
STATUTORY INSTRUMENTS

2001 No. 824

The Court of Protection Rules 2001

PART XIII

COSTS

Costs generally

84.—(1) All costs incurred in relation to proceedings under these Rules and not provided by way of remuneration under rule 43, shall be in the discretion of the court and it may order or direct them to be paid by the patient or charged on or paid out of his estate by any other person attending or taking part in the proceedings.

(2) Every order made or direction given under paragraph (1) shall be enforceable in the same manner as an order as to costs made by the High Court.

(3) 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 six years after his death.

Applications under sections 36(9) and 54 of the Trustee Act 1925

85. The court may make any such order with respect of the costs of an application under section 36(9) or 54 of the Trustee Act 1925 as the High Court could make under section 60 of that Act in relation to any matter referred to in that section.

Civil Procedure rules to apply

86.—(1) Subject to the provisions of these Rules, Parts 43, 44, 47 and 48 of the Civil Procedure Rules 1998(1) (“the 1998 Rules”) shall apply, with the modification in paragraph (2) and such other modifications as may be necessary, to costs incurred in relation to proceedings under these Rules as they apply to costs incurred in relation to proceedings in the High Court.

(2) The modifications referred to in paragraph (1) are—

(a) in rule 43.2(1)(c) of the 1998 Rules, costs officer shall include—

(i) a judge;

(ii) the Master;

(b) in rule 43.2(1)(d) of the 1998 Rules, authorised court officer shall include an officer of the court;

(c) rule 44.3(2) of the 1998 Rules (costs follow the event) does not apply;

(d) rules 44.9 to 44.12 of the 1998 Rules (costs on small claims and fast tracks and on track allocation or reallocation) do not apply;

(e) rules 48.1 to 48.3 (costs payable by or to particular persons) and 48.7 to 48.10 (costs relating to solicitors and other legal representatives) of the 1998 Rules do not apply.

Costs of unnecessary employment of solicitor, etc not to be allowed

87.—(1) No receiver for a patient, other than the Official Solicitor, shall, unless authorised by the court, be entitled at the expense of the patient’s estate to employ a solicitor or other professional person to do any work not usually requiring professional assistance. Where two or more persons having the same interest in relation to the matter to be determined attend any hearing by separate legal representatives, they shall not be allowed more than one set of costs of that hearing unless the court certifies that the circumstances justify separate representation.

Costs of Official Solicitor

88. Any costs incurred by the Official Solicitor in relation to proceedings under these Rules or in carrying out any directions given by the court, and not provided for by remuneration under rule 43, shall be paid by such person on or out of such funds as the court may direct.

Ascertainment of costs not relating to the proceedings

89. Where in any 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 or otherwise than in relation to proceedings, the court may refer the claim to a costs judge of the Supreme Court so that the amount due to the claimant may be ascertained by him or under his direction.