1960 No. 1263 (L. 13)

The Rules of the Supreme Court (No. 3), 1960

Made - - - -	*22nd July*, 1960
Laid before Parliament	*29th July*, 1960
Coming into Operation	*1st November*, 1960

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under subsection (4) of section ninety-nine of the Supreme Court of Judicature (Consolidation) Act, 1925(a), to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby exercise those powers as follows :—

1.—(1) In the Rules of the Supreme Court, 1883(b), the Orders specified in the first column of Part I of the First Schedule hereto, being Orders certain provisions of which regulate the procedure and practice to be followed where a person who is an infant or of unsound mind is a party to, or otherwise affected by, proceedings in the Supreme Court, are hereby revoked to the extent specified in the second column of that Part.

(2) The Rules and Orders specified in the first column of Part II of the said First Schedule, being Rules and Orders certain provisions of which regulate the procedure and practice to be followed where a person who is an infant is a party to, or otherwise affected by, certain proceedings in the Probate, Divorce and Admiralty Division, are hereby revoked to the extent specified in the second column of that Part.

(3) Rule 14B of Order 55 of the Rules of the Supreme Court, 1883 (which relates to applications for vesting orders under the Lunacy Act, 1890(c), and the Lunacy Act, 1911(d), and is now spent), is hereby revoked.

2. The Order set out in the Second Schedule hereto shall have effect in place of the Orders and Rules revoked by sub-paragraphs (1) and (2) of the foregoing paragraph and shall be inserted in the Rules of the Supreme Court, 1883, after Order 16A, as Order 16B.

3. The Rules of the Supreme Court, 1883, and the Supreme Court Costs Rules, 1959(e), shall have effect subject to the amendments set out in the Third Schedule hereto, being amendments consequential on the making of Order 16B or amendments consequential on the passing of the Mental Health Act, 1959(f).

4. The Interpretation Act, 1889(g), applies in relation to this instrument and in relation to the revocations effected by it as if this instrument, the rules and orders revoked by it and any rules and orders revoked by the rules and orders so revoked were Acts of Parliament, and as if each revocation were a repeal.

(a) 15 & 16 Geo. 5. c. 49. (b) Rev. 1903, XII, Supreme Ct. E., p. 54.
(c) 53 & 54 Vict. c. 5. (d) 1 & 2 Geo. 5. c. 40. (e) S.I. 1959/1958 (1959 II, p. 2535) (Second Schedule). (f) 7 & 8 Eliz. 2. c. 72. (g) 52 & 53 Vict. c. 63.

5.—(1) This instrument may be cited as the Rules of the Supreme Court (No. 3), 1960.

(2) This instrument shall come into operation on the first day of November, 1960.

Dated the 22nd day of July, 1960.

Kilmuir, C.
Parker of Waddington, C.J.
Evershed, M.R.
Merriman, P.
B. Ormerod, L.J.
Harold Danckwerts, J.
Reginald W. Goff.
John F. Donaldson.
W. Charles Norton.
W. O. Carter.

FIRST SCHEDULE

RULES REVOKED

PART I

Rules of the Supreme Court

Order	*Extent of revocation*
Order 9 ...	Rules 4 and 5.
Order 13 ...	Rule 1.
Order 16 ...	In rule 11 the words " or as the next friend of a person under any disability "; rules 16, 17, 17A, 18 and 19; in rule 20 the words " as next friend of any infant, or other party, or "; rules 21 and 44.
Order 17 ...	In rule 6, the words from " or under no " to " or matter "; rule 7.
Order 19 ...	In rule 13 the words from " except as " to the end.
Order 22 ...	Rules 14 and 16.
Order 31 ...	Rule 29.
Order 34 ...	Rule 4; in rule 5, the words from " and also " to the end.
Order 55 ...	Rule 27.

PART II

Rules of the Probate, Divorce and Admiralty Division

Rules	*Extent of revocation*
Rules and Orders for Her Majesty's Court of Probate made under the Court of Probate Acts, 1857 and 1858, in respect of Contentious Business—	
Rules and Orders taking effect on the 1st September, 1862(a)	Rule 74.

SECOND SCHEDULE

ORDER 16B

DISABILITY

Interpretation

1.—(1) In this Order—

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

" patient " means a person who, by reason of mental disorder within the meaning of the Act, is incapable of managing and administering his property and affairs;

" person under disability " means a person who is an infant or a patient;

(a) Rev. XXII, p. 118.

" statutory guardian ", in relation to an infant, means a surviving parent of the infant who is guardian of the infant by virtue of section 4 of the Guardianship of Infants Act, 1925(a);

" testamentary guardian ", in relation to an infant, means a person appointed by deed or will to be guardian of the infant under the power conferred by section 5 of the said Act of 1925.

(2) References in this Order to any thing done under a rule of this Order include references to the same thing done before the commencement of this Order under any corresponding rule of court ceasing to have effect at the commencement of this Order.

Persons under disability must sue, etc. by next friend or guardian ad litem

2.—(1) A person under disability may not bring or make a claim (other than a counterclaim) in any proceedings except by his next friend and may not defend, make a counterclaim or intervene in any proceedings, or appear in any proceedings under a judgment or order notice of which has been served on him, except by his guardian ad litem.

(2) Subject to the provisions of these rules, any thing which in the ordinary conduct of any proceedings is required or authorised by a provision of these rules to be done by a party to the proceedings may, if the party is a person under disability, be done by his next friend or guardian ad litem.

(3) A person when acting in the capacity of next friend or guardian ad litem of a person under disability must act by a solicitor.

Appointment of next friend or guardian ad litem

3.—(1) This rule shall not apply in relation to a probate action.

(2) Except as provided by paragraph (4) of this rule or by rule 6 of this Order, an order appointing a person next friend or guardian ad litem of a person under disability is not necessary.

(3) Where a person is authorised under Part VIII of the Act to conduct legal proceedings in the name of a patient or on his behalf, that person shall be entitled to be next friend or guardian ad litem, as the case may be, of the patient in any proceedings to which his authority extends unless, in a case to which paragraph (4) of this rule or rule 6 of this Order applies, some other person is appointed by the Court or a Judge under that paragraph or rule to be next friend or guardian ad litem, as the case may be, of the patient in those proceedings.

(4) Where a person has been or is next friend or guardian ad litem of a person under disability in any proceedings, no other person shall be entitled to act as such friend or guardian, as the case may be, of the person under disability in those proceedings unless the Court or a Judge makes an order appointing him such friend or guardian in substitution for the person previously acting in that capacity.

(5) Except where the next friend or guardian ad litem, as the case may be, of a person under disability has been appointed by the Court or a Judge—

(*a*) the name of any person shall not be used in a cause or matter as next friend of a person under disability,

(*b*) an appearance shall not be entered in a cause or matter for a person under disability, and

(a) 15 & 16 Geo. 5. c. 45.

(*c*) a person under disability shall not be entitled to appear by his guardian ad litem on the hearing of a petition, summons or motion which, or notice of which, has been served on him,

unless and until the documents listed in paragraph (7) of this rule have been filed in the appropriate office.

(6) Where a writ or other process by which the cause or matter is to be begun is to issue out of a district registry or the appearance is to be entered in such a registry or the cause or matter in question is proceeding in such a registry, the appropriate office for the purpose of the last foregoing paragraph is that registry and in any other case it is the central office.

(7) The documents referred to in paragraph (5) of this rule are the following—

(*a*) a written consent to be next friend or guardian ad litem, as the case may be, of the person under disability in the cause or matter in question given by the person proposing to be such friend or guardian;

(*b*) where the person proposing to be such friend or guardian of the person under disability, being a patient, is authorised under Part VIII of the Act to conduct the proceedings in the cause or matter in question in the name of the patient or on his behalf, an office copy, sealed with the official seal of the Court of Protection, of the order or other authorisation made or given under the said Part VIII by virtue of which he is so authorised; and

(*c*) except where the person proposing to be such friend or guardian of the person under disability, being a patient, is authorised as mentioned in sub-paragraph (*b*) of this paragraph, a certificate made by the solicitor of the person under disability certifying—

(i) that he knows or believes, as the case may be, that the person to whom the certificate relates is an infant or a patient, giving (in the case of a patient) the grounds of his knowledge or belief; and

(ii) where the person under disability is a patient, that there is no person authorised as aforesaid; and

(iii) except where the person named in the certificate as next friend or guardian ad litem, as the case may be, is the Official Solicitor, that the person so named has no interest in the cause or matter in question adverse to that of the person under disability and that he is a proper person to be such friend or guardian.

Probate action: appointment of next friend or guardian ad litem

4.—(1) This rule applies in relation to a probate action to which a person under disability is a party or in which he intervenes.

(2) Where the person under disability is a patient and a person is authorised under Part VIII of the Act to conduct legal proceedings in the name of the patient or on his behalf, the person so authorised shall be entitled to be next friend of the patient in any probate action to which his authority extends.

(3) Where the person under disability is an infant who is not a patient and he has a statutory guardian or a testamentary guardian who is qualified to be his next friend by virtue of paragraph (8) of this rule, that guardian shall be entitled to be the next friend of the infant in a probate action.

(4) Where the person under disability is an infant who has attained the age of sixteen years and is not a patient, and there is no person qualified by virtue of the last foregoing paragraph to be his next friend, the infant may appoint as his next friend a person who is qualified to be such friend by virtue of paragraph (8) of this rule and who is one of his next of kin or, where the infant is a married woman, one of her next of kin or her husband.

(5) Where an infant appoints a person under the last foregoing paragraph to be his next friend in a probate action, the person so appointed may be next friend of any other infant in that action provided that the other infant is under sixteen years of age, is not a patient and his interest in the action is the same as that of the infant making the appointment.

(6) Where there is no person qualified by virtue of paragraph (2) or paragraph (3) of this rule, as the case may be, to be next friend of a person under disability in a probate action and that person is either not entitled under paragraph (4) thereof to appoint a person to be his next friend or, being so entitled, makes no appointment thereunder, the next friend of the person under disability in the action shall be such one of his next of kin or other person as the Court or a Judge may appoint.

(7) An application under the last foregoing paragraph for the appointment of a next friend of a person under disability may be made ex parte and must be supported by an affidavit showing—

(*a*) that there is no person entitled to be such friend by virtue of paragraph (2) or (3) of this rule, or appointed as such under paragraph (4) thereof, as the circumstances require, and

(*b*) if such be the case, that the person proposed as next friend is a next of kin of the person under disability, and

(*c*) that the person proposed as next friend is willing and a proper person to act as such and has no interest in the action adverse to that of the person under disability.

(8) A person is qualified to be next friend of a person under disability if he is competent and willing to act as such and has no interest in the action in question adverse to that of the person under disability.

(9) Paragraphs (2) to (8) of this rule shall apply for the purpose of determining who shall be guardian ad litem of a person under disability in a probate action as they apply for the purpose of determining who shall be next friend of such a person and references in those paragraphs to a next friend shall be construed accordingly :

Provided that a person authorised as mentioned in paragraph (2) of this rule shall not be entitled by virtue of that paragraph to be guardian ad litem of a patient in a probate action if in a case to which rule 6 of this Order applies some other person is appointed by the Court or a Judge under that rule to be guardian ad litem of the patient in that action.

Probate action : further provisions

5.—(1) Where a party to a probate action is a person under disability, then, unless the next friend or guardian ad litem, as the case may be, of that person has been appointed such friend or guardian by the Court or a Judge, the writ of summons beginning the action (where that person is a plaintiff) shall not be issued, and an appearance shall not be entered for him in the action (where he is a defendant or intervener), without the consent of a registrar of the principal probate registry.

(2) On the making of an application for a consent under the foregoing paragraph in relation to an infant who is not a patient, there must be produced to the registrar—

(*a*) where the next friend or guardian ad litem of the infant is his statutory guardian or testamentary guardian, an affidavit deposing to the guardianship and age of the infant and showing that the guardian has no interest in the action adverse to that of the infant;

(*b*) where the next friend or guardian ad litem of the infant is a person appointed under paragraph (4) of the last foregoing rule or under that paragraph as applied by paragraph (9)—

(i) the appointment, and

(ii) a written consent to act as next friend or guardian ad litem, as the case may be, given by the person so appointed, and

(iii) an affidavit deposing to the age of the infant and containing the evidence which would be required by paragraph (7) of that rule, or by that paragraph as so applied, to be contained in an affidavit in support of an application for the appointment of that person as next friend or guardian ad litem, as the case may be, by the Court or a Judge.

(3) On the making of an application for a consent under paragraph (1) of this rule in relation to a patient, there must be produced to the registrar an office copy, sealed with the official seal of the Court of Protection, of the order or other authorisation made or given under Part VIII of the Act by virtue of which the next friend or guardian ad litem of the patient, as the case may be, is authorised to conduct legal proceedings in the probate action in question in the name of the patient or on his behalf.

Appointment of guardian ad litem where person under disability does not appear

6.—(1) Where—

(*a*) in an action against a person under disability begun by writ of summons, or by originating summons to which an appearance is required to be entered, no appearance is entered in the action for that person, or

(*b*) the defendant to an action serves a defence and counterclaim on a person under disability who is not already a party to the action and no appearance is entered for that person,

an application for the appointment by the Court or a Judge of a guardian ad litem of that person must be made by the plaintiff or defendant, as the case may be, after the time limited for appearing and before proceeding further with the action or counterclaim.

(2) Where a party to an action has served on a person under disability who is not already a party to the action a third party notice within the meaning of Order 16A and no appearance is entered for that person to the notice, an application for the appointment by the Court or a Judge of a guardian ad litem of that person must be made by that party after the time limited for appearing and before proceeding further with the third party proceedings.

(3) Where in any proceedings against a person under disability begun by petition or motion, or by originating summons to which no appearance need be entered, that person does not appear by a guardian ad litem at the hearing of the petition, motion or summons, as the case may be, the Court

or Judge hearing it may appoint a guardian ad litem of that person in the proceedings or direct that an application be made by the petitioner or applicant, as the case may be, for the appointment of such a guardian.

(4) At any stage in the proceedings in chambers in the Chancery Division under any judgment or order, notice of which has been served on a person under disability, the Judge may, if no appearance is entered for that person, appoint a guardian ad litem of that person in the proceedings or direct that an application be made for the appointment of such a guardian.

(5) An application under paragraph (1) or (2) of this rule must be supported by evidence proving—

(*a*) that the person to whom the application relates is a person under disability,

(*b*) that the person proposed as guardian ad litem is willing and a proper person to act as such and has no interest in the proceedings adverse to that of the person under disability,

(*c*) that the writ, originating summons, defence and counterclaim or third party notice, as the case may be, was duly served on the person under disability, and

(*d*) subject to the next following paragraph, that notice of the application was, after the expiration of the time limited for appearing and at least seven days before the day named in the notice for hearing of the application, so served on him.

(6) If the Court or a Judge so directs, notice of an application under paragraph (1) or (2) of this rule need not be served on a person under disability.

(7) An application for the appointment of a guardian ad litem made in compliance with a direction of the Court or a Judge given under paragraph (3) or (4) of this rule must be supported by evidence proving the matters referred to in paragraph (5) (*b*) thereof.

Application to discharge or vary certain orders

7. An application to the Court or a Judge on behalf of a person under disability served with an order made under Order 17, rule 4 for the discharge or variation of the order must be made—

(*a*) if a guardian ad litem is acting for that person in the cause or matter in which the order is made, within twelve days after the service of the order on that person;

(*b*) if there is no guardian ad litem acting for that person in that cause or matter, within twelve days after the appointment of such a guardian to act for him.

Admission not to be implied from pleading of person under disability

8. Notwithstanding anything in Order 19, rule 13, a person under disability shall not be taken to admit the truth of any allegation of fact made in the pleading of the opposite party by reason only that he has not in his pleading either stated that he does not admit it or denied it expressly or by implication.

Discovery

9. Order 31 shall apply to a person under disability and to his next friend or guardian ad litem.

Leave required to enter special case affecting person under disability

10.—(1) A special case stated in a cause or matter to which a person under disability is a party shall not be entered for argument without the leave of the Court or a Judge.

(2) An application for an order under this rule must be made by summons supported by sufficient evidence that the statements of fact made in the special case, so far as they affect the interest of the person under disability, are true.

(3) A special case to which this rule applies shall not be entered for argument by the proper officer unless at the time when the memorandum of entry is delivered to him in accordance with Order 34, rule 5 there is produced to him a copy of the order required by this rule.

Compromise, etc., by person under disability

11. Where in any proceedings (other than a matrimonial cause an application under section 23 of the Matrimonial Causes Act 1950(a), or a claim under section 30 of that Act) money is claimed by or on behalf of a person under disability, no settlement, compromise or payment and no acceptance of money paid into court, whenever entered into or made, shall so far as it relates to that person's claim be valid without the approval of the Court or a Judge.

Control of money recovered by persons under disability and certain widows

12.—(1) Where in any proceedings—

(*a*) money is recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of—

(i) a person under disability, or

(ii) a widow in satisfaction of a claim made by her or on her behalf under the Fatal Accidents Acts, 1846 to 1959, being the widow of the person whose death gave rise to the claim, or

(*b*) money paid into court is accepted by or on behalf of a plaintiff who is a person under disability or by or on behalf of such a widow, and in satisfaction of such a claim, as is mentioned in the foregoing sub-paragraph,

the money shall be dealt with in accordance with directions given by the Court or a Judge, whether under section 174 of the County Courts Act, 1959(b), or this rule, or under both that section and this rule, and not otherwise.

(2) Directions given under this rule may provide that the money shall, as to the whole or any part thereof, be paid into the High Court and invested or otherwise dealt with there.

(3) Without prejudice to the foregoing provisions of this rule, directions given under this rule may include any general or special directions that the Court or Judge thinks fit to give and, in particular, directions as to how the money is to be applied or dealt with and as to any payment to be made, either directly or out of the amount paid into court and whether before or after the money is transferred to or paid into a county court, to the plaintiff, or to the widow on whose behalf the plaintiff sued, or to the next friend in respect of moneys paid or expenses incurred for or on

(a) 14 Geo. 6. c. 25. (b) 7 & 8 Eliz. 2. c. 22.

behalf or for the benefit of the person under disability or for his maintenance or otherwise for his benefit or to the plaintiff's solicitor in respect of costs.

(4) Where in pursuance of directions given under this rule money is paid into the High Court to be invested or otherwise dealt with there, the money (including any interest thereon) shall not be paid out, nor shall any securities in which the money is invested, or the dividends thereon, be sold, transferred or paid out of court, except in accordance with an order of the Court or a Judge.

Provisions supplementary to r. 12

13.—(1) Where under section 174 of the County Courts Act, 1959, money to which a person under disability or a widow is entitled is ordered to be transferred from the High Court to a county court or to be paid into a county court, the following provisions of this rule shall apply.

(2) Where the money is ordered to be transferred to a county court, then—

(*a*) in the case of any cause or matter which is proceeding in the Royal Courts of Justice or in the district registry of Manchester and of a cause or matter in the Chancery Division which is proceeding in the district registry of Liverpool, the proper officer of the High Court shall send two sealed copies of the judgment or order to the Accountant General and shall notify the registrar of the county court of the name and address of the plaintiff's next friend or of the widow, as the case may be, and of the plaintiff's solicitor (if any), and the Accountant General shall proceed in accordance with rule 46 of the Supreme Court Funds Rules 1927(a);

(*b*) in the case of any cause or matter which is proceeding in any other district registry or of a cause or matter in the Queen's Bench Division or the Probate, Divorce and Admiralty Division which is proceeding in the district registry of Liverpool, the proper officer of the High Court shall (if he is not the district registrar) send two sealed copies of the judgment or order and a notification of the name and address of the plaintiff's next friend or of the widow, as the case may be, and of the plaintiff's solicitor (if any) to the district registrar, and the district registrar shall, on receiving the money to be transferred, send a sealed copy of the order to the registrar of the county court and, on receiving from him an application duly made to transmit the money, send a cheque for the amount to the county court.

(3) Where the money is ordered to be paid into a county court, the proper officer of the High Court shall send a sealed copy of the judgment or order and a notification of the name and address of the plaintiff's next friend or of the widow, as the case may be, and of the plaintiff's solicitor (if any) to the registrar of the county court.

(4) Where the money is ordered to be transferred to, or paid into, a county court, the plaintiff's solicitor or, if the plaintiff has no solicitor, the next friend or widow, as the case may be, shall send to the registrar of the county court a copy of any document in the proceedings requested by the registrar.

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

Application of rr. 12 *and* 13 *to counterclaims, etc.*

14. Rules 12 and 13 of this Order shall apply in relation to—

(*a*) a counterclaim by or on behalf of a person under disability and a counterclaim consisting of or including a claim under the Fatal Accidents Acts, 1846 to 1959, by or on behalf of the widow of the person whose death gave rise to the claim, and

(*b*) a claim made by or on behalf of a person under disability in an action by any other person for relief under section 504 of the Merchant Shipping Act, 1894(**a**), as amended by any subsequent enactment, and a claim consisting of or including a claim under the Fatal Accidents Acts, 1846 to 1959, made by or on behalf of that widow in such an action,

as if for references to a plaintiff and a next friend there were substituted references to a defendant and to a guardian ad litem respectively.

Money recovered under Fatal Accidents Acts: apportionment by Court

15. Where, in an action in which a claim under the Fatal Accidents Acts, 1846 to 1959, is made by or on behalf of more than one person, a sum in respect of damages is adjudged or ordered or agreed to be paid in satisfaction of the claim, or a sum of money paid into court is accepted in satisfaction of the claim, then, unless the sum has been apportioned between the persons entitled thereto by a jury, it shall be apportioned between those persons by the Court or a Judge.

Service of certain documents on person under disability

16.—(1) Where in any proceedings a document is required to be served personally on any person and that person is a person under disability this rule shall apply.

(2) Subject to the following provisions of this rule and to Order 31, rule 22, the document must 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.

(3) Notwithstanding anything in the last foregoing paragraph, the Court or a Judge 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.

(4) A judgment or order requiring any person to do, or refrain from doing, any act, and a notice of motion or summons for the attachment or committal of any person, must, if that person is a person under disability be served personally on him unless the Court or a Judge otherwise orders.

This paragraph shall not apply to an order for interrogatories or for discovery or inspection of documents.

(a) 57 & 58 Vict. c. 60.

THIRD SCHEDULE

CONSEQUENTIAL AMENDMENTS

1. In Order 11 of the Rules of the Supreme Court, 1883, in rule 8A, in paragraph (*b*), for the words "lunatic or person of unsound mind" there shall be substituted the words "to any person who, by reason of mental disorder within the meaning of the Mental Health Act, 1959, is incapable of managing and administering his property and affairs".

2. In Order 13 of the said Rules, in rule 12, after the words "this Order" there shall be inserted the words "or of Order 16B".

3. In Order 17 of the said Rules, in rule 5, for the words "the next two following rules" there shall be substituted the words "rule 6 of this Order and to rule 7 of Order 16B".

4. In Order 54 of the said Rules, in rule 12, in paragraph (*g*), for the words "section 330 of the Lunacy Act, 1890, as subsequently amended" there shall be substituted the words "section 141 of the Mental Health Act, 1959".

5. In Order 54L of the said Rules, in rule 1, for the words from "section 330" to "1930" there shall be substituted the words "section 141 of the Mental Health Act, 1959".

6.—(1) In the Supreme Court Costs Rules, 1959, in rule 29—

(*a*) in paragraph (4), for the words "of unsound mind" there shall be substituted the words "incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of managing and administering his property and affairs", and for the words "the Judge or Master in Lunacy" there shall be substituted the words "the authority having jurisdiction under Part VIII of that Act"; and

(*b*) after paragraph (4) there shall be added the following paragraph:—

"(5) Subsections (2) and (3) of section 118 of the Mental Health Act, 1959, shall have effect in relation to the last foregoing paragraph as if that paragraph were an enactment and the reference in that paragraph to the authority having jurisdiction under Part VIII of that Act shall be construed accordingly."

(2) In rule 30 of the said Rules, for the words "of unsound mind"—

(*a*) where they occur in sub-paragraph (*a*) of paragraph (1), in paragraph (3) and in sub-paragraph (*a*) of paragraph (7), there shall be substituted the words "incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of managing and administering his property and affairs"; and

(*b*) where they occur in sub-paragraph (*b*) of paragraph (7), there shall be substituted the words "incapable as aforesaid".

(3) In the said rule 30, in paragraph (6), for the words "Order 22, rule 14" there shall be substituted the words "Order 16B, rule 12".

EXPLANATORY NOTE

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

The main purpose of these Rules is to make the amendments in the Rules of the Supreme Court which are required as a result of the Mental Health Act, 1959. The opportunity has been taken to bring together in a new Order 16B the special provisions relating to persons under disability which are at present contained in a number of different Orders. The only changes of substance are the following:—

(1) an order appointing a guardian ad litem of a patient will not usually be necessary except in probate actions (rule 3 (2));

(2) an order for interrogatories and for discovery of documents may be made against a patient and his next friend or guardian ad litem (rule 9);

(3) a representative of a plaintiff under disability in a probate action will in future be known as his next friend.