



## MENTAL HEALTH RULES 1998<sup>1</sup>

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Statutory Document No.1998/0389



*High Court Act 1991*  
*Mental Health Act 1998*

## MENTAL HEALTH RULES 1998

*Approved by Tynwald:* 14 July 1998  
*Coming into Operation:* 1 August 1998

In exercise of the powers conferred on the Deemsters by section 25 of the High Court Act 1991<sup>1</sup> and Section 108 of the Mental Health Act 1998<sup>2</sup>, including the said section 108 as applied by section 10 of the Powers of Attorney Act 1987<sup>3</sup>, and of all other enabling powers, the following Rules are hereby made: —

### PART 1

#### PRELIMINARY

#### 1 Citation and commencement

These Rules may be cited as the Mental Health Rules 1998 and, subject to section 25(4) of the High Court Act 1991, shall come into operation on the 1<sup>st</sup> August 1998.

#### 2 Interpretation

(1) In these Rules —

“**the Act**” means the Mental Health Act 1998;

“**the court**” means the High Court;

“**direction**” means a direction or authority given under the seal of the judge;

“**filed**” means filed in the General Registry;

“**function**” means any power, discretion or function conferred by the Act;

“**order**” includes a certificate, direction or authority of the judge under seal;

<sup>1</sup> 1991 c.12

<sup>2</sup> 1998 c.3

<sup>3</sup> 1987 c.5

“**patient**” includes a person who is alleged to be or who the judge 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 103(1);

“**seal**” means an official seal of the court and “sealed” shall be construed accordingly;

“**stock**” includes shares and also any fund, annuity or security transferable in the books kept by anybody corporate or unincorporated company or society, or by an instrument of transfer either alone or accompanied by other formalities and includes any dividends paid in respect of them.

(3) In these Rules —

- (a) a reference to a section by number is to that section of the Act;
- (b) a reference to a form by letter is to the form so designated in the Schedule or a form to the same effect with such variations as the circumstances may require or the judge may approve.

### **3 Computation of time**

- (1) Where a period of time fixed by these Rules or by any order or direction of the judge for doing any act expires on a day on which the General Registry is closed and for that reason the act cannot be done on that day, the act shall be in time if done on the next day on which the General Registry is open.
- (2) Where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.
- (3) Where any period of time fixed as mentioned in paragraph (1) is less than 6 days, any day on which the General Registry is closed and shall not be included in the computation of that period.

### **4 Power to vary time**

The judge may extend or abridge the time limited by these Rules or any order or direction of the judge for doing any act or taking any proceedings upon such terms as the judge thinks fit and even though, in the case of an extension, the time so limited has expired.

### **5 Exercise of functions by Attorney General**

The following functions under section 100(1)(a), (b), (c) or (h) shall be exercised by the judge and not by the Attorney General —

- (a) the making of orders relating to loans or other financial transactions where there is an element of gift, except where it is payable out of the surplus income or capital, is insignificant in the

context of the patient's assets and is for a sum not more than £15,000;

- (b) the making of directions relating to any assets of a patient that are the subject of specific bequests or devises in his Will;
- (c) the making of orders relating to assets situated outside the Island and for the transfer of assets out of the Island;
- (d) the making of orders on an application by a person under disability (within the meaning of rule 15).

## **6 Exercise of jurisdiction**

Except where these Rules otherwise provide, any function may be exercised —

- (a) without fixing an appointment for a hearing;
- (b) by the judge of his own motion or at the instance or on the application of any person interested;
- (c) whether or not any proceedings have been commenced in the court with respect to the patient.

## **7 Transitional provisions, amendment and revocation**

- (1) Where any matter is pending before the judge before the coming into operation of these Rules, it shall be dealt with in accordance with the provisions of these Rules.
- (2) In rule 2 of the Mental Health (Powers of Attorney) Rules 1987<sup>4</sup>, for “Mental Health (Chancery) Rules of the High Court 1975” there is substituted “Mental Health Rules 1998”.
- (3) Part III of the Mental Health (Chancery) Rules of the High Court 1975<sup>5</sup> is revoked.

# **PART 2**

## **APPLICATIONS UNDER PART 7 OF THE ACT**

## **8 Forms of application**

- (1) Subject to the following provisions of this rule —
  - (a) a first application to the judge for the appointment of a receiver shall be in Form A; and
  - (b) an application to the judge respecting the exercise of any of his other jurisdiction in relation to a patient may be made by letter

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<sup>4</sup> GC 354/87

<sup>5</sup> Made 10<sup>th</sup> December 1975

unless the judge directs that a formal application shall be made, in which case it shall be made in Form B.

- (2) Where, on an application to the Attorney General relating to the exercise of any of his functions in relation to a patient, he directs that a formal application be made to the judge, that application shall be made in Form B.
- (3) An application in Form A shall be treated as an application for the appointment as receiver of the person named in the application or some other suitable person.
- (4) On grounds of urgency the judge may dispense with the need for an application in writing.

## **9 Order etc. without appointment of receiver**

- (1) Where an application for the appointment of a receiver for the patient has been made, the judge shall consider whether the appointment of a receiver is necessary and whether the matter may instead be conveniently dealt with by the making of one or more orders, directions or authorities under section 100.
- (2) If the judge is satisfied that the matter may be dealt with as mentioned in paragraph (1), he shall make such orders or directions, or give such authorities, with respect to the property and affairs of the patient as appear to him to be appropriate and as he might have made under section 100 on an application for the purpose.
- (3) Without prejudice to paragraph (2), if the judge is satisfied that the matter, instead of being dealt with by him, may instead be conveniently dealt with by the Attorney General in exercise of the powers conferred on him by section 100(5), he shall stay the proceedings and give such directions as appear to him to be appropriate for the matter to be referred to the Attorney General.

## **10 Date for hearing**

- (1) Upon receiving an application the judge shall fix a date for the hearing of the application unless he considers that it can properly be dealt with without a hearing, and upon the same ground the judge may cancel any hearing fixed under this paragraph.
- (2) Where a hearing is fixed under paragraph (1) the Chief Registrar shall endorse the date of it on the application form, shall seal and return the form and retain a copy.



**11 Consolidation of proceedings**

The judge may allow one application to be made in respect of 2 or more patients or may consolidate applications relating to 2 or more patients, if in his opinion the proceedings relating to them can be more conveniently dealt with together.

**12 Application by the Attorney General**

Where it appears to the Attorney General, either when considering an application made to him for the exercise of any power conferred on him by section 100(5) or in any other circumstances, that an application should be made to the judge for the exercise of any of his functions, he may make an application of his own motion.

**13 Representation of patient by receiver**

- (1) Except as mentioned in rule 18(c), (d) and (e), an application on behalf of a patient for whom a receiver has been appointed shall, unless the judge otherwise directs, be made by the receiver in his own name.
- (2) Subject to any directions given by the judge, a patient for whom a receiver has been appointed may be represented by the receiver at any hearing relating to the patient or of which the patient has been given notice.

**14 Representation of patient by Attorney General**

Where in any proceedings (other than proceedings on an application under rule 12) the judge considers that the interests of a patient are not adequately represented, the judge may, with the consent of the Attorney General, direct that the Attorney General shall act for the patient either generally in the proceedings or for any particular purpose connected with the proceedings, except that it shall not be necessary to appoint the Attorney General to be receiver or guardian ad litem for the patient.

**15 Persons under disability**

- (1) In this rule “person under disability” means —
  - (a) a minor or
  - (b) 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 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 judge but, except for this, an order of the judge 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 advocate acting for the person under disability certifying that —
    - (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 Attorney General, that the person so named has no interest in the proceedings adverse to that of the person under disability.

#### **16 Application under section 35(9) of the Trustee Act 1961**

No person other than a co-trustee, or other person with power to appoint a new trustee, may make an application to the judge under section 35(9) of the Trustee Act 1961<sup>6</sup> for leave to appoint a new trustee in place of a patient.

#### **17 Application under section 100(1)(k)**

An application to the judge under section 100(1)(k) for an order for the exercise of any power vested in a patient of appointing trustees or retiring from a trust may be made only by —

- (a) a receiver for the patient;
- (b) a person who has made an application for the appointment of a receiver which has not yet been determined;
- (c) a continuing trustee.

#### **18 Application for settlement or gift of patient's property or for execution of will of patient**

An application under section 100(1)(d) for an order for the settlement or gift of any property of a patient, or an application under section 100(1)(e) for an order of execution for a patient of a will, may be made only 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

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<sup>6</sup> XIX p.215

- (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 in it, or
- (d) any person for whom the patient might be expected to provide if he were not mentally disordered;
- (e) an attorney acting under a registered enduring power of attorney;
- (f) the Attorney General; or
- (g) any other person whom the judge may authorise to make it.

## **PART 3**

### **PROCEDURE – GENERAL**

#### **19 Notice of hearing**

- (1) Except where these Rules provide otherwise or the judge directs otherwise the applicant shall give notice of the hearing of an application in accordance with the following provisions of this rule.
- (2) Where a receiver has been appointed for a patient he shall, unless he is the applicant, be given notice of the hearing of any application relating to the patient.
- (3) Notice of the hearing of the application shall also be given to such other persons appearing to the judge to be interested as the judge may specify.
- (4) Notice of a hearing shall be given –
  - (a) In the case of a first application for the appointment of a receiver, or an application under rule 16, not less than 10 clear days, and
  - (b) In the case of any other application, not less than 2 clear days, before the date fixed for the hearing.
- (5) For the purposes of this rule notice of a hearing is given if a copy of the sealed application form is served on the person concerned or notice is given in such other manner as the judge may direct.

#### **20 Mode of service**

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 judge so directs, by sending it to him by post at his last known address.

#### **21 Service on advocate**

Where an advocate 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.

## **22 Substituted service**

Where it appears to the judge that it is impracticable for any reason to serve a document in accordance with rule 20 or 21, the judge may make an order for substituted service of the document by taking such steps as the judge may direct to bring it to the notice of the person to be served.

## **23 Service on person under disability**

(1) Unless the judge 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 any person with parental responsibility for him;
- (b) in the case of a patient —
  - (i) on his receiver or, if he has no receiver,
  - (ii) on the person acting in pursuance of an order or direction of the judge, or, if there is no such person,
  - (iii) on an attorney acting under a registered enduring power of attorney, or, if there is no such attorney,
  - (iv) 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 paragraph (1), the judge 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 an order required by rule 44 to be served on a patient.

## **24 Notification of application for appointment of receiver, etc**

(1) Subject to paragraph (2), where a first 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, the patient shall be notified in such manner as the judge may direct.

(2) The judge may at any time direct that no such notification shall be given if he is satisfied that —

- (a) the patient is incapable of understanding it, or

- (b) such notification would be injurious to the patient's health, or
  - (c) for any other reason notification ought to be dispensed with.
- (3) Where paragraph (2)(c) applies, the judge shall state the reason for dispensing with notification.
- (4) Where the patient is a minor, notification under paragraph (1) shall be given, whether or not notification to the patient is dispensed with under paragraph (2) and unless the judge otherwise directs, to his parent or guardian or, if he has no parent or guardian, to the person with parental responsibility for him.

## **25 Notification to next of kin etc of intention to make application for appointment of receiver**

- (1) Where an applicant proposes to make an application for the appointment of a receiver or a new receiver, the applicant shall give notice of his intention to —
  - (a) all relatives of the patient who have the same or a nearer degree of relationship to the patient than the applicant or proposed receiver; and
  - (b) such other persons who appear to the judge to be interested as the judge may specify;unless the judge directs that such notification shall be dispensed with.
- (2) For the purposes of this rule, notice of the intention to make an application is given if the person concerned is notified by letter of the identities of the patient, the applicant and the proposed receiver and what the application is for.

## **26 Certificate of service or notification**

- (1) If the judge so directs, a certificate 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.
- (2) Paragraph (1) applies to the giving of notification under rules 24 and 25 as it applies to the service of documents and references in that paragraph to service and the effecting of service shall accordingly be construed as including references to notification and the giving of notification respectively.

## **27 Privacy of applications**

- (1) Every application shall be heard in chambers unless, in the case of an application for hearing by the judge, the judge otherwise directs.
- (2) The Attorney General shall give such directions as he thinks fit concerning the privacy of applications made to him.

**28 Persons attending hearing**

Subject to rule 15, the judge may determine what persons are to be entitled to attend at any stage of the proceedings relating to a patient.

**29 Representation at hearing**

Where 2 or more persons appearing at a hearing are represented by the same advocate, the judge may, if he thinks fit, require any of them to be separately represented.

**30 Powers of judge where undue delay, etc**

- (1) If the judge is dissatisfied with the conduct of any proceedings or the carrying out of any order whether by reason of undue delay or otherwise, the judge may require the person 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 paragraph (1), the judge may direct any person to make any application and to conduct any proceedings and carry out any directions which the judge may specify; and the judge may, if he thinks fit and the Attorney General consents, appoint the Attorney General to act for the patient in the proceedings in the place of any advocate previously acting for him.

**31 Amendment of application**

- (1) The judge may allow or direct an applicant, at any stage of the proceedings, to amend his application 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 to the application, 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 application amended as authorised or directed may be made.

**32 Clerical mistakes and slips**

The judge may at any time correct any clerical mistakes in an order or any error arising in an order from any accidental slip or omission.

**33 Endorsement of amendment**

Where an application or order has been amended under rule 31 or 32, a note shall be placed on it showing the date on which it was amended and the alterations shall be sealed.

**34 Copies of documents in court**

- (1) Any person who has filled an affidavit or other document shall, unless the judge otherwise directs, be entitled, on request, to be supplied with a copy of it.
- (2) The person having the conduct of any proceedings shall, unless the judge otherwise directs, be entitled, on request, to be supplied by the Chief Registrar with a copy of any order, certificate, authority, direction or other document made or given by the judge in the proceedings.
- (3) Any other person may, on request, be supplied with a copy of any such document as is mentioned in paragraph (1) or (2), if the judge is satisfied that he has good reason for requiring it and that it is not reasonably practicable for him to obtain it from the person entitled to bespeak a copy from the Chief Registrar.
- (4) Any copy of a document supplied under paragraph (1) (2) or (3) shall, if so required, be marked as an office copy.

**PART 4****EVIDENCE****35 Affidavit evidence**

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

**36 Unsworn evidence**

- (1) Notwithstanding rule 35, medical evidence by a registered medical practitioner shall, unless the judge otherwise directs, be given by a certificate in writing, although not given on oath and whether or not it would be admissible in a court of law apart from this rule.
- (2) Notwithstanding rule 35 and without prejudice to paragraph (1), the judge may accept and act upon a statement of facts or such other evidence, whether oral or written, as the judge considers sufficient, although not given on oath and whether or not it would be admissible in a court of law apart from this rule.
- (3) The judge may give directions as to the manner in which a certificate, statement of facts or other written evidence under paragraph (1) or (2) is to be given but subject to such directions any such certificate, statement or other evidence shall —
  - (a) be drawn up in numbered paragraphs and dated; and
  - (b) be signed by the person by whom it is made or given.

**37 Summoning of witnesses**

- (1) In any proceedings under these Rules the judge may allow or direct any person to take out a witness summons in Form C requiring the person named in it to attend before the judge and give oral evidence or produce any document.
- (2) An application by a person to be allowed to take out a witness summons shall be made by filing a statement giving —
  - (a) the name and address of the person making the application and of his advocate, 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 same 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 court.

**38 Cross-examination of deponent**

Any person who has made an affidavit or given a certificate or other written evidence for use in proceedings under these Rules may be ordered by the judge to attend for cross-examination.

**39 Filing of written evidence**

- (1) Before an affidavit, certificate or other written evidence is used in any proceedings under these Rules it shall be filed but the judge may make an order on the basis of such evidence before it is filed if the person tendering it undertakes to file it before the order is sealed.
- (2) There shall be endorsed on every affidavit, certificate or other written evidence the name and address of the advocate, if any, for the person on whose behalf it is filed.

**40 Use of evidence in subsequent proceedings**

- (1) Except where the judge 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.
- (2) Without prejudice to paragraph (1), the judge may, upon application being made for the purpose, authorise the use of any such evidence in any legal proceedings that the judge may specify.



**41 Evidence to be filed on a first application for receiver, etc**

- (1) On the issue of a first application for the appointment of a receiver for a patient or for an order, direction or authority 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 judge otherwise directs, file a medical certificate and evidence of family and property.

- (2) In this rule —

“medical certificate” means a certificate by a registered medical practitioner that the patient is incapable, by reason of mental disorder, or managing and administering his property and affairs; and

“evidence of family and property” means a certificate or, if the judge so orders in a particular case, an affidavit, giving particulars of the patient’s relatives, property and affairs and of the circumstances giving rise to the application.

**42 Evidence of patient’s recovery or death**

- (1) Where at any stage of proceedings relating to a patient the judge has reason to believe that the patient has recovered, he may require medical evidence of the recovery to be furnished by such person as he thinks appropriate.
- (2) Where at any stage of proceedings relating to a patient the judge has reason to believe that the patient has died, he may require evidence of the death to be furnished by such person as he thinks appropriate.

**43 Proof of amount due to public authority**

The amount due to any public authority for the past maintenance of a patient may, unless the judge otherwise directs, be proved by the filing of an account certified under the hand of an officer of the authority.

## **PART 5**

### **RECEIVERS**

**44 Interim provision**

- (1) Where in the opinion of the judge 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 99(1) —
  - (a) the judge may by certificate or direction direct or authorise any named person to do any act or carry out any transaction specified in the certificate or direction; or

- (b) the judge may by order appoint an interim receiver for the patient and, subject to any direction given by the judge, such appointment shall continue until further order.
- (2) An order appointing an interim receiver shall, unless the judge 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 to have the order set aside.

#### **45 Remuneration of receiver**

- (1) Where a receiver is appointed for a patient, the judge may, during the receivership, allow the receiver remuneration for his services at such amount or at such rate as the judge 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 a receiver to have the sum payable for his remuneration fixed after the death or recovery of the patient shall be entertained unless the judge has during the receivership directed that remuneration be allowed and the request is made within 6 years from the date of the receiver's discharge.

#### **46 Appointment of receivers with survivorship**

Where in the opinion of the judge 2 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 judge may when appointing them receivers direct that the receivership shall continue in favour of the surviving or continuing receiver or receivers.

## **PART 6**

### **ACCOUNTS**

#### **47 Passing of accounts**

- (1) Every receiver shall, annually or at such other interval as the judge shall specify, deliver his accounts to the Chief Registrar within such time as the judge shall direct.
- (2) The receiver shall answer such requisitions on his accounts as the judge or the Chief Registrar may raise, in such manner and in such time as the judge or the Chief Registrar directs.
- (3) On the passing of any accounts the Chief Registrar 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.

- (4) The judge may 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.

#### **48 Application of balance due from receiver**

The balance found due from a receiver on the passing of his accounts or so much of it as the judge may direct, shall —

- (a) be paid by the receiver into court to the credit of the proceedings and invested in such manner as the Chief Registrar may direct, or
- (b) be invested or otherwise dealt with by the receiver in such manner as the Chief Registration may direct.

#### **49 Default by receiver**

Without prejudice to any other remedy, where a receiver fails to comply with rule 47 or 48 or fails to pay into court or invest or otherwise deal with any money in accordance with any direction of the judge, the judge 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 on it at such rate as the judge may reasonably fix, for the period of his default.

#### **50 Payment of maintenance and costs**

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 agreed, taxed or fixed, be paid out of any moneys coming into his hands, after providing for any maintenance and fees payable under these Rules.

#### **51 Final accounts**

- (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 Chief Registrar shall 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 judge the 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 judge 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.

**52 Accounting by other persons**

Rules 47 to 51 shall also apply, to the extent directed by the judge, to any person who is —

- (a) directed to deal with the patient's property or affairs by an order or direction of the judge;
- (b) directed or authorised to act under rule 44(1)(a); or
- (c) appointed an interim receiver under rule 44(1)(b),

as they apply to a receiver.

**PART 7****INQUIRIES****53 Order for examination of patient**

In any proceedings relating to a patient, a judge may make an order for the patient's attendance at such time and place as he may direct for examination by any medical practitioner.

**54 Inspection of patient's property**

For the purpose of any proceedings relating to the property of a patient the judge may inspect the property or direct the Chief Registrar or, if he consents, the Attorney General or any other appropriate person to inspect the property, make any necessary inquiries and report to the judge.

**55 Inquiries as to prior dealing with the patient's property**

In any proceedings relating to a patient the judge may make or cause to be made such inquiries as he 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.

**56 Inquiries as to testamentary documents executed by patient**

The judge 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 judge may direct.

**57 Power to direct other inquiries**

The judge may make or cause to be made any other inquiries which he may consider necessary or expedient for the proper discharge of his functions under the Act or these Rules.

**PART 8****CUSTODY AND DISPOSAL OF FUNDS AND OTHER PROPERTY****58 Statement of property retained or deposited**

Where under a direction of the judge 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 judge otherwise directs, sign and file an inventory of the furniture or effects and an undertaking not to part with them during the patient's lifetime except on a direction of the judge.

**59 Stock in name of patient or receiver**

- (1) Where any stock —
- (a) is standing in the name of a patient beneficially entitled to it; or
  - (b) is standing in the name of a receiver in trust for a patient, or as part of his property, and —
    - (i) the receiver dies intestate, or
    - (ii) he himself becomes incapable by reason of mental disorder of acting as receiver, or
    - (iii) he is out of the Island, or
    - (iv) it is uncertain whether he is still alive, or
    - (v) he neglects or refuses to transfer the stock or to receive and pay over the dividends as the judge directs,

and in any other case in which the judge considers such transfer or dealing to be necessary in the interests of the patient, the judge 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 judge may direct and also to receive and pay over the dividends thereof as the judge may direct.

- (2) Where an order is made under paragraph (1) or under section 104 directing stock to be transferred into the name of a receiver or of a person appointed as mentioned in section 104(1), the person required to effect the transfer shall be —
- (a) in the case of stock standing in a stock register kept by the Treasury, some proper officer of the Treasury;

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

and that 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 judge may direct.

## **60 Disposal of property on patient's recovery or death**

- (1) On the recovery of a patient the judge 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 judge, to be transferred to the person who appears to be entitled to it.
- (2) On the death of a patient the judge may direct 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 direction of the judge, to be transferred to the person who appears to be entitled to it.
- (3) If no grant of representation has been taken out to the estate of a deceased patient and it appears to the judge that the assets of the estate, after deduction of debts and funeral expenses, do not exceed £5,000 in value, he may, if he 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 of them, or any other property of the patient remaining under the control, or held under the directions, of the judge, be paid, transferred, delivered or released either to the person 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.
- (4) The judge may at any time, pending notification to him 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 9**

### **COSTS**

## **61 Costs generally**

- (1) All costs incurred in relation to proceedings under these Rules, and not provided for by way of remuneration under rule 45, shall be in the discretion of the judge, who may order or direct them to be paid by the patient or charged on or paid out of his estate or paid by any other person attending or taking part in the proceedings.

- (2) An order or direction that costs incurred during the lifetime of a patient be paid out of or charged on his estate may be made within 6 years after his death.

## **62 Applications under section 35(9) of the Trustee Act 1961**

The judge may make any such order with respect to the costs of an application under section 35(9) of the Trustee Act 1961 as the High Court could make under section 58 of that Act in relation to any matter mentioned in that section.

## **63 Costs of unnecessary employment of advocate etc not to be allowed**

- (1) No receiver for a patient shall, unless authorised by the judge, be entitled at the expense of the patient's estate to employ an advocate or other professional person to do any work not usually requiring professional assistance.
- (2) Where 2 or more persons having the same interest in relation to the matter to be determined attend any hearing by separate advocates, they shall not be allowed more than one set of costs of that hearing unless the judge certifies that the circumstances justify separate representation.

## **64 Costs of Attorney General**

Any costs incurred by the Attorney General in relation to proceedings under these Rules or in carrying out any directions given by the judge, and not provided for by way of remuneration under rule 45, shall be paid by such person or out of such funds as the judge may direct.

## **65 Ascertainment of costs not relating to the proceedings**

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 judge may refer the claim to the Chief Registrar so that the amount due to the claimant may be ascertained by him or under his direction.

MADE 4 JUNE 1988





Rule 2(3)(b).

## SCHEDULE

### FORMS

Rule 7(1)(a).

#### FORM A

#### FIRST APPLICATION FOR APPOINTMENT OF RECEIVER

MENTAL HEALTH ACT 1998

IN THE MATTER OF *[full name of patient]* A PATIENT

I *[full name and address of applicant]*

apply for —

- \*1. my appointment as receiver for the patient *[full name and address of patient]*  
I am \*[not related to the patient] [the *[state relationship]* of the patient]
- \*1. the appointment of *[full name and address]* as receiver for the patient *[full name and address of patient]*  
[He][She] is \*[not related to the patient] [the *[state relationship]* of the patient]

OR

- †2. the appointment of some other suitable person

Signed

Date

‡[Advocates for the applicant]

Address for service:

1

\*Delete whichever does not apply

†Do not delete paragraph 2

‡Delete if inapplicable

Rule 7(1)(b).

FORM B

GENERAL FORM OF APPLICATION

MENTAL HEALTH ACT 1998

IN THE MATTER OF *[full name of patient]* A PATIENT

I *[full name and address of applicant]*\*  
apply for an order that *[set out terms of order applied for]*

and for any directions which are necessary as a result of my application.

Signed

Date

†[Advocates for the applicant

Address for service:

]

\*Where the application is one to which rule 17 or 18 applies, give details of applicant's authority to make the application, eg. as receiver.

†Delete if inapplicable

Rule 37(1).

FORM C  
WITNESS SUMMONS

MENTAL HEALTH ACT 1998

IN THE MATTER OF *[full name of patient]* A PATIENT

To *[name and address of witness]*

You are ordered to attend before His Honour Deemster

at the Isle of Man Courts of Justice, Deemsters Walk, Douglas on *[date]* at *[time]* to:

- (a) give evidence in this matter;
- (b) bring with you and produce at the hearing the documents listed below:

Date

† This summons was issued at the request of *[name and address of firm]*

Advocates for *[name]*

‡ *Delete if inapplicable*

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.