1978 No. 380

COUNTY COURTS

County Court (Mental Health Act) Rules (Northern Ireland) 1978

Made . . . . . 14*th December* 1978

Coming into operation . . . . 1*st March* 1979

To be laid before Parliament

The Secretary of State, in pursuance of section 146 of the County Courts Act (Northern Ireland) 1959(**a**) and section 44 of the Mental Health Act (Northern Ireland) 1961(**b**) on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:

Citation and commencement

1. These rules may be cited as the County Court (Mental Health Act) Rules (Northern Ireland) 1978 and shall come into operation on 1st March 1979.

Interpretation

2. In these rules—

"the Act" means the Mental Health Act (Northern Ireland) 1961;

"place of residence" means, in relation to a patient who is receiving treatment as an in-patient in a hospital, that hospital;

and a section referred to by number means the section so numbered in the Act.

Applications under Part II of the Act

3.—(1) An application under Part II of the Act shall be made to the court for the county court division in which the patient's place of residence is situated or, in the case of an application made under section 42 for the discharge of an order made under section 41, to that court or the court which made the order.

(2) Notice of the application shall be given in Form 1, 2 or 3 in the Schedule, as the case may be, and shall be served on the clerk of the Crown and peace and the respondent not less than ten days before the day appointed for the sitting of the court at which the application is sought to be heard or within such period as the Judge may upon an ex parte application direct.

(3) Where an application is made under section 23(3) (to transfer guardianship of patient to a Health and Social Services Board or to some other person) the person having guardianship of the patient shall be the respondent.

(a) 1959 c. 25 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)
(b) 1961 c. 15 (N.I.)

(4) Where an application is made under section 41 (for order that functions of nearest relative of patient shall be exercisable by a Health and Social Services Board or some other person) the nearest relative shall be the respondent unless the application is made on the ground specified in section 41(3)(*a*).

(5) The court may order that any other person, not being the patient, shall be made a respondent.

(6) On the hearing of the application the court may accept as prima facie evidence of the facts stated therein any report made by a medical practitioner and any report made in the course of his official duties by—

(*a*) a probation officer; or

(*b*) a social worker as defined by the Act;

(*c*) an officer of a Health and Social Services Board;

but the respondent shall be told the substance of any part of the report bearing on his fitness or conduct which the Judge considers to be material to the manner in which the application should be dealt with.

(7) Unless the Judge otherwise orders, an application under Part II of the Act shall be heard and determined in chambers.

(8) For the purpose of determining the application the Judge may interview the patient either in the presence of or separately from the parties and either at the court or elsewhere or may direct the clerk of the Crown and peace or registrar to interview the patient and report to the Judge in writing.

Roy Mason
One of Her Majesty's Principal Secretaries of State

Northern Ireland Office
14th December 1978

SCHEDULE

Forms

FORM I

Notice of application for an order under section 23(3) of the Mental Health Act (Northern Ireland) 1961 that the guardianship of a patient be transferred to the responsible Health and Social Services Board or other person approved for the purpose by the Board

[RULE 3(2)]

IN THE COUNTY COURT/RECORDER'S COURT
for the DIVISION OF

IN THE MATTER OF the Mental Health Act (Northern Ireland) 1961

AND IN THE MATTER OF the application of for an order that the guardianship of a patient be transferred to

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[BETWEEN

of

Applicant

an officer of the Health and Social Services Board appointed in this behalf

and

of

Respondent].

TAKE NOTICE that (*name*) of (*address*) an officer appointed in this behalf by the said Health and Social Services Board intends to apply to the County Court/Recorder's Court at sitting for the above-named Division on the day of 19 at o'clock in the noon for an order under section 23(3) of the Mental Health Act (Northern Ireland) 1961 that the guardianship of (*name of patient*) at present residing at (*private address and, where applicable, name of hospital in which patient is*), a patient, be transferred from (*name*) of (*address*) to the said Board [*or* to (*name*) of (*address*) being a person approved for that purpose by the said Board].

The said patient was received into guardianship in pursuance of an application made on (*date*) as follows:—

Dated this day of 19 .

Applicant/Solicitor for Applicant.