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STATUTORY INSTRUMENTS

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**1992 No. 1899**

**MENTAL HEALTH**

**The Court of Protection (Amendment) Rules 1992**

*Made* - - - - - *31st July 1992*  
*Laid before Parliament* *3rd August 1992*  
*Coming into force* - - - *24th August 1992*

The Lord Chancellor, in exercise of the powers conferred on him by sections 106 and 108 of the Mental Health Act 1983(1) and with the consent of the Treasury, hereby makes the following Rules:

1. These Rules may be cited as the Court of Protection (Amendment) Rules 1992 and shall come into force on 24th August 1992.
2. The Court of Protection Rules 1984(2) (in these Rules called “the 1984 Rules”) shall be amended in accordance with the following provisions of these Rules.
3. In the Arrangement of Rules at the beginning of the 1984 Rules, after the words “82. Receivership fees” there shall be inserted the following:—

**“Treatment of structured payments, annuities etc.**

**82A”**

4. After rule 82 in the 1984 Rules there shall be inserted the following new rule—

*“Treatment of structured payments, annuities etc.*

**82A.—(1) Where—**

- (a) any structured payment of damages, or
- (b) any payment which is intended as part of a series of payments which arise from an annuity, insurance bond or similar arrangement,

is made to or for the benefit of a patient, one half, and only one half, of any such payment shall be treated as income of the patient for the purpose of calculating any fee payable under these Rules which requires the ascertainment of the clear annual income at the patient’s disposal.

- (2) In paragraph (1), a structured payment of damages means a payment which—

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(1) 1983 c. 20.  
(2) S.I.1984/2035.

- (a) arises from—
    - (i) the judgment or award of any court, arbitrator or other competent body in England and Wales or elsewhere, or
    - (ii) the settlement of any claim or potential claim under the law of England and Wales or any other place, whether before or after the commencement of any proceedings in respect of such a claim;
  - (b) is made as part of a series of payments that are to be made from time to time until the death of the patient or some later date; and
  - (c) is not the first payment to be made in the series.
- (3) For the purposes of paragraphs (1)(b) and (2)(b), payments may form part of a series notwithstanding that they—
- (a) consist of differing amounts, or
  - (b) are payable at differing intervals.”

23rd July 1992

*Mackay of Clashfern, C.*

We consent

31st July 1992

*Tim Wood*  
*Tim Boswell*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules determine how payments of

- (a) damages under structured settlements and
- (b) annuities, insurance bonds and similar arrangements

are to be treated for the purpose of calculating a patient's clear annual income which is used to calculate the amount of certain fees payable under the Court of Protection Rules 1984. The effect is to remove uncertainty about the extent to which such payments should be taken to consist of income as opposed to capital. The Rules achieve this by providing for one half of any such payments to be treated as income.