1963. No. 173 **[NC]**

THE MENTAL PATIENTS' AFFAIRS (AMENDMENT) ORDER (NORTHERN IRELAND) 1963

I, the Right Honourable John Clarke, Baron MacDermott, Lord Chief Justice of Northern Ireland, intrusted by virtue of Her Majesty the Queen's Sign Manual with the care and commitment of the custody of the persons and estates of persons found idiot or of unsound mind, in exercise of the powers conferred upon me by the Lunacy Regulation (Ireland) Act 1871(**a**), as this enactment has effect in Northern Ireland(**b**), and section 8 of the Northern Ireland (Miscellaneous Provisions) Act 1945(**c**), and of all other powers enabling me in this behalf, do hereby, with the concurrence, so far as this Order relates to fees and percentages to be taken in proceedings in lunacy in Northern Ireland, of the Treasury, Order as follows:—

1.—(1) This Order may be cited as the Mental Patients' Affairs (Amendment) Order (Northern Ireland) 1963, and shall be construed as one with the Mental Patients' Affairs Order (Northern Ireland) 1949, (in this Order referred to as "the Principal Order").

(2) This Order shall come into operation on the 30th day of September, 1963.

2. The Mental Patients' Affairs Order (Northern Ireland) 1949 shall be amended in the manner set forth in the Schedule hereto.

SCHEDULE

1. In Article 5 for the meaning of the word "Department" there shall be substituted for the words "Department for the Affairs of Mental Patients (Northern Ireland)" the words "The Department for the Affairs of Patients".

2. In Article 7 there shall be inserted after the word "Sunday" and before the words "Christmas Day" the word "Saturday".

3. In Article 11 the following amendments shall be made:—

(1) In paragraph (1) there shall be substituted for the words "Department for Affairs of Mental Patients (Northern Ireland)" the words "The Department for the Affairs of Patients".

(2) In paragraph (2) all the words following the words "Northern Ireland" shall be deleted.

4. In Article 18 the following amendments shall be made:—

(1) In paragraph (4) there shall be substituted for the words "An Affidavit" and "Affidavits" respectively the words "A Certificate" and "Certificates".

(**a**) 34 & 35 Vict. c. 22.
(**b**) S.R. & O. 1921, No. 1802 (p. 1332).
(**c**) 8 & 9 Geo. 6. c. 12.

(2) In paragraph (5) there shall be substituted
(*a*) for the word "Affidavits" the word "Certificates";
(*b*) for the word "verify" the word "state".

5. In Article 19 there shall be deleted the words "or a supersedeas".

6. In Article 34 the following amendments shall be made:—
(1) There shall be deleted after the words "place of abode" and before the words "of the patient" the words "(within the jurisdiction)".
(2) There shall be substituted for the words "an affidavit" the words "a certificate".

7. In paragraph (1) of Article 54 there shall be substituted for the words "on the death of a patient or a supersedeas being issued" the words "Upon the recovery or death of a patient".

8. There shall be substituted for Article 55 the following article:—
"*Authority to deal with property when assets of deceased patient do not exceed* £300

55. If no grant of representation has been taken out to the estate of a deceased patient and it appears to the Judge in Lunacy or Registrar that the assets of the estate, after deduction of debts and funeral expenses do not exceed £300 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 thereof, or any other property of the patient remaining under the control, or held under the directions, of the Department, 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."

9. There shall be substituted for Article 56 the following article:—
"**56.**—(1) Applications for the appointment of a Committee under sections 68, 69 and 70 of the Act shall be by Summons returnable at a date not less than seven clear days from the date of issue; and a notice in Form N in the Schedule hereto shall, unless service thereof is dispensed with, be served personally upon the patient to whom the application relates.

(2) The evidence in support of the application shall consist of
(*a*) a Medical Certificate; and
(*b*) a Certificate of Kindred and Fortune.

(3) If it shall appear to the Registrar that the evidence in support of an application under section 68 or section 69 of the Act is inconclusive or otherwise unsatisfactory, he shall obtain the report of one of the Visitors for submission to the Judge in Lunacy with the application and evidence."

10. Article 57 is hereby annulled.

11. There shall be substituted for Article 58 the following article:—
"*Evidence of service*

58.—(1) Except where service has been dispensed with, a certificate of service stating particularly the time, place, and mode of service, and

where there has not been personal service, the reasons on account of which such service was not so made, shall be filed in the Department before the time fixed for the hearing of the application.

(2) In the case of patients in mental hospitals within the meaning of the Mental Health Act (Northern Ireland) 1961(**h**), or in general hospitals or homes for aged and infirm persons maintained out of public funds, a certificate under the hand of the responsible medical officer within the meaning of the said Act, or other proper officer, of the service of a notice of application for the appointment of a Committee of the estate or of an order appointing a Committee of the estate ad interim may be accepted as sufficient evidence of such service."

12. Article 59 is hereby annulled.

13. In paragraph (2) of Article 60 there shall be deleted the words "and the patient to whom it relates is within the jurisdiction,".

14. In the proviso to Article 66 there shall be substituted for the figures "£100", the figures "£500".

15. There shall be substituted for Article 69 the following article:—

"Department to have official seal

69.—(1) The Department shall have an official seal for the authentication of orders and other documents and a stamp for amendments in any such documents.

(2) The seal of the Department on any deed or other document shall be evidence that it has been settled and approved by the Department.

(3) Unless otherwise directed by the Judge in Lunacy or the Registrar, 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 Department; 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."

16. In Article 77 there shall be substituted for the words "keeper or Medical Superintendent" the words "or a Medical Officer".

17. There shall be substituted for Article 92 the following article:—

"Accounts to be passed on the discharge or death of a Committee or on recovery or death of patient

92.—(1) On the discharge or death of a Committee or on the recovery or death of a patient for whom a Committee has been appointed, the Registrar shall take and pass the account of the Committee 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 Registrar the taking and passing of such account may properly be dispensed with.

(2) If a balance is found due from the Committee 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 in Lunacy or Registrar may direct.

(**h**) 1961, c. 15 (N.I.).

(3) If a balance is found due to the Committee 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 Committee, or if no balance is found due from him or the passing of his account has been dispensed with under paragraph (1) of this Article, the security of the Committee shall, unless the Judge in Lunacy or Registrar otherwise directs, be discharged."

18. There shall be substituted for Article 93 the following article:—

"Certificate of Facts

93. Upon the recovery or death of a patient the Committee or such other persons as the Registrar may direct shall lodge in the Department a Certificate of Facts and the Registrar may thereupon make any report or give such directions as may be necessary."

19. There shall be substituted for Article 96 the following article:—

"Evidence generally

96.—(1) The Judge in Lunacy or Registrar may direct the evidence in any matter or any particular proceedings to be taken orally or by affidavit or partly orally and partly by affidavit.

(2) The Judge in Lunacy or Registrar may accept and act upon—

(*a*) 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 taken;

(*b*) any evidence notwithstanding that it would not be admissible in a court of law.

(3) The Judge in Lunacy or Registrar may require any certificate given under the provisions of this Order to be verified by affidavit."

20. In Article 103 there shall be inserted after the word "affidavit" in each place where it occurs the words "or certificate".

21. In Article 106 there shall be inserted after the word "affidavits" the words "and certificates".

22. There shall be substituted for Article 131 the following article:—

"131. All costs incurred in relation to proceedings under this Order shall be in the discretion of the Judge in Lunacy or the Registrar and, subject to the provisions hereof, the Rules of the Supreme Court of Northern Ireland for the time being in force relating to costs shall apply to the costs of proceedings under this Order except where the Judge in Lunacy or the Registrar otherwise directs."

23. There shall be substituted for Article 145 the following article:—

"Documents to be settled by Department

145. 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 Department."