1988 No. 100

COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 1988

Made	*21st March 1988*
Coming into operation—	
rules 1, 2, 3, 6	*1st May 1988*
rules 4 & 5	*1st August 1988*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**a**), in exercise of the powers conferred on us by Article 47 of that Order and all other powers enabling us in that behalf, hereby make the following rules:—

Citation, interpretation and revocation

1.—(1) These rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 1988.

(2) In these rules a reference to an Order, Rule, Appendix or Form is a reference to that Order, Rule, Appendix or Form as numbered in the County Court Rules (Northern Ireland) 1981(**b**).

(3) The County Court (Mental Health Act) Rules (Northern Ireland) 1978(**c**) and the County Court (Mental Health Act) (Amendment) Rules (Northern Ireland) 1979(**d**) are hereby revoked.

Mental Health (Northern Ireland) Order 1986(**e**)

2.—(1) Order 3 shall be amended as follows—

(*a*) by substituting, in Rule 12, for the words "person of unsound mind if so found" the words "patient for whom a controller has been appointed", by substituting for the words "if not so found" the words "a patient for whom a controller has not been appointed" and by substituting in the title of that Rule, for the words "Person of unsound mind", the word "Patients";

(*b*) by substituting, at head (*b*) of Rule 13, for the words "person of unsound mind not so found" the words "patient for whom a controller has not been appointed".

(2) Order 6 shall be amended at Rule 5(2) by substituting for the words "person of unsound mind (whether or not so found)" the word "patient".

(a) S.R. 1980/397 (N.I. 3)
(b) S.R. 1981 No. 225; to which the only relevant amendments were made by S.R. 1982 No. 120 and S.R. 1986 No. 218
(c) S.R. 1978 No. 380
(d) S.R. 1979 No. 118
(e) S.I. 1986/595 (N.I. 4)

(3) Order 12 shall be amended at Rule 1 by substituting, in paragraph (1)(*b*), for the words ''person of unsound mind'' the word ''patient''.

(4) Order 22 shall be amended at Rule 10 by substituting for the word ''committee'' the word ''controller''.

(5) Order 44 shall be amended by substituting, in the title and in paragraphs (1) and (3) of Rule 1, for the words ''person of unsound mind'' the word ''patient''.

(6) The new Rules set out in Schedule 1 shall be inserted in Order 52.

(7) Order 58 shall be amended at Rule 1 by inserting, in paragraph (1)—

(*a*) before the definition of ''Court Funds Rules,'' the following definition:—

'' ''controller'' means a person appointed as controller for a patient under Article 101 of the Mental Health (Northern Ireland) Order 1986;''; and

(*b*) after the definition of ''folio'', the following definition:—

'' ''patient'' has the meaning assigned to it in Article 2(2) of the Mental Health (Northern Ireland) Order 1986;''.

Entry day

3. Order 8 shall be amended by inserting, in Rule 1(1), after the word ''court'', where it last appears, the words ''or such other period before the opening day as the judge may in special circumstances direct''.

Increase in circuit registrars' jurisdiction

4.—(1) Order 25 shall be amended at Rule 15 as follows—

(*a*) by inserting in paragraph (1), after the words ''Order 26'', the words '', and without prejudice to paragraph (5),'';

(*b*) by deleting, in paragraphs (1) and (3), the figure ''£500'' and substituting the figure ''£1,000'';

(*c*) by inserting the following new paragraph:—

''(5) The circuit registrar may refer to the judge any action which he thinks should properly be decided by the judge and the judge may either dispose of the action or refer it back to the circuit registrar with such directions as he thinks fit.''.

(2) Order 26 shall be amended by substituting, in Rule 2 and 4(2), for the figure ''£300'' the figure ''£500''.

(3) Order 55 shall be amended at Rule 19 as follows—

(*a*) by deleting the figure ''£500'', wherever it appears, and substituting the figure ''£1,000'';

(*b*) by deleting the figure ''£300'', wherever it appears, and substituting the figure ''£500''.

Entry of civil bills

5. Order 8 shall be amended as follows—

(*a*) by substituting, for Rule 2, the following new Rule:—

"*Entry and subsequent re-entry of ordinary civil bills*

2.—(1) All civil bills, other than equity or summary civil bills, intended for entry and such summary civil bills as under Rule 13 of Order 12 require to be entered shall, on or before entry day, be delivered to the chief clerk by the party entering them or his solicitor together with a list in Form 42.

(2) Subject to paragraph (3), a civil bill which is not dealt with at the sittings of the court for which it is entered (or for which it is deemed to have been entered by virtue of this paragraph) shall be carried forward to the next following sittings and shall be deemed to have been entered for those sittings.

(3) A civil bill which is not dealt with at the sittings of the court for which it is deemed to have been entered by virtue of paragraph (2), and which is not mentioned to the court either at those sittings or at the fixing of the list for the next following sittings, shall be struck out by the chief clerk without further order of the court but without prejudice to the plaintiff's proceeding by a new civil bill.

(4) Where a civil bill has been struck out pursuant to paragraph (3) either party may apply to the judge or, where the matter is within the circuit registrar's jurisdiction, to the circuit registrar, for an order that the civil bill be re-entered for hearing.

(5) Notice of application under paragraph (4) shall be given in writing setting out the special circumstances or other grounds on which the application is based and shall be served on the opposite party and filed in the Office not less than three clear days before the day on which the application is to be made.

(6) Where the court orders that a civil bill is to be re-entered for hearing pursuant to paragraph (4) the court shall record the special circumstances or other grounds on which that order is based.";

(*b*) by deleting, in Rule 4(1), the word "like" and the words "as aforesaid".

Forms

6. Appendix 1 shall be amended as follows—

(*a*) by substituting, in Form 5, for the word "committee" the word "controller";

(*b*) by inserting the new Forms 299-304 set out in Schedule 2.

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

John K. Pringle
T. F. Glass
S. D. Massey
C. Nelson M. Rountree
K. G. Nixon
Barry Valentine
John J. Curran
J. F. B. Russell

After consultation with the Lord Chief Justice, I allow these rules of which rules 1, 2, 3 and 6 shall come into operation on 1st May 1988 and rules 4 & 5 shall come into operation on 1st August 1988.

Dated 21st March 1988 *Mackay of Clashfern,* C.

SCHEDULE 1 Rule 2(6)

Rules to be inserted in Order 52

PART II

MENTAL HEALTH (NORTHERN IRELAND) ORDER 1986

Interpretation

3. In this Part—

(*a*) an Article referred to by number means the Article so numbered in the Mental Health (Northern Ireland) Order 1986 and expressions which are defined in that Order have the same meaning as they have in that Order;

(*b*) ''the Order'' means the Mental Health (Northern Ireland) Order 1986;

(*c*) ''place of residence'' means, in relation to a patient who is receiving treatment as an in-patient in a hospital or other institution, that hospital or institution.

Where proceedings may be commenced

4.—(1) Subject to paragraph (2), an application under Part II of the Order shall be made to the court for the division in which the patient's place of residence is situated.

(2) An application under Article 37 for the discharge of an order made under Article 36 (Appointment by county court of acting nearest relative) may be made to the court which made the order.

Notice of application under Part II of the Order

5.—(1) Notice of application under Part II of the Order shall be given in Form 299, 301 or 303, as the case may be.

(2) The Notice shall be served on the chief clerk and the respondent not less than ten days before entry day for the sitting at which the application is sought to be heard or within such other period as the judge may direct.

(3) Upon receipt of the Notice the chief clerk shall enter the application for hearing at the appropriate sitting of the court without the need for production of an entry sheet.

(4) Where an application is made under Part II of the Order by a person other than an officer of the responsible Board, and the Board is not otherwise a respondent to that application, notice of the application shall be served on the Board in accordance with paragraph (2).

Respondents to applications under Part II of the Order

6.—(1) Where an application is made under Article 25(3) (to transfer guardianship to the responsible Board or to some other person) the person having guardianship of the patient shall be the respondent.

(2) Where an application is made under Article 36 (Appointment by county court of acting nearest relative) the nearest relative of the patient shall be the respondent unless the application is made on the ground specified in paragraph (3)(*a*) of Article 36 or the court otherwise directs.

(3) Where an application is made under Article 37 (Discharge and variation of orders under Article 36) the respondent shall be—

(*a*) in the circumstances specified in paragraph (1)(*a*), (2) or (3) of Article 37, the person who was the respondent to the original application under Article 36;