STATUTORY INSTRUMENTS

1982 No. 322 (L. 8)

MENTAL HEALTH

The Court of Protection Rules 1982

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The Lord Chancellor, in exercise of the powers conferred on him by sections 112, 113 and 114 of the Mental Health Act 1959(**a**) and section 54 of the Trustee Act 1925(**b**), and with the consent of the Treasury so far as is required by section 112(5) of the said Act of 1959, hereby makes the following Rules:—

PART I

PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Court of Protection Rules 1982 and shall come into operation on 1st April 1982.

Interpretation

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

expressions used in the Supreme Court Act 1981(**c**) shall have the same meaning as they have for the purposes of that Act;

"the Act" means the Mental Health Act 1959;

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

"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;

"officer of the court" means an officer of the Court of Protection;

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

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

"stock" includes shares and also any fund, annuity or security transferable

(**a**) 1959 c. 72.
(**b**) 1925 c. 19; section 54 was substituted by the Mental Health Act 1959, Schedule 7.
(**c**) 1981 c. 54.

in the books kept by any body corporate or unincorporated company or society, or by an instrument of transfer either alone or accompanied by other formalities, and "dividends" shall be construed accordingly;

"summons" except in rule 5 includes an originating application;

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

"will" includes codicil.

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

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

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

Power to vary time

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

PART II

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.

Short procedure

6.—(1) Where no originating application has been issued in relation to a patient, but it appears to the court—

(a) that the property of the patient does not exceed £5,000 in value; or

(b) that it is otherwise appropriate to proceed under this rule,

the court may make an order in a summary manner under this rule.

(2) Where an originating application has been issued but the court is of opinion that it is not necessary to appoint a receiver for the patient, the court may make an order under this rule.

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

Contempt of court

7. Every application to the judge relating to the 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 an officer 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.

PART 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, 20 and 21, 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 a minor or a patient for whom no receiver has been appointed.

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

(3) Where a person is to be appointed next friend or guardian *ad litem* of a

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

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

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

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

(i) that he knows or believes that the person to whom the certificate relates is a minor or patient giving (in the case of a patient) the grounds of his knowledge or belief, and

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

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.

Application under section 54 *of the 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) any person who has made an application for the appointment of a receiver which has not yet been determined, or

(c) a continuing trustee, or

(d) any other person who, according to the practice of the Chancery Division, would have been entitled to make the application if it had been made to the High Court.

(2) Where a receiver has been appointed for the patient, he shall, unless already a party, be made a respondent to the application.

(3) Every person who, according to the practice of the Chancery Division, would have been required to be served with the summons if the application had been made to the High Court shall also be made a respondent to the application, so, however, that no person who is a patient shall be made a respondent unless the court so directs.

Application under section 36(9) *of the 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 already a party, be made a respondent to the application but, except as aforesaid, no person shall be made a respondent unless the court so directs.

Application under section 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 or gift of patient's property or for execution of will of patient

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

(a) the receiver for the patient, or

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

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

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

provided that the application shall be made by a person for whom the benefit of the proposed settlement, gift or will 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 already a party, be made a respondent to the application but, except as aforesaid, no person shall be made a respondent unless the court so directs.

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

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

(b) in the case of a patient, on his receiver or, if he has no receiver, on the person with whom he resides or in whose care he is;

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

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

(3) Nothing in this rule shall apply to a notice or order required by rule 28 or 47 to be served on a patient.

Service of application for appointment of receiver, etc.

28.—(1) Subject to paragraph (2) below, 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(1),

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

(2) The court may at any time dispense with service of the said notice if it is satisfied that—

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

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

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

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

Affidavit of service

29. Unless the court otherwise directs, an affidavit of service, showing where, when, how and by whom service was effected, shall be filed as soon as practicable after service of a document has been effected in accordance with these Rules:

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 or an order served pursuant to rule 47(2) 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.

PART 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 rule 31, 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 so, however, that nothing in this rule shall enable a Visitor to be required to give oral evidence or to produce a report, record or other document.

Written questions to Visitors

33.—(1) Where a Visitors' report, or information contained in such a report, has been disclosed to any person in pursuance of section 109(5) of the Act, the court may, on the application of any person who appears to the court to be interested, give leave for written questions relevant to the issues before the court to be put to the Visitor by whom the report was made.

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

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

Cross-examination of deponent

34. 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

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

Swearing and filing of affidavits

36.—(1) 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(**a**) or under the Solicitors Act 1974(**b**) 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 higher executive officer;

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

(2) 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

(**a**) 1889 c. 10: 1891 c. 50.
(**b**) 1974 c. 47.

before it is filed if the party tendering the affidavit undertakes to file it before the order is drawn up.

(3) 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 a medical certificate and, subject to paragraphs (2) and (3) of this rule, an affidavit of family and property.

(2) Where either the income of the patient does not exceed £500 per annum or the capital value of the patient's estate does not exceed £5,000, a certificate of family and property shall be filed instead of an affidavit.

(3) Where the applicant is the Official Solicitor, no affidavit or certificate of family and property 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 72(1)*(a)*.

(4) In this rule—

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

"an affidavit of family and property" means an affidavit giving particulars of the patient's relatives, property and affairs and of the circumstances giving rise to the application, and

"a certificate of family and property" 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(2) and (3) 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 some other person 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. Subject to the provisions of these Rules, Order 66 of the Rules of the Supreme Court 1965(**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.

PART 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.

(**a**) S.I. 1965/1776.

PART 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 60 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.

Remuneration of receiver

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

(2) No request by the 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

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

PART VIII

ENTRY AND ENFORCEMENT OF ORDERS

Sealing and filing of orders

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

Entry of orders after notification to patient

51.—(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(1),

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 paragraph (1) above shall prevent the entry of an interim order for the protection of a patient's property or for the application of a patient's property for his benefit.

Enforcement of orders

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

PART IX

SUMMONSES AND ORDERS FOR ATTENDANCE OF WITNESSES AND OTHER PERSONS

Summoning of witnesses

53.—(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 the proposed witness is to be required to produce; and

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

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

(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 carry out any other directions specified by it.

Powers of court where undue delay, etc.

54.—(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

55. 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.

PART X

AMENDMENT

Amendment of summons

56.—(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 amendment 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 written alterations would make it difficult or inconvenient to read, a fresh summons, amended as authorised or directed, may be issued.

Clerical mistakes and slips

57. 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

58. Where a summons or order has been amended under rule 56 or 57, a note shall be placed on it showing the date on which it was amended and the alterations shall be sealed.

PART XI

APPEALS

Appeal from Master

59.—(1) Subject to rule 60, 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 a 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 leave of the court.

Appeal from order not made on summons, etc.

60.—(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 paragraph (1)*(a)*, or a patient who is aggrieved by such an order as is mentioned in paragraph (1)*(b)*, 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 rule 59.

PART XII

SECURITY

Receiver to give security

61.—(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

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

(a) by a bond approved by the 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.

Lodgment of security

63. 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

64. 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

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

(a) that any premiums payable in respect of the bond have been duly paid, or

(b) if the bond was given by personal sureties, that each surety is living and within the jurisdiction and has neither been adjudicated bankrupt nor compounded with his creditors,

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

PART XIII

ACCOUNTS

Passing of accounts

66.—(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

67. 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

68. Where a receiver fails to comply with rule 66 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 £10 per cent per annum, or such lower rate as the Master may fix, for the period of his default.

Payment of maintenance and costs

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

Final accounts

70.—(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) above, the security of the receiver shall, unless the court otherwise directs, be discharged.

Accounting by other persons

71. Rules 66 to 70 shall also apply, to the extent directed by the court, to any person who is—

(a) directed to deal with the patient's property or affairs under rule 6;

(b) directed or authorised to act under rule 47(1)*(a)*; or

(c) appointed a receiver *ad interim* under rule 47(1)*(b)*,

as they apply to a receiver.

PART XIV
INQUIRIES

Inquiries as to desirability of appointment of receiver, etc.

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

(a) an officer of the court or the Official Solicitor or a Visitor to make enquiries and report to the court whether it is desirable in the interests of the patient that an application should be made for that purpose; or

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

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

(a) direct an application to be made pursuant to rule 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

73. For the purpose of any proceedings relating to the property of a patient, the court may if it thinks fit, inspect the property or direct an officer of the court

or the Official Solicitor to inspect the property, make any necessary inquiries and report to the court.

Inquiries as to prior dealing with the patient's property

74. 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

75. 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

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

PART XV

CUSTODY AND DISPOSAL OF FUNDS AND OTHER PROPERTY

Statement of property retained or deposited

77. 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

78.—(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 as the court may direct.

(2) Where an order is made under paragraph (1) above 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 Overseas Governments and Administrations, some proper officer of the bank or the Crown Agents;

(b) in any other case, some proper officer of the company or other body, whose stock is to be transferred;

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

Disposal of property on patient's death or recovery

79.—(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 £1,500 in value, the court may, if it thinks fit, provide for payment of the funeral expenses out of any funds in court standing to the credit of the deceased and order that any such funds, or the balance thereof, or any other property of the patient remaining under the control, or held under the directions, of the court, be paid, transferred, delivered or released either to the personal representative of the deceased when constituted or to the person who appears to be entitled to apply for a grant of representation to his estate.

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

PART XVI

SETTLEMENT AND APPROVAL OF DEEDS

Documents to be settled by court

80. 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

81.—(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.

PART XVII

COPIES OF DOCUMENTS

Copies of documents in court

82.—(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 subparagraph *(a)* or *(b)*, 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 paragraph (1) above shall, if so required, be marked as an office copy without extra charge.

PART XVIII

FEES

Appendix of fees

83.—(1) The Appendix to these Rules, in this Part of these Rules described as the "Appendix", shall apply so as to fix the fees payable in relation to the proceedings in respect of any patient in the events set out in rules 84–90 of these Rules.

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

(3) Unless the court otherwise directs, all fees (other than fees payable out of funds in court or by the Official Solicitor) shall be taken in cash and the document indicated in column 3 of the Appendix shall be marked by the officer of the court receiving the fee so as to show the amount of fee and the date of its receipt.

(4) Subject to paragraph (5) below, the person by whom any fee (other than a fee payable under rule 87 or 89) 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.

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

Commencement fee

84. A commencement fee shall be payable on any originating application made under rule 5 or other originating process in respect of any patient, except where the clear annual income at the patient's disposal is less than the exemption for small estates specified in item 1 of the Appendix.

Administration fee

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

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

(a) the amount of the administration fee payable in respect of the patient at the date of the certificate;

(b) the period in respect of which the administration fee is payable, and

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

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

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

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

(6) Without prejudice to the generality of rule 90—

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

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

Transaction fee

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

(a) paragraphs *(b), (c), (d), (dd), (g)* and *(j)* of section 103(1) of the Act;

(b) section 106 of the Act;

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

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

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

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

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

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

(a) under paragraphs *(b)*, *(c)* and *(g)* of section 103(1) of the Act;

(b) relating to the sale or purchase by a patient in exercise of his powers as a tenant for life under the Settled Land Act 1925(**b**), or

(c) under section 1(3) of the Variation of Trusts Act 1958.

Fees on documents

87. A fee shall be payable on any copy of any document supplied under rule 82, except that no fee shall be payable by the person having conduct of proceedings in respect of any documents supplied to him under rule 82(1)*(b)*.

Personal Application Branch fee

88. A fee shall be payable in respect of an application made through the Personal Application Branch of the Court of Protection.

Fee on taxation

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

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

(**a**) 1958 c. 53.
(**b**) 1925 c. 18.

Remission, postponement and exemption

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

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

(3) No fee shall be payable pursuant to rule 85 on any income by way of a war pension or war injuries (civilian) pension in respect of—

(a) service in the armed forces of the Crown to which section 2 of the War Pensions Act 1920(**a**) applies; or

(b) service in the armed forces of the Crown during the period after 2nd September 1939; or

(c) service before the 15th 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 that mentioned in paragraph *(c)* above) made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**c**), or under that Act as amended and applied by the Pensions (Mercantile Marine) Act 1942(**d**); or

(e) war service injury within the meaning of the Personal Injuries (Civilians) Scheme 1976(**e**) as amended in the case of a civil defence volunteer to whom that Scheme applied.

PART XIX

COSTS

Costs generally

91.—(1) All costs incurred in relation to proceedings under these Rules, and not provided for by way of remuneration under rule 48, shall be in the discretion of the court and the court may order them to be paid by the patient or charged on or paid out of his estate or paid by any other party or 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.

(**a**) 1920 c. 23.
(**b**) S.I. 1949/1058.
(**c**) 1939 c. 83.
(**d**) 1942 c. 26.
(**e**) S.I. 1976/585.

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

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

Supreme Court costs rules to apply

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

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

94. 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

95. Any costs incurred by the Official Solicitor in relation to proceedings under these Rules or in carrying out any directions given by the court, and not provided for by way of remuneration under rule 48, 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.

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

PART XX

REVOCATION

Revocation of previous Rules

97. The Rules specified in Schedule 2 are hereby revoked.

Dated 4th March 1982. *Hailsham of St. Marylebone,* C.

We concur,

Dated 8th March 1982. *P. L. Brooke,*
J. A. Cope,
Two of the Lord Commissioners of
Her Majesty's Treasury.

SCHEDULE 1

FORMS

Form A

Rule 8

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*]

Form B

Rule 5

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, WC1E 7BP 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]*
or [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 direction 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, WC1E 7BP 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 whether steps should be taken in your interests to protect and manage your property and affairs if it appears that you are unable to do so yourself [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, WC1E 7BP.

3. No order (other than an interim order) will be entered until the date mentioned above or until seven clear days have elapsed from the day when you receive this communication, whichever is the later.

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*]

Form E Rule 41

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

Dated the day of , 19 . [*Signed*]

Form F Rule 53

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 Court No.] at the Royal Courts of Justice, Strand, London, WC2A 2LL [*or* the Master in Chambers at the Court of Protection, 25, Store Street, London WC1E 7BP] 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

Form G Rule 59(2)

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 that 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 62(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 to 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 the 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 .

To the Master of the
Court of Protection.

Rule 97

SCHEDULE 2

RULES REVOKED

Title	*Reference*
The Court of Protection Rules 1960	S.I. 1960/1146
The Court of Protection (Amendment) Rules 1962	S.I. 1962/553
The Court of Protection (Amendment) Rules 1970	S.I. 1970/1783
The Court of Protection (Amendment) Rules 1973	S.I. 1973/791
The Court of Protection (Amendment) Rules 1975	S.I. 1975/1253
The Court of Protection (Amendment) Rules 1980	S.I. 1980/1164

APPENDIX

Rule 83

Column 1	*Column* 2	*Column* 3
Item	Fee £	Document
Commencement fee (rule 84) 1. On an originating application or process, except where it appears that the patient's clear annual income is less than £1,000 per year.	50.00	The originating application or process, or fee sheet.
Annual administration fee (rule 85) 2. On a certificate issued by the court.	In accordance with the following Table:	The certificate.

Clear annual income			Fee
Income Band	Exceeding	Not Exceeding	
(i)	£0	£1,000	None
(ii)	£1,000	£2,000	£75
(iii)	£2,000	£3,000	£150
(iv)	£3,000	£5,000	£225
(v)	£5,000	£7,000	£375
(vi)	£7,000	£10,000	£600
(vii)	£10,000	£20,000	£850
	Over £20,000		£850 plus 5% of income exceeding £20,000

Where income exceeds the lower limit of a band by less than the difference between the fees for that band and the next lower band, the fee charged shall be the fee for the lower band plus the amount by which the income exceeds the upper limit of that band.

For example, on a clear annual income of £2,050 (which exceeds the lower limit (£2,000) on Band (iii) by less than the difference (£75) between the fee (£150) on Band (iii) and (£75) on Band (ii)), the fee payable is—

£75 (the fee on Band (ii))
+£50 (the amount by which the income exceeds £2,000)

£125

Column 1	*Column* 2	*Column* 3
Item	Fee £	Document
Transaction fee (rule 86) 3. On any order (or, as the case may be, on any approval given by the court under an order) made by the court in the exercise of powers conferred by— (i) section 103(1)— *(b)* (sale, exchange etc, of property) *(c)* (acquisition of property) *(d)* (settlement or gift of property) *(dd)* (execution of will) *(g)* (carrying out of contract) or *(j)* (exercise of powers) of the Act; (ii) section 106 of the Act (vesting of stock in curator appointed outside England and Wales); (iii) section 36(9) of the Trustee Act 1925 (appointment of new trustee); (iv) section 54 of the Trustee Act 1925 (concurrent jurisdiction with High Court over trusts); (v) section 1(3) of the Variation of Trusts Act 1958 (variation of trusts for benefit of patient); provided that no fee under this item shall be taken if the property is worth less than £50·00 and no such fee shall exceed £500·00.	50·00 (or, in a "special case", ¼%, if greater, of the pecuniary consideration as defined in rule 86).	The order or certificate.
Documents (rule 87) 4. For a copy of a chargeable document supplied.	0·25	The fee sheet.
Personal Application Branch fee (rule 88) 5. On issuing an originating application through the Personal Application Branch of the Court of Protection, in addition to fee number 1, for every £100 or fraction of £100 of the clear annual income at the patient's disposal at the date of the application exceeding £1,000.	4·00	The originating application.
Taxation (rule 89) 6. On the taxation of a bill of costs, for every £1 or fraction of £1 allowed.	0·05	The bill.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

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

(a) rule 6 enlarges the classes of case which may be dealt with by the simplified procedure, in future to be known as short procedure (rule 6); rule 6 also now includes provision (formerly in rule 48) concerning the court's power to make an order without appointing a receiver for a patient, and the provisions enabling the court to direct such a person to render accounts (formerly in rules 49 and 75) are restated (rule 71).

(b) the affidavit of kindred and fortune is now renamed the affidavit of family and property (rule 38);

(c) rule 86(4) and (5) exempt from the transaction fee sales and purchases of personal chattels and some securities, and make a sale or purchase of settled land a "special case" for the purpose of that fee;

(d) the exemption from the commencement and annual administration fee for small estates is also increased to £1,000 of clear annual income (appendix, paras. 2 and 5);

(e) some unnecessary provisions are not reproduced.

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