62.—(1) Subject to the provisions of the next succeeding Rule, any person aggrieved by an order or decision of the Master 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 notice of appeal in Form G on—

(i) every person who is directly affected by the appeal, being a party to the proceedings or a person who appeared, or was represented, before the Master 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 Master in consultation with the Judge, and the Master 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 the leave of the court.

Appeal from order not made on summons, etc.

63.—(1) No appeal shall lie—

(*a*) from any order or decision of the Master which is not made or given on a summons, or

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

except in accordance with the following provisions of this Rule.

(2) Any person who is aggrieved by such an order or decision as is mentioned in sub-paragraph (*a*) of the last foregoing paragraph, or a patient who is aggrieved by such an order as is mentioned in sub-paragraph (*b*) of the said paragraph, may apply by summons to the Master to reconsider the order or decision.

(3) No further evidence shall be filed in support of or in opposition to the summons without the leave of the Master.

(4) On the hearing of the summons the Master may either confirm or revoke his previous order or decision or make or give any other order or decision which he thinks fit.

(5) Any person aggrieved by any order or decision made or given on the hearing of the summons may appeal therefrom to a nominated Judge in accordance with the provisions of the last foregoing Rule.

XII. Attendance on Judge and Court of Appeal

Officer to attend as Registrar

64. The Chief Clerk of the Court of Protection or such other officer of the Court as the Master may direct shall attend as Registrar at the hearing or consideration of any appeal or other application to the Judge or upon the hearing of an appeal from the Judge to the Court of Appeal.

XIII. Security

Receiver to give security

65.—(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

66.—(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, that is to say—

(*a*) by a bond approved by the Master and given by the person giving security and also by—

(i) an insurance company, group of underwriters or bank approved by the Master, or

(ii) with the approval of the Master, two personal sureties; or

(*b*) by lodging in court a sufficient sum of money or stock; or

(*c*) in such other manner as the Master 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 H and the Master may thereupon give leave to make the lodgment and direct how any such money is to be invested and how any dividends are to be applied.

Forfeiture of security lodged

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

Discharge of security where new security given

68. 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

69. 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.

XIV. Accounts

Passing of accounts

70.—(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 Master may appoint to have the accounts taken and passed.

(2) On the passing of any accounts the Master 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

71. 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

72. Where a receiver fails to comply with any of the requirements of Rule 70 or fails to pay into court or invest or otherwise deal with any money in accordance with any direction of the court, the Master 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 the rate of £5 per cent. per annum, or such lower rate as the Master may fix, for the period of his default.

Payment of maintenance and costs

73. 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 percentage.

Final accounts

74.—(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 Master

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 Master 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 Master 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) of this Rule, the security of the receiver shall, unless the court otherwise directs, be discharged.

Accounting by other persons

75. The provisions of Rules 70 to 74 shall apply, with such modifications as may be necessary or the court may direct, to any person required to render accounts under Rule 49 as they apply to a receiver.

XV. INQUIRIES

Inquiries as to desirability of appointment of receiver, etc.

76.—(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—

(*a*) direct an officer of the court or 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*) direct 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 the last foregoing paragraph the court may, if it thinks fit—

(*a*) direct an application to be made pursuant to Rule 13, 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 in a summary manner 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

77. 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 one of its officers or the Official Solicitor to inspect the property, make any necessary inquiries and report to the court.

Inquiries as to prior dealing with patient's property

78. 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

79. 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

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

XVI. Custody and Disposal of Funds and Other Property

Statement of property retained or deposited

81. 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

82.—(1) Where any stock—

(*a*) is standing in the name of a patient beneficially 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 in such a manner as the court may direct.

(2) Where an order is made under the last foregoing paragraph or under section 106 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 Oversea 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, according as the court may direct.

Disposal of property on patient's death or recovery

83.—(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 £100 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) If no application for an order under either of the last two foregoing paragraphs is made within six months from the death of the patient, the court may 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.

XVII. Settlement and Approval of Deeds

Documents to be settled by court

84. 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

85.—(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 lodgment has been made.

XVIII. Copies of Documents

Copies of documents in court

86.—(1) Subject to the payment of any fee prescribed by these Rules—

(*a*) any party 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;

(*b*) the party 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 or other document made, given or prepared by the court in the proceedings; and

(*c*) any other person may, on request, be supplied by the court with a copy of any such document as is mentioned in either of the last two foregoing subparagraphs, 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 party entitled to bespeak a copy from the court.

(2) Any copy of a document supplied under the last foregoing paragraph shall, if so required, be marked as an office copy without extra charge.

XIX. Fees

Charge of percentage

87.—(1) A fee (hereinafter called "percentage") shall be payable at the rate of five per cent. on the income of any patient from the date of the first order in the proceedings (other than an order relating to the patient exclusively in his capacity as a trustee) until their termination:

Provided that—

(*a*) where the annual income appears not to be more than £100, percentage shall be £1 10s. 0d. in respect of each completed year, and

(*b*) where the annual income appears to be more than £100 but less than £150, percentage shall be payable at the rate of four per cent. per annum of the estimated income.

(2) In this Rule "income" means the clear income at the patient's disposal.

Payment of percentage

88.—(1) The court shall annually, or at such other intervals as may be convenient, issue a percentage certificate in respect of each patient.

(2) A percentage certificate shall state—

(*a*) the amount of percentage payable at the date specified therein, disregarding sums less than one shilling; and

(*b*) the name of the person by whom payment is to be made.

(3) Upon the issue of the certificate the amount stated therein shall be charged upon the patient's estate.

(4) Where the court directs percentage 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 appropriate out of the income arising from those funds a sum equal to the amount of percentage payable thereout, shall place that sum to the credit of the Percentage Account and shall deal with it thereafter in accordance with the provisions of the Supreme Court Funds Rules, 1927(a).

(5) In every other case the person by whom percentage 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.

Fees on documents

89. The fees specified in Part I of the Second Schedule to these Rules shall be payable in respect of documents prepared by the court in the course of proceedings relating to a patient.

Personal Application Branch Fees

90. The fees specified in Part II of the Second Schedule to these Rules shall be payable in respect of applications made through the Personal Application Branch of the Court of Protection.

Fees on Taxation

91. There shall be payable in respect of the taxation of a bill of costs—

(*a*) a fee of one shilling for every £2 or part thereof allowed, and

(*b*) a fee of fourteen shillings on the certificate of the result of the taxation.

(a) S.R. & O. 1927/1184 (1927, p. 1638).

Officers attending as witnesses

92.—(1) On an application, with or without subpoena, for any officer of the Court of Protection to attend as a witness in his official capacity or to produce records or documents relating to proceedings therein there shall be payable (in addition to the reasonable expenses of the officer for attending)—

(*a*) in civil proceedings	...	for each day or part of a day when he is absent from the court office, £2 0s. 0d.
(*b*) in criminal proceedings	...	such sum as may be allowed under the scale applicable to the court in which he is to give evidence.

(2) Where the officer is to attend civil proceedings, the court may require the applicant to pay a deposit on account of any further fees and expenses which the officer is likely to incur in addition to the amount paid on the application or may require a written undertaking to pay such further sums.

Method of payment of fees

93. Unless the court otherwise directs, all fees (other than fees payable out of funds in court or by the Official Solicitor) shall be paid by means of impressed judicature stamps.

Postponement and remission of fees

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

Exemptions from fees in cases of certain pensions

95. No fee shall be payable pursuant to Rule 87 or 89 in the case of any patient to whom a pension has been awarded in respect of mental disorder attributable to or aggravated by—

(*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 between the second day of September, 1939, and the fifteenth day of August, 1945 ; or

(*c*) service before the fifteenth day of August, 1945, to which the Pensions (Polish Forces) Scheme, 1949(**b**), applies ; or

(*d*) detention, capture, war injury or war risk injury within the meaning of any Scheme (other than the Pensions (Polish Forces) Scheme) 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, 1949(**e**), in the case of a civil defence volunteer to whom that Scheme applies.

XX. Costs

Generally

96.—(1) All costs incurred in relation to proceedings under these Rules shall be in the discretion of the court and the court may order them to be

(a) 10 & 11 Geo. 5. c. 23. (b) S.I. 1949/1058 (1949 I, p. 3156).
(c) 2 & 3 Geo. 6. c. 83. (d) 5 & 6 Geo. 6. c. 26.
(e) S.I. 1949/2025 (1949 I, p. 3115).

paid by the patient or charged on or paid out of his estate or paid by any other party or any person attending 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.

Applications under s. 36 (9) *of Trustee Act,* 1925

97. The court may make any such order with respect to the costs of an application under section 36 (9) 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

98. Subject to the provisions of these Rules, the Supreme Court Costs Rules, 1959(a), 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 where any of the first-mentioned costs fall to be taxed, they shall be taxed by or under the direction of a Taxing Master of the Supreme Court.

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

99. 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.

Costs of Official Solicitor

100. Any costs incurred by the Official Solicitor in relation to proceedings under these Rules or in carrying out any directions given by the court shall be paid by such party or such person attending the proceedings or out of such funds as the court may direct.

Ascertainment of prior costs, etc.

101. 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.

XXI. Revocation of Previous Rules and Transitional Provisions

Revocation of existing Rules

102. The Rules set out in the Third Schedule to these Rules are hereby revoked.

Use of forms formerly prescribed

103. Any form prescribed by a Rule revoked by these Rules may, if it substantially corresponds to a form prescribed by these Rules, continue to be used in lieu of that form, unless and until the court otherwise directs.

Drawing up of orders previously made

104. Any order made before the coming into operation of these Rules may be drawn up and entered in the form and manner in which it would have been drawn up and entered under the Rules hitherto in force.

(a) S.I. 1959/1958 (1959 II, p. 2535) (Second Schedule).

Medical evidence

105. Any evidence given in proceedings pending at, or brought within one month after, the commencement of paragraph 28 of the Sixth Schedule to the Act may, if it would have been sufficient to confer jurisdiction under Part IV of the Lunacy Act, 1890(a), be treated by the court as sufficient for conferring jurisdiction under Part VIII of the Act.

Pending proceedings

106. Subject to the provisions of Rules 103 to 105 and section 38 of the Interpretation Act, 1889, these Rules shall apply, with such modifications as may be necessary or as the court may direct, to any proceedings pending at the coming into operation of these Rules.

Dated this sixth day of July, 1960.

Kilmuir, C.

We concur.

P. E. O. Bryan,
R. Chichester-Clark,
Lords Commissioners of Her Majesty's Treasury.

FIRST SCHEDULE

Rule 8

FORM A

Title of Proceedings

(1) General Title

Court of Protection 19 No.

In the Matter of [*name of patient*]

(2) Title under the Trustee Act, 1925

Court of Protection 19 No.

In the Matter of the Trusts of the Will, *etc.* [*or* the Statutory Trusts arising, *etc.*] [*or as the case may be*]

and

In the Matter of [*name of patient*]

and

In the Matter of the Trustee Act, 1925, s. 36 (9) [*or* s. 54, *as the case may be*]

(3) Title of Proceedings in the Court of Protection and in the Chancery Division

Court of Protection 19 No.

and

In the High Court of Justice
Chancery Division

In the Matter of [*name of patient*]

(a) 53 & 54 Vict. c. 5.

Rule 5 FORM B

Originating Application

[*Appropriate title as in Form A*]

LET all parties concerned attend the Master in Chambers at the Court of Protection, 25, Store Street, London, W.C.1, at the time endorsed hereon, on the hearing of an application on the part of [*state full name of Applicant followed by his address and description*]

of

in the County of who is the [*state relationship*]

of [*or* is not related to] the above named [*state name of Patient*]

, for the appointment of the Applicant [*or, if not the Applicant, insert the full name, address and description of the proposed Receiver and state his relationship to the Patient or, if such be the case, that he is not related to the Patient*] or some other fit and proper person as Receiver in this matter [*or, if the appointment of a receiver is not asked for, state the other relief asked for*] and for such consequential directions as may be necessary.

Dated the day of , 19 .

Taken out by of

Agent for of

Solicitor for the Applicant.

To [*name of Patient*]
[*and*].

Rule 5 FORM C

General Form of Summons

[*Appropriate title as in Form A*]

LET all parties concerned attend the Master in Chambers at the Court of Protection, 25, Store Street, London, W.C.1, at the time endorsed hereon, on the hearing of an application on the part of [*state full name of Applicant followed by his address and description*] of

in the County of

for an order that [*state relief asked for*]

and for such consequential directions as may be necessary.

Dated the day of , 19 .

Taken out by of

Agent for of

Solicitor for the Applicant.

To [*name*[*s*] *of Respondent*[*s*]].

Rule 28 (1) FORM D

Notice of Originating Proceedings

[*Appropriate title as in Form A*]

To [*name of patient*]

1. You are informed that on , the day of , 19 , at o'clock, the Court will [*or, if the Court proposes to make an order in a summary manner,* that the Court proposes to] consider what steps should be taken in your interests to protect and manage your property and affairs during your inability to do so [and whether (*state full name of proposed Receiver followed by his address and description*) of .... or some other fit and proper person should be appointed to act as Receiver under the directions of the Court].

2. If you wish to make any objection or observation by letter, the letter should be addressed as follows:—

The Chief Clerk,
Court of Protection,
25, Store Street,
London, W.C.1.

3. An order will not be entered until seven clear days have elapsed from the day when you receive this communication.

Dated the day of , 19 .

[*Seal of court where notice sent by officer of court, otherwise signature and address of applicant's solicitor or of applicant if acting in person.*]

Rule 41 FORM E

Consent of Proposed New Trustee to Act

[*Appropriate title as in Form A*]

I, of , hereby consent to act as a trustee of the will of, *etc.* [*or* the statutory trusts arising, *etc.*] [*or as the case may be*].

Dated the day of , 19 .

[*Signed*]

I, of , Solicitor, hereby certify that the signature written above is the signature of , the person mentioned in the above consent.

Dated the day of , 19 .

[*Signed*]

Rule 56

FORM F

Witness Summons

[*Appropriate Title as in Form A*]

You [*state name and address of witness*]
are hereby summoned to attend before the Honourable Mr. Justice
in chambers at Room No. [*or* in Chancery Court No.] at the Royal Courts of Justice, Strand, London, W.C.2 [*or* the Master in Chambers at the Court of Protection, 25, Store Street, London, W.C.1] on , the day of , 19 , at o'clock, to give evidence in this matter [*add, if documents to be produced,* and also to bring with you and produce at the time and place aforesaid [*specify documents*]].

Dated this day of , 19 .

[*Seal of Court*] [*Name of Master*]

This summons was taken out by of
Solicitor for

Rule 62 (2)

FORM G

Notice of Appeal from Order or Decision of Master

[*Appropriate title as in Form A*]

Take Notice that of
desires to appeal to the Judge from the order [*or* decision] of the Master made in this matter on the day of , 19 , [*add, if part only is appealed from* so far as it directs that].

And that he intends to ask that the said order [*or* decision] may be discharged [*or* varied] and that it may be ordered that .

You will be sent notice of the time and place fixed for the hearing of the appeal.

Dated the day of , 19 .

[*Signed*]

Solicitor for

Address

To

and to Messrs.
his Solicitors.

Rule 66 (2) FORM H

Request for Leave to give Security by Lodgment in Court

[*Appropriate title as in Form A*]

I, of [*state address and description*], Receiver for the above-named Patient, request the leave of the Court to give my security of £ [*state penal sum*] by lodging that sum [*or state the amount and description of stock*] in Court and I agree that if I make any default in paying or accounting to the estate of the Patient for any money or securities coming into my hands as Receiver or otherwise in the due performance of my duties as Receiver, of which default the Court shall be sole judge, the said security may forthwith be transferred to the Patient's account or otherwise dealt with for his benefit as the Court may direct, provided that if I prove that the loss (including any costs) occasioned to the Patient's estate by reason of my default amounts to a lesser sum, the balance of the security remaining after deducting that sum, or so much of the balance as shall not have been applied for the benefit of the Patient, may be returned to me.

Dated the day of , 19 .

[*Signature over a 6d. stamp*]

To the Master of the
Court of Protection.

SECOND SCHEDULE

PART I—FEES ON DOCUMENTS

Rule 89

1. (*a*) On an order...	£4	0s.	0d.
(*b*) on a certificate under the seal of the court other than a percentage certificate or a certificate of the result of a taxation	£2	0s.	0d.
(*c*) on an authority or direction under the seal of the court (not being a direction to the Accountant-General) ...		10s.	0d.
(*d*) for a copy of such an authority or direction		2s.	0d.
(*e*) for a copy of any document, other than an authority or direction—			
for the first four folios		2s.	0d.
for each additional folio beyond four			6d.

2. Fees (*a*), (*b*) and (*c*) shall be payable notwithstanding the termination of the proceedings, provided that the document has previously been settled by the court.

PART II—PERSONAL APPLICATION BRANCH FEES

Rule 90

1. (*a*) On issuing an originating application or on proceeding in a summary manner under Rule 6—	
(i) where the annual income appears not to exceed £40, subject to a minimum fee of 10s.	10 per cent.
(ii) where the income appears to exceed £40, subject to a minimum fee of £4 and a maximum fee of £50	4 per cent.
(*b*) on making an application for an order determining proceedings upon the recovery of the patient	10s. 0d.
(*c*) on making any other application for an order ...	£1 0s. 0d.

2. In this Part of this Schedule "income" means the income which a patient's estate might be expected to yield if duly administered by the court.

3. Sums less than one shilling shall be disregarded in assessing the fees payable under this Part of this Schedule.

4. Every fee payable under this Part of this Schedule shall include the fees payable on two copies of any order made on the application, but shall not include any other fee payable under Part I.

THIRD SCHEDULE

Rule 102

RULES REVOKED

The Management of Patients' Estates Rules, 1934(a);

The Patients' Estates (Percentages and Fees) Order, 1939(b);

The Patients' Estates (Naming of Master's Office) Order, 1947(c);

The Management of Patients' Estates (Percentage and Fees) Rules, 1953(d);

The Management of Patients' Estates (Amendment) Rules, 1957(e);

The Management of Patients' Estates (Percentage and Fees) Rules, 1957(f);

The Management of Patients' Estates (Percentage and Fees) Rules, 1958(g);

The Management of Patients' Estates (Amendment) Rules, 1958(h).

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules replace the existing Rules relating to the management of the property and affairs of patients, and prescribe the fees to be taken in the Court of Protection. In addition to making changes consequential on Part VIII of the Mental Health Act, 1959, the Rules simplify the procedure in a number of minor respects.

(a) S.R. & O. 1934/269 (Rev. XIII, p. 10: 1934 I, p. 1109).
(b) S.R. & O. 1939/1122 (Rev. XIII, p. 43: 1939 II, p. 1968).
(c) S.R. & O. 1947/1235 (Rev. XIII, p. 41: 1947 I, p. 1265).
(d) S.I. 1953/336 (1953 I, p. 1002).
(e) S.I. 1957/1402 (1957 I, p. 1340).
(f) S.I. 1957/1403 (1957 I, p. 1341).
(g) S.I 1958/154 (1958 I, p. 1380).
(h) S.I. 1958/399 (1958 I, p. 1379).