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[1965

MENTAL HEALTH ACT, 1962-1964.

Public Health Department,
Perth, 7th April, 1965.

HIS Excellency the Governor in Executive Council, acting pursuant to the powers conferred by the Mental Health Act, 1962-1964, and by the Interpretation Act, 1918-1962, has been pleased to—

- (a) revoke the following regulations, namely—
- (i) the regulations made under the Inebriates Act, 1912, published in the *Government Gazette* on the 4th June, 1916, and on the 30th January, 1925;
 - (ii) the Lunacy Act Regulations, 1952, and the Lunacy Act Appeal Board Regulations, 1952, both published in the *Government Gazette* on the 5th August, 1952;
 - (iii) the regulations made under the Mental Treatment Act, 1917, published in the *Government Gazette* on the 27th April, 1917, as amended by notices published from time to time in the *Government Gazette*;
 - (iv) the regulations made under the Mental Treatment Act, 1927, published in the *Government Gazette* on the 15th February, 1929, as amended by notices published from time to time in the *Government Gazette*; and
 - (v) the regulations made under the Mental Treatment (War Service Patients) Act, 1941, published in the *Government Gazette* on the 13th February, 1942; and
- (b) make the regulations set out in the First and Second Schedules, hereunder;

so that both the revocations and the regulations take effect on and after the date on which the Mental Health Act, 1962-1964, comes into operation.

J. DEVEREUX,
Under Secretary for Public Health.

FIRST SCHEDULE.

Regulations.

PART I—PRELIMINARY.

- Citation. 1. These regulations may be cited as the Mental Health (Administration) Regulations, 1965.
- Arrange-
ment. 2. These regulations are divided into Parts, as follows:—
PART I—PRELIMINARY (regulations 1-3).
PART II—APPROVAL OF PRIVATE HOSPITALS (regulations 4-8).
PART III—ADMINISTRATION, GENERALLY:
Division 1—All approved hospitals (regulations 9-18).
Division 2—Departmental Services (regulations 19-23).
PART IV—REGULATIONS APPLYING TO STAFF, GENERALLY (regulations 24-34).
PART V—REGULATIONS APPLYING TO STAFF NOT EMPLOYED UNDER THE PUBLIC SERVICE ACT, 1904 (regulations 35-47).
PART VI—APPEAL BOARD (regulations 48-64).
PART VII—APPEALS (regulations 65-68).
PART VIII—MISCELLANEOUS (regulations 69-71).
- Interpreta-
tion. 3. In these regulations, unless the context otherwise requires,—
“Act” means the Mental Health Act, 1962;
“Schedule” means a Schedule to these regulations;
“Secretary” means the person appointed Secretary of the Department and includes an Assistant Secretary.
- Applications
for approval. PART II—APPROVAL OF PRIVATE HOSPITALS.
4. (1) Every person requiring to conduct a private hospital or part of a private hospital as an approved hospital shall make written application for approval to the Minister.
(2) Every application under this regulation shall be accompanied by the annual permit fee of £5 and the applicant shall attach—
(a) a ground plan of the site of the whole of the private hospital drawn to a scale of not less than 100 feet to one inch showing the position of each building and the areas of land available for the exercise and recreation of patients;
(b) a floor plan of all buildings that it is proposed to include in the approved hospital, drawn to a scale of 8 feet to one inch, showing each room, which shall be distinguished by figure or number for reference purposes;
(c) a statement of the dimensions of each room mentioned in paragraph (b) of this subregulation, the purpose to which it will be put and the number of persons to be accommodated therein; and
(d) a statement of the proposed arrangements for managing, equipping and staffing the approved hospital.
- Initial
issue of
permits. 5. The Minister, on being satisfied in accordance with the provisions of section 21 of the Act, may cause a permit to be issued in the form of Form 1 in the First Schedule.

6. (1) Every permit holder requiring the permit to be renewed shall, within one month prior to its expiry, make written application to the Minister therefor. Renewal of permits.

(2) Every application under this regulation shall be accompanied by the annual permit fee of £5 and the permit.

7. The Minister on being satisfied that a permit ought to be renewed may cause it to be renewed, by indorsement, for a further period of one year. Permits how renewed.

8. A person shall not cause any additions or alterations to be made to, in, or about an approved private hospital, unless and until the plans have been submitted to the Director and the approval of the Director has been endorsed on the plans. Additions to approved private hospitals.

Penalty: Twenty-five pounds.

PART III.—ADMINISTRATION GENERALLY.

Division 1—All Approved Hospitals.

9. (1) The Superintendent shall keep or cause to be kept for each patient case records in such manner as the Director may determine. Records to be kept for each patient.

(2) A psychiatrist or a medical officer shall enter up the case records—

- (a) on the admission of the patient;
- (b) at least once weekly, during the first four weeks following admission;
- (c) at least once monthly, during the twelve months following the first month of admission;
- (d) once every six months thereafter; and
- (e) on the occurrence of every unusual action, happening or symptom relating to the patient.

(3) The register required to be kept under the provisions of section 41 of the Act shall be in the form of Forms 2 and 3 in the First Schedule.

(4) A report to the Public Trustee, pursuant to section 63 of the Act, shall be in the form of Form 4 in the First Schedule.

10. Ward reports and entries in the day and night report books shall contain such information as the Superintendent determines. Ward reports.

11. The Superintendent of every approved hospital, institution or clinic shall notify the Director of any unusual happening, in relation to a patient. Notification of unusual events.

12. The Superintendent of a hospital may make such arrangements as he considers necessary for the safety and security of patients showing suicidal or homicidal tendencies, or making attempts to escape. Security of patients.

13. (1) A patient shall not be placed in restraint or seclusion without an order to that effect being first given by a medical officer. Patient not to be placed under restraint except by order.

(2) Notwithstanding the provisions of subregulation (1) a matron or head male nurse or a deputy of either of them may where the circumstances require immediate action, cause a patient to be placed in restraint or seclusion but he shall immediately inform the medical officer on duty of that occurrence.

(3) For the purposes of this regulation—

“restraint” means a restriction upon movement by the use on the patient of a mechanical appliance, other than a medical or surgical appliance used in the proper treatment of physical disease or injury; and

“seclusion” means detention between the hours of 8 a.m. and 7 p.m. in a single room, that is not a room in or part of an observation ward where a nurse is continuously on duty, or a room used for the purpose only of treatment of a physical illness or of comfort during any such illness.

Written consent for surgical operation.

14. (1) The Director, or the Superintendent of an approved hospital, may give his written consent to the performance of any surgical operation that he considers necessary or desirable for the safety or well-being of a patient.

(2) A consent given under subregulation (1) of this regulation shall state whether the operation is to be performed by one or more members of the medical staff of the hospital, or by any one or more other medical practitioners.

Authority of Superintendent to apply to particular hospital.

15. The authority, powers and duties conferred or imposed upon a Superintendent or on the Board of an approved hospital or other institution established under the Act, shall be exercised and performed in respect of that approved hospital or institution and the patients or persons under observation within that hospital or institution, only.

Fees payable to Board of Visitors.

16. (1) Members of a Board appointed under section 11 of the Act shall be paid the fees set out in the Second Schedule to these regulations.

(2) All expenses (including motor mileage) that are incurred by a member of a Board in the performance of his duties shall be refunded at the rates for the time being applicable to the Public Service.

Superintendent to check referral.

17. (1) The Superintendent shall check whether any order or referral by virtue of which a person has been admitted to an approved hospital is correct in form and substance.

(2) If an order or referral appears incorrect or defective the Superintendent shall have the document returned to the person signing it to be amended in accordance with section 85 of the Act and shall inform the Director of the action taken.

Application.

18. (1) The provisions of this Division apply to approved hospitals, generally.

(2) Every person contravening the provisions of this Division is liable to a penalty of fifty pounds.

Division 2—Departmental Services.

Costs and expenses by whom payable.

19. (1) The costs and expenses incurred by the Crown in the medical examination and conveyance of persons to hospital may be recovered from the patient or his estate.

(2) The cost to the Crown of the maintenance and treatment of a patient may be recovered from a patient or his estate, but the Director may waive the charge for all cases except those of persons submitted for treatment—

- (a) by the Army, Navy or Air Force; or
- (b) by the Repatriation Department; or
- (c) from overseas or interstate ships or aircraft; or
- (d) where the cost of that treatment is recoverable under the Workers' Compensation Act, 1912, or under the Motor Vehicle (Third Party Insurance) Act, 1943.

20. A Superintendent or medical officer shall not undertake the examination of any party to a legal action without the approval of the Director.

Approval of Director to examination.

21. (1) The case record of a patient transferred from one hospital to another, shall accompany the patient together with all documents on which the patient was admitted and detained prior to his transfer.

Case records.

(2) Case records are the property of the Mental Health Service and shall not be sent or loaned to any agency without the consent of the Director.

22. A receipt shall be issued for all moneys brought into a departmental hospital by a patient, and the moneys shall be credited to a trust account in the name of the patient.

Receipt to be issued for moneys of patient.

23. The provisions of this Division apply to services of the Department, only.

Application.

PART IV—REGULATIONS APPLYING TO STAFF, GENERALLY.

24. Nothing in this Part affects the application of the Public Service Regulations to any person employed under the provisions of the Public Service Act, 1904.

Saving of Public Service Regulations.

25. Every member of the staff of a hospital, institution, clinic or other service shall co-operate with the Secretary and his staff and afford them assistance and, where necessary, protection and security in the performance of their duties.

Relationship with Secretary.

26. The Secretary is responsible to, and under the control of, the Director, and shall co-operate with the members of the staff of a hospital, institution or clinic in all matters relating to the upkeep of the hospital, institution or clinic and to the care and comfort of the patients.

Secretary's relationship with staff.

27. The Secretary is responsible to the Director for the finance, clerical, store, catering, domestic laundry, artisan, farm and garden sections of the Department.

Duties of Secretary.

28. The seniority of members of the staff shall be determined in accordance with the Public Service Regulations as amended from time to time.

Seniority of Staff.

29. Every member of the staff shall—

Discharge of duties by Staff.

- (a) devote himself exclusively and zealously to the discharge of his duties during the prescribed hours of duty that are applicable to him; and
- (b) promptly and correctly carry out all duties appertaining to his office and any other duty he is lawfully directed to perform.

30. (1) Every member of the staff shall acquaint himself with the provisions of the Act, of these regulations and of any award or agreement under which he is employed, and ignorance of those things shall not be accepted as an excuse for any act or omission constituting a breach thereof.

Members to be acquainted with Act, etc.

(2) The Secretary shall ensure that copies of the Act, regulations, awards and employment agreements are made readily available to all members of the staff.

31. Every member of the staff is responsible for the careful use and preservation of Crown property in his possession, custody or care and shall not remove any Crown property from a hospital or other institution or the precincts thereof without the prior consent of the Secretary.

Members to have care of Crown property.

Relation-
ship of
staff with
patients.

32. Every member of the staff shall—
- (a) at all times treat patients kindly and humanely;
 - (b) exercise care for the safety of, and for the prevention of injuries to, patients;
 - (c) where so required, interest himself in, and assist in, any occupation or employment in which a patient is working.

Responsi-
bility for
patients.

33. A member of the staff in whose care patients are placed, is responsible for those patients until they are returned to their wards and handed over to the nurse in charge.

Alcoholic
liquor not
to be
supplied.

34. A member of the staff shall not take alcoholic liquor into any ward or supply it to a patient, without the consent of the Superintendent.

**PART V—REGULATIONS APPLYING TO STAFF NOT EM-
PLOYED UNDER THE PUBLIC SERVICE ACT, 1904.**

Application.

35. This Part applies to every member of the staff who is not employed under the provisions of the Public Service Act, 1904.

Employment
of members
not subject
to Indus-
trial Award.

36. A person not subject to any particular industrial award may be employed at a hospital by special agreement between him and the Director or the Secretary.

Engagement
and dis-
missal of
members.

37. Every member of the staff shall be engaged, employed and dismissed in accordance with the terms of the relevant industrial award; but notwithstanding any other provision of this regulation, every person shall be engaged on probation for the first twelve months of his employment and may, during that period, be dismissed, without reason being given for his dismissal.

Penalties
for mis-
conduct.

38. Where it is proved to the satisfaction of the Director that a member of the nursing staff is guilty—

- (a) of wilful disobedience or disregard of any lawful order made or given by any person authorised to give it; or
- (b) of negligence or carelessness in the discharge of his duties; or
- (c) of inefficiency or incompetence and the inefficiency or incompetence appears to arise from causes within the members own control; or
- (d) of over-indulgence in intoxicating liquor to the extent that the member becomes unfit to properly perform his duties; or
- (e) of absence from duty without leave; or
- (f) of any disgraceful or improper conduct;

then, the member is guilty of an offence and is liable, at the discretion of the Director, to a reprimand, to a penalty not exceeding ten pounds, to reduction to a lower class or grade or to dismissal.

Procedure
on charge of
misconduct.

39. (1) Where the Superintendent of a hospital, institution or clinic has reason to believe that a member of the nursing staff has committed an offence under regulation 38 of these regulations, he shall make a formal complaint in writing to the Director, giving a copy of the complaint to the member concerned, and may suspend the member pending the hearing of the complaint.

(2) Where a complaint against a member who is suspended is dismissed, the suspension shall be removed forthwith and the member shall be paid his salary, in full, in respect of the period of his suspension.

40. A permanent member of the nursing staff, who is fined, reduced to a lower class or grade or dismissed, may appeal to the Appeal Board in accordance with Part VII of these regulations. **Members may appeal.**
41. A member of the staff shall not without the authority of the Director— **Members not to give any information.**
- (a) give to any person any information relating to the business of the Department or other official business that has been furnished to him in the course of his duties; or
 - (b) disclose the contents of any official papers or documents that have been supplied to him or seen by him in the course of his duties.
42. A member of the staff shall not— **Members not to comment publicly.**
- (a) publicly comment either orally or in writing, on any administrative action, or upon the administration of the Department; or
 - (b) use for any purpose, other than for the discharge of his duties, information gained by or conveyed to him through his employment in the Department.
43. (1) A member of the staff shall not, either as principal or agent, enter into any monetary transaction with any other member, whereby any interest or other return in money or in moneys worth is charged or paid, except that a member may, by mortgage or security of land or an estate or interest in land, borrow money from a member who is senior to him, at current interest rates, if the permission in writing of the Director is first obtained. **Members not to enter into monetary transactions.**
- (2) A member shall not back the bill of another member or enter into any bond or security on behalf of another member, without the prior permission in writing of the Director.
- (3) A member shall not enter into any monetary transaction such as is referred to in subregulations (1) and (2) of this regulation with a subordinate member or a patient.
44. (1) Except with the approval of the Director a member of the staff shall not demand or receive for his own use any fee, reward, gratuity or remuneration of any kind whatsoever (other than his official salary and allowances) for services performed by him in connection with his service to the Department, whether in or out of the prescribed hours of duty applicable to that member. **Members not to demand or receive fees, etc.**
- (2) A member shall not demand of, or receive from, a patient any fee, reward, gratuity or remuneration of any kind, for his own use or benefit.
45. An address shall not be given to, and a testimonial or presentation shall not be accepted by, any member of the staff, without the prior approval of the Director, or, in the case of such grades or classes as may be named by the Director, of the Superintendent. **Testimonials to be given by Director.**
46. (1) A member of the staff who has been summoned, or called, as a witness to give evidence in any proceeding shall, as soon as practicable thereafter, notify the Superintendent, and the Superintendent shall notify the Director, of that event. **Members called as witness to notify Superintendent.**
- (2) Where a member is summoned, or called, as witness he is not, if required to give evidence in his official capacity, entitled to retain any witness fees received by him, but shall pay the fees into the Consolidated Revenue Fund and shall forward the receipt for that payment, with a voucher showing the amount of fees received, to the Superintendent or the Director.

Members
not to
accept or
hold other
offices, etc.

47. (1) Except with the express permission of the Director, which permission may at any time be withdrawn, a member of the staff shall not—

- (a) accept, or continue to hold, any other office in or under the Government or a paid office in or under any public or municipal corporation; or
 - (b) accept or continue to hold or discharge the duties of, or be employed in a paid office in connection with, any banking, insurance, mining, mercantile, or other commercial business, whether carried on by any corporation, company, firm, or individual; or
 - (c) engage in, or undertake, any business such as is mentioned in paragraph (b) of this subregulation, whether as principal or agent; or
 - (d) engage in, or continue in, the private practice of any profession; or
 - (e) accept, continue or engage in, any employment for reward other than in connection with the duties of his office or offices under the State or the Commonwealth.
- (2) Nothing in this regulation prevents a member of the staff—
- (a) from being, or becoming, a member or shareholder only of any incorporated company or of any company, or society of persons registered under any statute; or
 - (b) from accepting and continuing to hold any office in any society founded under the law relating to friendly societies for the benefit of public servants only.

PART VI—APPEAL BOARD.

Appeal
Board.

48. (1) There shall be appointed a Mental Health Act Appeal Board, in these regulations called the "Appeal Board", which shall consist of—

- (a) one member to be appointed by the Governor who shall be a Magistrate and who shall be the chairman;
- (b) one member to be appointed by the Director; and
- (c) one member to be elected by ballot from time to time in the manner prescribed by this Part.

(2) The Appeal Board may affirm, reverse or modify any decision or award of punishment against which an appeal is brought, and the decision of a majority of the Appeal Board is final.

Returning
Officer.

49. The election of the elective member of the Appeal Board shall be conducted by the Chief Electoral Officer for the State, as Returning Officer, or by some other person acting under his authority.

Elections.

50. (1) Where a vacancy in the office of an elective member occurs by the effluxion of the term for which the occupant was appointed, the election shall be held in the month of June in the year in which the vacancy occurs and the member elected shall thereupon hold office for three years from the first day of July next following the date of election.

(2) Where a vacancy in the office of an elective member occurs, otherwise than by effluxion of the term for which the occupant was appointed, there shall be a by-election and the member elected shall thereupon hold office for the remainder of the term for which the elective member who vacated the position was elected.

(3) The Director shall, not less than three months prior to the expiration of the term of office of the elected member and not later than fourteen days after the occurrence of an extraordinary vacancy in that office, direct the Returning Officer to fix a day for the election or by-election and also a day to be the last day upon which nominations of candidates for election to the office of member will be received.

(4) The Returning Officer shall fix the respective days for the election or by-election and for the receipt of nominations by advertisement in the *Government Gazette*, so that the advertisement appears at least 35 clear days before the day fixed for the election or by-election.

51. (1) A list comprising the full names and official address of each permanent member of the nursing staff and signed on each page by the Director shall be supplied, by the Director, to the Returning Officer and that list shall constitute the electoral roll to be used at the next ensuing election. Electoral Roll.

(2) In the case of an election to be held under subregulation (1) of regulation 50 of these regulations, the list shall be supplied to the Returning Officer on the first day of June in the year in which an election is to be held, and, in the case of a by-election to be held under subregulation (2) of that regulation, the list shall be supplied on the twenty-first day before that fixed for the by-election.

(3) Only those persons whose names appear on the electoral roll are entitled to be nominated for election or to vote at the election.

52. (1) A nomination of a candidate for election as a member of the Appeal Board shall be made in writing in the form of Form 5 in the First Schedule to these regulations and shall be signed by not less than three persons enrolled on the electoral roll to be used at the election. Nomination of candidates.

(2) A nomination paper shall contain the consent of the candidate to act if elected, and shall be forwarded to the Returning Officer, State Electoral Department, Perth, so as to reach him not later than noon on the twenty-first day before the date fixed for the election.

(3) The Returning Officer shall supply nomination papers, for the purpose of this regulation.

53. Where one candidate only is nominated for election pursuant to this Part, that candidate shall be declared elected by the Returning Officer, but if more than one candidate is nominated for a vacancy, a ballot shall be held. When election to be held.

54. (1) Where more than one candidate is nominated for election, the Returning Officer shall, as soon as possible after the close of nominations— Supply of ballot papers.

- (a) cause ballot papers and counterfoils to be printed in accordance with Form 6 and Form 7 of the First Schedule to these regulations, and the ballot papers shall include the full names of the candidates arranged in lexicographical order of their surnames;
- (b) send by post or otherwise to each person whose name appears on the electoral roll furnished by the Director under regulation 51 of these regulations—
 - (i) one ballot paper initialled by the Returning Officer or a person authorised in that behalf by the Returning Officer;
 - (ii) one counterfoil;
 - (iii) one ballot paper envelope; and
 - (iv) one envelope addressed to the Returning Officer.

(2) The Returning Officer shall enclose each ballot paper, counterfoil, ballot paper envelope and addressed envelope in a covering envelope which shall be sealed, addressed and forwarded by post or otherwise to the person for whom it is intended.

(3) If an elector makes and transmits to the Returning Officer a statement in writing setting out his full name and his official address, and stating that he has not received his ballot paper, or that the ballot paper received by him has been destroyed and that he has not already voted, the Returning Officer may issue a new ballot paper to that elector.

Method of marking ballot paper.

55. (1) Voting shall be by preferential ballot.

(2) A person to whom a ballot paper and counterfoil is addressed, if desirous of voting, shall record his vote on the ballot paper issued to him so that—

- (a) where there are only two candidates the elector may mark the ballot paper by placing the numeral "1" opposite the name of the candidate for whom he votes;
- (b) where there are more than two candidates the elector shall mark the ballot paper by placing the numeral "1" opposite the name of the candidate for whom he votes as his first preference and shall give contingent votes for all the remaining candidates by placing the numerals "2", "3", and so on, opposite their names as the case may require, so as to indicate by numerical sequence the order of his preference.

(3) An elector, having marked his ballot paper in accordance with subregulation (2) of this regulation, shall then—

- (a) enclose the ballot paper alone in the envelope marked "ballot paper" and fasten the envelope;
- (b) complete and sign the counterfoil in the presence of a witness who shall also sign the counterfoil; and
- (c) return the ballot paper envelope with the ballot paper contained therein and the completed counterfoil to the Returning Officer by prepaid letter post or otherwise in the envelope addressed to the Returning Officer so as to be received by him not later than the day and time appointed by the notice of election for the closing of the poll at such election.

(4) Where, under subregulation (2) of this regulation, any envelope containing the ballot paper is sent by post to the Returning Officer, but the postage thereon is wholly unpaid or insufficiently paid, the Returning Officer shall refuse to accept it, and the envelope, with its enclosures, shall be deemed not to have been sent or delivered to the Returning Officer within the meaning of these regulations.

Deposit of voting papers in ballot box.

56. The Returning Officer shall place and keep in a locked and sealed ballot box all envelopes purporting to contain ballot papers received by him up to the close of the poll.

Close of poll.

57. The poll shall close at 5 p.m. on election day, and a vote shall not be admitted at the count if received by the Returning Officer after that hour.

Count of votes.

58. (1) As soon as practicable after the hour fixed for the close of the poll, the Returning Officer shall, before any scrutineer who may be present, proceed with the scrutiny and counting of the votes received, and shall ascertain and declare the result of the poll.

(2) Subject to these regulations, each election shall be conducted and the candidate to be elected ascertained in accordance with the provisions of the law for the time being regulating elections for the Legislative Assembly as far as they can, with necessary adaptations, be made applicable.

(3) (a) Where the right of a person to vote is not established, or the counterfoil is not signed by the elector and by the witness, the Returning Officer shall replace the counterfoil and the envelope marked "ballot paper" in the outer envelope, endorse that envelope "rejected" and set it aside for safe keeping.

(b) A ballot paper is informal if—

- (i) it does not bear the initials of the Returning Officer or a person authorised in that behalf by the Returning Officer;
- (ii) the elector has not marked it in accordance with the directions set out therein; or
- (iii) no mark is indicated on it.

59. Where, on any count, two or more candidates have an equal number of votes, the Returning Officer shall decide by lot the candidate to be declared elected. Equality of votes.

60. Each candidate is permitted to appoint one scrutineer, and the scrutineer may be present with the candidate when the Returning Officer opens the ballot box and counts the votes. Scrutineers.

61. The Returning Officer shall determine conclusively all questions of detail concerning any election. Details of election.

62. (1) After the count of votes the Returning Officer shall declare the result of the election and shall prepare a certificate showing that result and the name of the candidate elected and shall forward such certificate forthwith to the Under Secretary, Chief Secretary's Department. Declaration of poll.

(2) Any scrutineer who may be present may also sign the certificate.

(3) The certificate shall as soon as practicable after its receipt be published in the *Government Gazette*, by the Under Secretary.

63. (1) On completion of the scrutiny and count of votes the Returning Officer shall enclose in one packet all used ballot papers, in another packet all counterfoils, and in a third packet all rejected votes, and shall seal up the several packets, endorse on each packet a description and number of the contents and the date of the poll, and sign the endorsements. Disposal of ballot papers, etc.

(2) The Returning Officer shall preserve and hold in custody the sealed packets referred to in subregulation (1) of this regulation together with all other documents used at or in connection with the election for a period of two calendar months from the date of the election, after which the sealed packets and documents shall be destroyed.

64. The provisions of the Electoral Act, 1907, as amended from time to time, shall, where applicable, apply in all matters not provided for by these regulations. Application of Electoral Act, 1907.

PART VII—APPEALS.

65. (1) A person appealing to the Appeal Board, shall— Notices of appeal to be sent to Director.

- (a) give notice of his appeal in writing signed by him; and
- (b) serve the notice upon the Director, within fourteen days from the date of the decision against which he is appealing.

(2) The notice of appeal shall clearly and concisely state the grounds upon which the appeal is made.

66. Upon receipt of the notice of appeal, the Director shall send the notice to the Chairman of the Appeal Board, who, having fixed a date for the hearing of the appeal, shall give notice of the date to the parties concerned and to the other members of the Appeal Board. Director to notify the Board.

Appeal to be heard within thirty days.

67. An appeal shall be heard and determined by the Appeal Board within thirty days from the date when notice was served upon the Director, unless the Appeal Board considers the appeal cannot satisfactorily be heard within that period, in which event it may extend the time for any period beyond thirty days.

Appeal Board may order as to costs.

68. (1) The Appeal Board may make one or more orders stating by whom, and the proportion in which, the costs of the appeal shall be paid, but, where the Board considers the appeal to be frivolous, the full costs shall be paid by the appellant.

(2) The costs or a proportion of the costs of an appeal shall be a debt due from the person ordered to pay them or it and may be recovered in any court of competent jurisdiction.

PART VIII.—MISCELLANEOUS.

Particulars prescribed by forms.

69. Where a form prescribed by these regulations requires completion by the insertion of particulars or other matters referred to in the form, those particulars or other matters are prescribed as the particulars or other matters required under the provisions of the Act for the purposes for which the form is prescribed.

Forms to be completed as directed.

70. A form prescribed by these regulations and containing any directions for its completion shall be completed in accordance with such directions.

Compliance with forms.

71. Strict Compliance with the forms contained in these regulations is not necessary and substantial compliance is sufficient.

First Schedule.

Forms.

Form 1.

Mental Health Act, 1962.

Mental Health (Administration) Regulations, 1965.

(Regulation 5.)

PERMIT TO CONDUCT A PRIVATE HOSPITAL AS AN APPROVED HOSPITAL.

WHEREAS of has made application to the Minister under the provisions of section 21 of the Mental Health Act, 1962, for a permit for the private hospital known as situated at or part thereof to be an approved hospital, within the meaning of the Mental Health Act, 1962; and whereas the Director has reported to the Minister, in writing, that the hospital or part thereof is suitable for that purpose, the said is granted this permit for the reception into that approved hospital of not more than female patients or more than male patients. This permit is subject to the provisions of the Mental Health Act, 1962 and subject to those provisions remains in force for one year from the date hereof. Given by order of the Minister, at Perth this day of One thousand nine hundred and

Under Secretary for Health.

For Office use only:

Renewals.

Renewed: From to Under Secretary.
From to Under Secretary.
From to Under Secretary.

MENTAL HEALTH (ADMINISTRATION) REGULATIONS, 1965
(Regulation 9)

MENTAL HEALTH ACT, 1962 (Section 41)

Form 2

Register of Admissions of Patients and Referred Persons

Status of Patient				Number in Order of Admission	Date of Admission	Surname and Christian Names at Length	Date of Birth	Social State					Occupation	Country of Birth	Residential Address	Religion	Medical Referrals				
Division								M.	F.	Married	Single	Widowed					Separated	Divorced	Date	Name	Diagnosis
1	2	3	6																		
Informal Detained																					

Assessed Incapable Person and Public Trustee Advised	Status under Division 2 or 3 Expires on	Signature of Officer making entry	Date of				Period in Hospital	Recorded in Discharge Register Folio Number	Remarks
			Transfer	Discharge to After Care	Final Discharge	Death			
Date	Date								

MENTAL HEALTH (ADMINISTRATION) REGULATIONS, 1965
 (Regulation 9)

MENTAL HEALTH ACT, 1962 (Section 41)
Form 3

Register of Final Discharges, Transfers and Deaths of Patients

Admission Number	Date of Admission	Name in Full	Final Discharge						Transfer				
			Recovered Date		Relieved Date		Not Improved Date		Name of Hospital	Relieved Date		Not Improved Date	
			M.	F.	M.	F.	M.	F.		M.	F.	M.	F.

Died		Cause of Death	Remarks
Date			
M.	F.		

Form 4.

Mental Health Act, 1962.

Mental Health (Administration) Regulations, 1965.

(Regulation 9.)

REPORT AS TO CAPACITY OR CONDITION OF PATIENT.

To the Public Trustee:

Pursuant to the provisions of section 63 of the Mental Health Act, 1962, I have to report that.....

..... of a patient/former patient of Hospital—

- (a) has been examined by a psychiatrist who is of the opinion that the said patient is—
 - (i) incapable of managing h..... affairs;
 - (ii) recovered from h..... incapacity, as reported to you on.....19.....;
- (b) has been discharged from status as a patient;
- (c) has been discharged to after-care;
- (d) has been recalled to hospital, on the rescission of his discharge to after-care;
- (e) died on the.....19.....

Dated the..... day of.....19.....

..... Superintendent.

Note:—The provisions of this form that are inapplicable should be deleted. A report under paragraphs (b), (c), (d) and (e) is necessary only where a report has previously been made under paragraph (a).

Form 5.

Mental Health Act, 1962.

Mental Health (Administration) Regulations, 1965.

(Regulation 52.)

NOMINATION FORM.

WE, the undersigned persons, state that we are eligible to vote at the election of a member of the Mental Health Act Appeal Board and do hereby nominate.....

..... (full name) for election as a member of that Board.

Dated this..... day of.....19.....

- (1) Full name of nominator.....
Address
- (2) Full name of nominator.....
Address
- (3) Full name of nominator.....
Address

AND, I..... (full name) of..... (full address)

the person above nominated state that I am eligible for nomination as a member of the Mental Health Act Appeal Board and consent to my nomination.

Dated this..... day of.....19.....

..... Signature of Nominee.

Received the above nomination this..... day of.....19..... at..... o'clock in the..... noon.

..... Returning Officer.

This form, when completed, is to be addressed to the Returning Officer, at the State Electoral Department, Perth, and is to be delivered or forwarded to him, so as to reach him there not later than noon on the day fixed for the close of nominations.

Form 6.

Mental Health Act, 1962.

Mental Health (Administration) Regulations, 1965.
(Regulation 54.)

BALLOT PAPER.

Election of a candidate as a Member of the Mental Health Act
Appeal Board.

Date of close of Poll.....

.....
Initials of Returning Officer.

- (1) Where there are only two candidates, the elector may mark the ballot paper by placing the numeral "1" opposite the name of the candidate for whom he votes.
- (2) Where there are more than two candidates the elector shall mark the ballot paper by placing the numeral "1" opposite the name of the candidate for whom he votes as his first preference and shall give contingent votes for all the remaining candidates by placing the numerals "2", "3", and so on opposite their names, as the case may require, so as to indicate by numerical sequence the order of his preference.
- (3) The elector shall then—
 - (a) enclose the ballot paper alone in the envelope marked "ballot paper" and fasten the envelope;
 - (b) complete and sign the counterfoil in the presence of a witness who shall also sign it; and
 - (c) return the ballot paper envelope with the ballot paper contained therein and the completed counterfoil to the Returning Officer by prepaid letter post or otherwise in the envelope addressed to the Returning Officer, so as to be received by him not later than the time appointed by the notice of election for the closing of the poll.

Full Names of Candidates.

(In Alphabetical Order of Surnames.)

.....

.....

.....

.....

.....

Form 7.

Mental Health Act, 1962.

Mental Health (Administration) Regulations, 1965.
(Regulation 54.)

COUNTERFOIL.

Election of a Candidate to Mental Health Act Appeal Board.

Date of close of Poll.....

Name in full of Elector.....

Address of Elector.....

Usual signature of Elector.....

Witness to Signature.....

Address of Witness.....

Second Schedule.

(Regulation 16.)

BOARD OF VISITORS—FEES.

Item

- (a) Professional Members—£5 5s. per visit.
- (b) Non-professional Members—£4 4s. per visit.
- (c) Chairman—£25 per annum in addition to Item (a) or (b) of this Schedule.

SECOND SCHEDULE.

Regulations.

1. These regulations may be cited as the Mental Health Act (Forms) Regulations, 1965. Citation.
2. In these regulations— Interpreta-
tion.
 - “Act” means the Mental Health Act, 1962, as amended;
 - “Schedule” means a Schedule to these regulations.
3. Subject to the succeeding provisions of these regulations, where a provision of the Act is specified in the first column of the First Schedule, the form set out in the Second Schedule of which the number is specified in the third column of the First Schedule, opposite that provision, is prescribed as the form to be used for the purposes of that provision in relation to the matter or thing described in the second column of the First Schedule opposite that provision. Forms.
Schedules.
4. Where, under any provision of Division 3 of Part IV of the Act, the use of a form is implied, if a form is not prescribed for that provision by these regulations, a corresponding form set out in the Fourth Schedule to the Justices Act, 1902, may be used, with such adaptations as are necessary. Procedure
where no
form
prescribed.
5. Where a form prescribed by these regulations requires completion by the insertion of particulars or other matters referred to in the form, those particulars or other matters are prescribed as the particulars of other matters required under the provisions of the Act for the purposes for which the form is prescribed. Particulars
prescribed
by forms.
6. A form prescribed by these regulations and containing any directions for its completion shall be completed in accordance with those directions. Forms to be
completed
as directed.
7. Strict compliance with the forms contained in these regulations is not necessary and substantial compliance is sufficient. Compliance
with forms.

First Schedule.

List of Forms.

First Column.	Second Column.	Third Column.
Provision of Mental Health Act for which Form Prescribed.	Description of Form.	Number of Form in Second Schedule.
Section—		
27 (1) (a)	Application for the Informal Admission of a person under the age of 18 years.	1
27 (1) (b)	Application for Informal Admission by a person 18 years of age and over.	2
28 (1)	Referral by Medical Practitioner.	3
29 (1)	Form of Application.	4
29 (1)	Order for Conveyance of a Person to, and for his Reception in, an Approved Hospital.	5
29 (2)	Referral by Medical Practitioner.	3
30 (1)	Form of Complaint.	4
30 (1) and 30 (2)	Order for apprehension of a Person and for his examination by a Medical Practitioner.	6
30 (3)	Referral by Medical Practitioner.	3
31 (1)	Form of Complaint.	4
31 (2)	Special Warrant to enter a Place and examine a Person.	7
31 (3)	Referral by Medical Practitioner.	3
32 (1)	Order for Conveyance of a Person to, and for his reception in, an Approved Hospital.	5
33 (2)	Indorsement to suspend Execution of an Order made under Division 3 of Part IV.	8
36 (1) (b)	Warrant remanding a Person to an Approved Hospital for Observation.	9
36 (2)	Referral by Medical Practitioner.	3
36 (2)	Order for Conveyance of a Person to, and for his reception in, an Approved Hospital.	5

Second Schedule.

Forms.

Form 1.

Mental Health Act, 1962.

(Section 27 (1) (a).)

APPLICATION FOR THE INFORMAL ADMISSION OF A PERSON UNDER THE AGE OF 18 YEARS.

To The Superintendent,

.....Hospital:

I

(Christian Names)

(Surname in block letters)

of

(full address)

being a parent of or a guardian having the custody of

(full name in block letters)

who was born on the.....19....., hereby make application for h..... to be admitted as a patient under the provisions of Division 1 of Part IV of the Mental Health Act, 1962.

I understand that any application for the discharge of the abovenamed must be made in writing and that h..... may be detained for 72 hours after that application is received.

Dated the.....19.....

Signature.

Witness.

For Hospital use, only:

Received into Hospital—Date..... Time.....

Examined: Date..... Time..... By.....

Date..... Time..... By.....

Date..... Time..... By.....

Admitted: Date..... Time..... By.....

Admission Refused..... By.....

Form 2.

Mental Health Act, 1962.

(Section 27 (1) (b).)

APPLICATION FOR INFORMAL ADMISSION BY A PERSON 18 YEARS OF AGE AND OVER.

To the Superintendent,

Hospital:

I,

(Christian Names)

(Surname in block letters)

of

(full address)

being of the full age of eighteen years, hereby apply to be admitted as a patient under the provisions of Division 1 of Part IV of the Mental Health Act, 1962.

I understand that any application for my discharge must be made in writing and that I may be detained for 72 hours after that application is received.

Dated the.....19.....

(Signature)

Witness

For Hospital use, only:

Received into Hospital—Date..... Time.....

Examined: Date..... Time..... By.....

Date..... Time..... By.....

Date..... Time..... By.....

Admitted: Date..... Time..... By.....

Admission Refused..... By.....

Form 3.

Mental Health Act, 1962.

(Section 28 (1), 29 (2), 30 (3), 31 (3) and 36 (2).)

REFERRAL BY MEDICAL PRACTITIONER.

I, being a legally qualified medical practitioner, state that on the at (date)

in the State of Western Australia I personally examined (full name of person)

of (address) and I am of the opinion that he/she appears to be suffering from a mental/nervous disorder, by reason that—

(a) as observed by me, and

(b) as I am informed by.....

I am of the opinion he/she should be admitted to an approved hospital.

Signed..... Qualifications..... Address.....

Date.....

For Hospital use, only:

Received into Hospital: Date..... Time..... By.....

Examined: Date..... Time..... By.....

Date..... Time..... By.....

Date..... Time..... By.....

In my opinion the abovenamed should be admitted to theHospital as a patient/is not in need of treatment and should be permitted to leave the hospital.*

Entered in the register this.....at.....

Signature.

Qualifications.

Admitted/Left hospital: Date..... Time.....

* Delete whichever is inapplicable.

Form 4.

Mental Health Act, 1962.

(Sections 29 (1), 30 (1), 31 (1) and 32 (1).)

FORM OF APPLICATION OR COMPLAINT.

WESTERN AUSTRALIA }
To Wit }

The application/complaint of (1).....
of (2).....in the said State
(3).....made this.....
day of....., 19.....before the undersigned, one
of Her Majesty's Justices of the Peace for the said State, shows
that (4)..... of
(5).....in the said State
(6)..... appears to be suffering
from mental disorder and (7).....

.....
and the applicant/complainant seeks an order/a warrant requiring
(8)

.....
Signature of Applicant/Complainant.

MADE/SWORN before me the day and year first above written
at.....in the said State.

.....
Justice of the Peace.

- (1) Full name of applicant or complainant. (2) Address of applicant or complainant. (3) Description of applicant or complainant. (4) Full name of person in respect of whom application or complaint is made. (5) Address of that person. (6) Description of that person. (7) Set out such of the grounds mentioned in Ss. 29 (1), 30 (1), 30 (2), 31 (1) or 32 (1), as the case requires, to lead to the order or warrant sought. (8) Set out the nature of order or the particulars of the warrant sought.

Note:—An application made under section 29 (1) must be accompanied by a referral by a medical practitioner, given under section 28 of the Act.

Form 5.

Mental Health Act, 1962.

(Sections 29 (1), 32 (1) and 36 (2).)

ORDER FOR CONVEYANCE OF A PERSON TO, AND FOR HIS RECEPTION IN, AN APPROVED HOSPITAL.

To the principal police officer at.....in
the State of Western Australia and to all other police officers
in the said State and to the Superintendent of.....
Hospital in the said State:

WHEREAS an application/complaint on oath was made under
section.....of the Mental Health Act,
1962, that.....of.....
.....in the said State appears to be suffering
from mental disorder and.....

AND WHEREAS it appears from the attached referral of a legally qualified medical practitioner that the said is in fact suffering from mental disorder and should be admitted for treatment to an approved hospital:

These are therefore to command you the said police officer or police officers, in Her Majesty's name, to convey the said to Hospital aforesaid and there deliver h..... to the Superintendent thereof together with this order and the attached referral and you the said Superintendent to receive the said into hospital for observation as provided by the said Act.

Given under my hand at in the said State, this day of 19.....

Justice of the Peace.

For Hospital use, only:

Received into Hospital: Date Time By
Examined: Date Time By
Date Time By
Date Time By

In my opinion the abovenamed should be admitted to the Hospital as a patient/ is not in need of treatment and should be permitted to leave the hospital.*

* Delete whichever is inapplicable.

Entered in the register this at

Signature.

Qualifications.

Admitted/Left hospital: Date Time

Form 6.

Mental Health Act, 1962.

(Section 30 (1) and (2).)

ORDER FOR APPREHENSION OF A PERSON AND FOR HIS EXAMINATION BY A MEDICAL PRACTITIONER.

To the principal police officer at in the State of Western Australia and to all other police officers in the said State:

WHEREAS a complaint under section 30 of the Mental Health Act, 1962, has been made on oath before the undersigned one of Her Majesty's Justices of the Peace for the said State, that of in the said State appears to be suffering from mental disorder and.....

These are, therefore, to command you, in Her Majesty's name, to apprehend the said....., if not already in custody, and (in either event) to cause h..... to be examined by a legally qualified medical practitioner and, thereafter, to bring h..... before some one or other of Her Majesty's Justices of the Peace to be dealt with according to law.

Given under my hand at in the said State, this day of 19.....

Justice of the Peace.

Form 7.

Mental Health Act, 1962.

(Section 31 (2).)

SPECIAL WARRANT TO ENTER A PLACE AND EXAMINE A PERSON.

To the principal police officer at.....in the State of Western Australia and to all other police officers in the said State:

WHEREAS a complaint under section 31 of the Mental Health Act, 1962, has been made on oath before the undersigned, one of Her Majesty's Justices of the Peace for the said State, that..... of..... in the said State appears to be suffering from mental disorder and.....

These are, therefore, to command you, in Her Majesty's name, to enter, with a legally qualified medical practitioner and with such assistance as may be found necessary, into the place at..... where the said..... lives or is detained, using force, if necessary, for making that entry, whether by breaking down doors or otherwise, and there cause h..... to be examined by the medical practitioner aforesaid and upon it appearing from the referral of the medical practitioner that the said..... is in fact suffering from mental disorder you are to bring h..... before some one or other of Her Majesty's Justices of the Peace to be dealt with according to law.

Given under my hand, at..... in the said State, this..... day of..... 19.....

Justice of the Peace.

Form 8.

Mental Health Act, 1962.

(Section 33 (2).)

INDORSEMENT TO SUSPEND EXECUTION OF AN ORDER MADE UNDER DIVISION 3 OF PART IV.

The execution of the within order is suspended for a period of..... days* from date thereof during which period the said (here set out directions and arrangements as to care and control of person to whom order relates).....

Justice of the Peace.

* Not exceeding seven days.

Form 9.

Mental Health Act, 1962.

(Section 36 (1).)

WARRANT REMANDING A PERSON TO AN APPROVED HOSPITAL FOR OBSERVATION.

To the principal police officer at.....in the State of Western Australia and to the superintendent ofHospital, in the said State:

WHEREAS of in the said State was on the.....day of.....19..... charged at the Court of Petty Sessions at..... that he/she did.....:

AND WHEREAS the Court, acting pursuant to the provisions of section 36 of the Mental Health Act, 1962, ordered that, pending the further hearing of the charge the said..... be remanded in custody, for reception into, and observation in, an approved hospital, for a period of.....days*: These are therefore to command you, the said police officer, forthwith to convey the said..... to the said.....Hospital and deliver h..... to the superintendent thereof, together with this warrant, and you, the said superintendent to receive the said..... into your custody in the said hospital and, subject to such lawful orders as may be made in that behalf, there keep h..... under observation until the.....day of.....19.....or such earlier day as may lawfully be ordered in that behalf and you are further required to deliver h..... into the custody of a member of the Police Force to be brought before the Court of Petty Sessions at..... in the said State on the..... day of..... 19..... at.....o'clock in the.....noon to answer the said charge.

Given under.....hand(s), at..... in the said State this.....day of..... 19.....

Magistrate/Justices of the Peace.

* Not exceeding 28 days.

SUPREME COURT ACT, 1935-1964, AND MENTAL HEALTH ACT,
1962-1964.

WE, the Honourable Sir Albert Asher Wolff, K.C.M.G., Chief Justice of Western Australia, the Honourable Sir Lawrence Walter Jackson, Kt., Senior Puisne Judge, and the Honourable John Evenden Virtue, the Honourable Roy Vivian Nevile, the Honourable Gordon Bede D'Arcy, the Honourable John Hale and the Honourable Oscar Joseph Negus, Puisne Judges of the Supreme Court of Western Australia, acting in pursuance of the powers conferred by the Supreme Court Act, 1935, and the Mental Health Act, 1962, and of every other power enabling us in that behalf, make the following rules; and direct that those rules shall take effect on and after the coming into operation of the Mental Health Act, 1962.

RULES.

I.—PRELIMINARY.

1. These rules may be cited as the Supreme Court (Mental Health) Rules, 1965. Citation.
2. In these rules, unless the context otherwise requires— Interpreta-
tion.
 - “Act” means the Mental Health Act, 1962;
 - “accountant” means the accountant of the Crown Law Department and any person for the time being acting in that position;
 - “filed” means filed in the Central Office;
 - “Form” means one of the forms in the Schedule to these rules;
 - “incapable person” includes a person who is alleged to be, or who the Court has reason to believe may be, incapable, by reason of mental illness, defect or infirmity, however occasioned, of managing his affairs;
 - “manager” includes an interim manager;
 - “order” includes a certificate, direction or authority under the seal of the Court;
 - “rule” means one of these rules;
 - “seal” means an official seal of the Court and
 - “sealed” shall be construed accordingly.
3. The Court may extend or abridge the time limited by these rules or any order or direction of the Court for doing any act or taking any proceeding, upon such terms as the Court thinks fit and notwithstanding, in the case of an extension, that the time so limited has expired. Power to
enlarge or
abridge
time.

Rules of the
Supreme
Court to
apply.

4. The Rules of the Supreme Court, 1909, as amended, and the general practice of the Court including the course of practice and procedure in Chambers, apply, so far as may be practicable, to proceedings to which these rules relate, but only to the extent that the Act or these rules do not otherwise provide.

Titles.

5. Every application, notice of motion and summons and all notices, affidavits and other documents in any proceedings under the Act shall be intituled "In the Supreme Court", "In the matter of the Mental Health Act, 1962", and "In the matter of....." (the name of the person to whom the proceeding relates).

Rules
subject to
variation
by special
order.

6. The provisions of these rules are subject to variation by special order, in any case, and apply only where no express direction is given by any special order concerning any of the matters provided for in these rules or only so far as any such direction does not extend.

II.—MODE OF APPLICATION.

Commence-
ment of
proceedings.

7. (1) Every originating application under the Act shall be made by way of originating summons which, in the case of an application under section 64 of the Act, shall be in accordance with Form 1.

(2) Every application, other than an originating application and an application which the Court considers may properly be dealt with in a summary manner, shall be made by way of summons, in accordance with Form 2.

Certain
proceedings
to be heard
by Judge.

8. (1) Original proceedings under section 55 or section 64, and all proceedings under sections 66, 71, 75 and 76, of the Act shall be heard by a Judge in chambers.

(2) Every application for the appointment of a manager or an interim manager, in the first instance, and all proceedings for the discharge of a manager, by reason of his misconduct or default shall be heard by a Judge in chambers.

Proceedings
may be
adjourned
to open
Court.

9. Any proceeding such as is mentioned in rule 8 may, if the Judge thinks fit, be adjourned from chambers into court and from court into chambers.

Hearing of
proceedings.

10. (1) Subject to sub-rules (2) and (4) of this rule, all proceedings other than those required by the Act or these rules to be heard by a Judge, shall be heard

and determined by the Master who may, in respect of every such proceeding, exercise any of the powers conferred on the Court or a Judge in relation thereto.

(2) The Chief Justice may, from time to time, direct that any class of proceedings arising under the Act or these rules be heard and determined by a Judge, and may vary or revoke any such direction.

(3) A matter that is authorised by or under these rules to be heard and determined by the Master shall not be brought before a Judge, except—

- (a) on a reference from the Master;
- (b) on an appeal under rule 33; or
- (c) by special leave of the Court or a Judge.

(4) If a matter brought before the Master appears to him proper for the decision of a Judge, the Master may refer that matter to a Judge and the Judge may either dispose of the matter or refer it back to the Master with such directions as he thinks fit.

(5) A Judge may refer any proceedings before him or any question arising therein to the Master for inquiry and report.

11. (1) For the purpose of any proceedings required or authorised by the Act or these rules, or directed by a Judge, to be taken before him, the Master is empowered to issue advertisements, to summon parties and witnesses, to administer oaths, to take affidavits and acknowledgments and to examine parties or witnesses, either upon interrogatories or *viva voce*.

Powers of
Master in
proceedings
before him.

(2) A party or person who has been summoned to attend before the Master, as a witness or otherwise, shall appear and present himself at the time and place specified in the summons and then from day to day, unless excused by the Master.

(3) If a person who has been summoned to attend before the Master fails to so attend, the Master may, on being satisfied that the summons has been duly served and that reasonable expenses have been paid or tendered to that person, bring the failure to the notice of a Judge who may, without any application being made to him, issue a warrant under his hand for the apprehension of that person.

(4) A warrant so issued authorises the apprehension of the person and his being brought before the Master and his detention in custody for that purpose, until he is released by order of the Court.

(5) The apprehension of a person under this rule does not relieve him from any liability incurred by him by reason of his failure to attend before the Master.

Contu-
macious
witnesses.

12. (1) If a person appearing before the Master as a witness refuses to answer, or fails to answer to the satisfaction of the Master, any question that the Master puts, or allows to be put, to the person, the Master may report the refusal in a summary way to a Judge and, upon the report being made to the Judge, the person may be dealt with by him as if the question had been put to the person by the Judge and the person had refused to answer the question or had made to the Judge the answer to the question that he made to the Master, as the case may be.

(2) A report of the Master under sub-rule (1) of this rule shall be in writing in accordance with Form 3, and shall state the question put to the witness and the answer, if any, to the question made by the witness, and may refer to any other evidence before the Master.

(3) Where the Master decides to report to a Judge the refusal or failure of a witness to answer a question, the Master shall inform the witness, before the conclusion of the examination, of the day on which, and time and place at which, the report of the Master will be made to the Judge.

Forms to be
completed.

13. (1) Where a form prescribed by these rules requires completion by the insertion of particulars or other matters referred to in the form or in any instructions relating thereto, those particulars or other matters are prescribed as the particulars or other matters required under the provisions of these rules for the purposes for which the form is prescribed.

(2) A form prescribed by these rules shall be completed in accordance with such directions as are specified in the form or in any instruction relating thereto.

III.—PARTIES.

Relatives
and other
interested
persons may
be made
parties.

14. (1) The Court may direct that all or any of the relatives of an incapable person or any other person shall be made a defendant to, or be given notice of, the application or summons.

(2) The Court may determine what persons are entitled to be heard at any stage of a proceeding relating to a patient or an incapable person.

15. Where in the opinion of the Court an application ought to be made—

Power to direct application by Public Trustee.

- (a) for the appointment or discharge of a manager; or
- (b) for the exercise of any power conferred on the Court, with respect to the property and affairs of an incapable person,

and there appears to the Court to be no other suitable person able and willing to make the application or the Court for any other reason thinks fit, the Court may direct that the application be made by the Public Trustee.

16. (1) An application on behalf of an incapable person shall, unless the Court otherwise directs, be made by the manager, in his own name.

Managers to represent incapable persons.

(2) Subject to any directions given by the Court, an incapable person may be represented by the manager on any summons to which the incapable person is a party.

17. Where, in any proceedings, the Court considers that the interests of an incapable person are not adequately represented by the manager, the Court may direct the Public Trustee to represent the incapable person, either generally in, or for any particular purpose connected with, the proceedings, without however being required to appoint the Public Trustee to be manager or guardian *ad litem* for the incapable person.

Representation of incapable persons by Public Trustee.

18. (1) Where two or more parties to a summons are represented by the same solicitor, the Court may require any of them to be separately represented.

Representation of parties.

(2) Where two or more parties having the same interest in relation to the matter to be determined attend any hearing of a summons by separate solicitors or counsel, they shall not be allowed more than one set of costs in respect of that hearing, unless the Court certifies that the circumstances justify separate representation.

IV.—SERVICE.

19. Where service is necessary, an originating summons shall be served at least seven clear days, and any other summons shall be served at least two clear days, before the return day.

Service of summons generally.

No service where defendant consents.

20. Unless the Court otherwise directs, it shall not be necessary to serve a defendant to a summons who consents to the making of the order sought, if a consent signed by him and verified by a solicitor is filed.

Mode of service.

21. A document required by the Act or these rules to be served on a person shall be served by delivering it to him personally or at his address for service (if any), but, where it appears to the Court that it is inexpedient or impracticable to serve a document in that manner, it may make an order for substituted service, in such manner as the order directs.

Notice of application.

22. (1) The notice of an application under section 64 of the Act to be given to an incapable person shall be in accordance with Form 4 and, unless the Court otherwise orders, shall be served not less than seven clear days before the day appointed for the hearing of the application.

(2) Notwithstanding the provisions of subrule (1) of this rule, the Court may, in special circumstances, dispense with service of the notice therein mentioned, on such conditions, if any, as the Court thinks fit.

Court may dispense with Summons.

23. The Court may dispense with any summons ordinarily taken out in the course of the proceedings before it, and require any party attending before it to take out a summons for a particular purpose or within a particular time, and may fix the time at which any particular summons shall be returnable before it, or at, or within which, any proceeding necessary or proper to be taken before it shall be taken, and may proceed *de die in diem* or adjourn the proceedings before it, as it thinks fit.

V.—EVIDENCE.

Evidence generally.

24. The Court may accept and act upon any evidence, notwithstanding that it would not otherwise be admissible in a Court of Law.

Evidence to be by Affidavit.

25. Except where these rules otherwise provide or the Court otherwise orders, evidence in proceedings under the Act or these rules shall be given by affidavit.

Power to accept unsworn evidence.

26. (1) Notwithstanding the provisions of rule 25 of these rules, the Court may accept, and act upon, 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 given.

(2) Every statement of facts for use under this rule shall—

- (a) be drawn up in numbered paragraphs and set out the relevant facts clearly and concisely;
- (b) so far as is practicable, comply with the provisions of the Rules of the Supreme Court, 1909, with regard to the filing and indorsement of an affidavit; and
- (c) be dated and signed by the person by whom it is made.

27. Except where the Court otherwise directs, evidence that has been used in any proceedings relating to an incapable person may be used at any subsequent stage of those proceedings or in any other proceedings relating to him or his family.

Use of evidence in subsequent proceedings.

28. (1) The applicant shall file with an originating application under section 64 of the Act a medical affidavit and, unless the Court otherwise directs, an affidavit of particulars.

Evidence to be filed on originating application.

(2) In addition to the production of the medical affidavit required under the provisions of sub-rule (1) of this rule, the Court may require the applicant to produce such further medical evidence, as to the capacity or incapacity of the incapable person to manage his affairs, as it may direct.

(3) Where the applicant is the Public Trustee, no affidavit of particulars is necessary, if—

- (a) the Public Trustee files a certificate that the incapable person is possessed of property and that the relief asked for is desirable in order to manage or protect that property; or
- (b) a report to the like effect is made under paragraph (a) of sub-rule (1) of rule 46.

(4) In this rule “an affidavit of particulars” means an affidavit in accordance with Form 5, giving particulars of the incapable person’s relatives, property and affairs and of the circumstances giving rise to the application; and “a medical affidavit” means an affidavit in accordance with Form 6, containing evidence of a medical practitioner to the effect that a person is incapable, by reason of mental disorder or mental illness, defect or infirmity, of managing his property and affairs.

29. Where, at any stage of proceedings relating to an incapable person the Court has reason to believe that the incapable person has died or recovered, the Court may require evidence of the death or recovery to be furnished by such party to the proceedings as the Court thinks appropriate.

Evidence of patient's death or recovery.

Order for examination of patients or incapable persons.

30. In any proceeding relating to an incapable person, the Court may make an order for that person's attendance, at such time and place as it may direct, for examination by the Master or by a medical practitioner.

VI.—MANAGERS.

Interim provision for managing affairs of patient or incapable person.

31. (1) Where, in the opinion of the Court, it is necessary to make immediate provision in relation to the property and affairs of an incapable person, for any of the matters referred to in section 68 of the Act, the Court may in a summary manner, by order,—

(a) direct or authorise any person named therein to do any act or thing specified in the order; or

(b) appoint an interim manager for the estate of the incapable person and, subject to any direction given by the Court, such appointment shall continue until further order.

(2) An order appointing an interim manager shall, unless the Court otherwise directs be served upon the incapable person, within such time as the order may specify, and the incapable person may, within such further time as the order may specify, apply to the Judge for the reconsideration of the order.

Appointment of managers with survivorship.

32. Where in the opinion of the Court two or more persons have been, or ought to be, appointed managers for an incapable person and one or more of them ought to continue to act after the death or discharge of any of the others, the Court may when appointing them managers or at any time thereafter, direct that the managership shall continue in favour of the surviving or continuing manager or managers.

VII.—APPEALS.

Appeal from Master.

33. (1) Subject to the provisions of rule 34, any person aggrieved by an order or decision of the Master may, within eight days from the date of the order or decision or within such further period as the Court may allow, appeal therefrom to a Judge.

(2) An appeal shall be by notice, in accordance with Form 7, filed in the Central Office and, unless the Court otherwise orders, a copy of the notice shall be served upon every party at least three clear days before the day fixed by the notice for the hearing.

(3) No further evidence shall be filed in support of, or in opposition to, the appeal, without the leave of the Judge.

(4) An appeal from the decision of the Master does not operate as a stay of proceedings, unless so ordered by the Judge or the Master.

34. (1) An appeal does not lie, in the first instance, from any order or decision of the Master that is not made or given on a summons, except in accordance with the provisions of this rule. Appeal from an order not made on summons.

(2) Any person who is aggrieved by such an order or decision as is mentioned in sub-rule (1) of this rule may apply by summons to the Master to reconsider the order or decision, but, in that event, no further evidence shall be filed in support of, or in opposition to, the summons, without the leave of the Master.

(3) On the hearing of the summons the Master may either confirm or revoke his previous order or decision or make or give such other order or decision as he thinks fit.

(4) Any person aggrieved by any order or decision made or given on the hearing of an application under this rule may appeal therefrom to a Judge in accordance with the provisions of rule 33.

VIII.—SECURITY.

35. (1) Where an order is made appointing a person other than the Public Trustee or a corporate trustee as manager for an incapable person,— Manager to give security.

(a) the person appointed shall, unless the Court otherwise orders, before acting as manager, give security for the due performance of his duties; and

(b) unless otherwise ordered, the order shall not be sealed until the person appointed has given security to the satisfaction of the Master.

(2) The Court may from time to time vary any required security.

36. (1) Subject to any directions of the Court, security may be given in any of the following ways or partly in one of those ways and partly in another, that is to say,— Manner of giving security.

(a) by a bond approved by the Master and given by the person giving security and also by—

(i) an insurance company or guarantee company, group of underwriters or bank approved by the Master; or

(ii) with the approval of the Master, two personal sureties;

or

(b) by lodging in Court a sufficient sum of money or stock.

(2) A person desiring to give security, in whole or in part, by lodging money or stock in Court, shall file a form of request in accordance with Form 8 and the Master may thereupon give leave to make the lodgement and direct how any such money is to be invested and how any interest is, or dividends are, to be applied.

(3) A bond given under subparagraph (i) of paragraph (a) of sub-rule (1) of this rule shall be in accordance with Form 9 and a bond given under subparagraph (ii) of that paragraph shall be in accordance with Form 10.

(4) A bond given under this rule shall be executed within the jurisdiction of the Court and shall,—

- (a) where executed by a natural person, be attested by a Commissioner or other person authorised to administer oaths for use in the Court; and
- (b) where executed by a body corporate, be executed under the corporate seal of that body.

Appropriation of security lodged.

37. Any security given by lodgement of money or stock shall be dealt with in accordance with the terms of the request filed when the lodgement is made.

Discharge of security where new security given.

38. Where a manager is authorised or directed to give new security and—

- (a) the new security has been completed; and
- (b) he has paid or secured to the satisfaction of the Court any balance due from him,

the former security shall, unless the Court otherwise directs, be discharged, except in respect of any loss or damage occasioned by any act or default of the manager, in relation to his duties as manager, previously to the date on which the former security is discharged.

Maintenance of security by bond.

39. Every person who has given security by a bond shall, whenever his accounts are passed or the Court so directs, satisfy the Court, if the bond was given by personal sureties, that each surety is living and within the jurisdiction and has neither been adjudicated bankrupt nor compounded with his creditors; and, if the Court is not so satisfied, it may require new security to be given or may give such other directions as it thinks fit.

IX.—ACCOUNTS.

Passing of accounts.

40. (1) Every manager shall, half yearly or at such other intervals as the Court may direct, deliver his accounts, set out in accordance with Form 11 and, where the case so requires, Form 12 and verified by affidavit, to the Court and attend at, or within, such time as the Master may appoint to have the accounts taken and passed.

(2) On the passing of any accounts, the Master shall make all proper allowances out of the incapable person's estate.

(3) The Master may allow the reasonable and proper costs of the manager of passing the accounts, and of any other person permitted to attend, in whole or in part; and, where the manager is in default under these rules or in complying with any direction or order of the Court, may deprive him of the costs of passing his accounts or may order him to pay those costs, personally.

(4) The Master's allowance of any account may be recorded by a report in accordance with Form 13.

(5) The Court may direct that a manager need not account under this rule or may dispense with the passing of any accounts at any time at which they would otherwise be required to be passed.

(6) The provisions of this rule do not apply to a manager, being a corporate trustee, except on an order of the Court made under subsection (2) of section 73 of the Act, or to the Public Trustee.

41. The balance found due from a manager on the passing of his accounts, or so much thereof as the Court may direct, shall—

Application of balance due from manager.

- (a) be paid by the manager into Court, to the credit of the proceedings, and invested in such manner as the Court may direct; or
- (b) be invested or otherwise dealt with by the manager, in such manner as the Court may direct.

42. Where a manager fails to comply with any of the requirements of rule 40 or fails to pay into Court or invest or otherwise deal with any money in accordance with any direction of the Court, the Master may disallow the remuneration (if any) that would otherwise be allowable to the manager and, where he has made default in paying into Court or investing or otherwise dealing with any money, may direct him to pay interest thereon at the rate of eight per centum per annum, or such lower rate as the Master may fix, for the period of his default.

Default by manager.

43. Unless otherwise directed, any money ordered to be paid by a manager for maintenance shall be paid out of income, and any costs ordered to be paid by a manager may, when taxed or fixed, be paid out of any moneys coming into his hands, after providing for any maintenance and fees.

Payment of maintenance and costs.

44. (1) On the discharge or death of a manager, or on the death or recovery of an incapable person for whom a manager has been appointed, the Master

Final accounts.

shall take and pass the accounts of the manager 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 Master, the taking and passing of such accounts may properly be dispensed with.

(2) Where a balance is found due from the manager 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 Master may direct.

(3) Where a balance is found due to the manager or his estate, it shall be paid to him or his personal representatives, as the case may be, by the incapable person or out of the incapable person's estate.

(4) On payment of any balance found due from the manager, or if no balance is found due from him or the passing of his accounts has been dispensed with under sub-rule (1) of this rule, the security of the manager shall, unless the Court otherwise directs, be discharged, except in respect of any loss or damage occasioned by any act or default of the manager in relation to his duties as manager, previously to the date of passing his accounts.

Accounts of
corporate
trustees.

45. (1) Every corporate trustee that is appointed the manager of the estate of an incapable person shall cause the accounts of that estate to be audited, for the purposes of section 73 of the Act, in respect of, and within three months after the conclusion of, every period of its administration ending on the 30th day of June, in any year, and within one month after it ceases to be the manager of the estate.

(2) The fee payable to a corporate trustee, by any person inspecting its accounts, under the provisions of subsection (2) of section 73 of the Act, is an amount of 10s.

X.—INQUIRIES.

Court may
call for
inquiries
and
reports.

46. (1) Where the Court has reason to believe that a manager should be appointed for the estate of an incapable person or that any other power conferred on the Court should be exercised with respect to the property and affairs of an incapable person, the Court may, on the application of any person or of its own motion,—

- (a) direct the Public Trustee to make inquiries and report to the Court whether it is desirable, in the interests of the incapable person, that an application should be made for that purpose; or
- (b) direct that the incapable person be medically examined and a report made to the Court on the capacity of the incapable person to manage and administer his property and affairs.

(2) On receiving any report made under the provisions of sub-rule (1) of this rule, the Court may direct an application to be made under rule 15.

47. For the purpose of any proceedings relating to the property of an incapable person, the Court may inspect the property or may direct the Public Trustee to inspect the property, make any necessary inquiries and report to the Court.

Inspection of patient's property.

48. In any proceedings relating to an incapable person, the Court may make, or cause to be made, such inquiries as it considers necessary as to any dealing with his property, before the commencement of the proceedings, and as to his mental capacity, at the time of that dealing.

Court may inquire into prior dealings with patient's property.

49. The Court may make, or cause to be made, inquiries as to whether any person has in his possession or under his control, or has any knowledge of, any testamentary document executed by an incapable person and may direct that person to answer the inquiries on oath and to produce any such document which is in his possession or under his control and deal with it in such manner as the Court may direct.

Court may inquire as to testamentary documents.

50. The Court may make or cause to be made any other inquiries that it may consider necessary or expedient for the proper discharge of any of its functions under the Act or these rules.

Court may make other inquiries.

XI.—CUSTODY AND DISPOSAL OF FUNDS AND OTHER PROPERTY.

51. Where, under a direction of the Court, any furniture or effects of an incapable person are allowed to remain in the possession of, or are deposited with, any person, that person shall, unless the Court otherwise directs, sign and file a statement of the furniture or effects and an undertaking not to part with them, except by order of the Court.

Statement of property retained or deposited.

52. (1) An application under subsection (2) of section 71 of the Act shall be served on the person by or with whom the stock is registered; and that person is entitled to be heard on the application.

Transfer of stock under S. 71 of the Act. (Vide Rs. 7 and 19.)

(2) An order made under subsection (2) of section 71 of the Act may direct some proper person to transfer the stock and may contain such further directions, to give effect to the order, as the Court thinks necessary or expedient.

Disposal of property on the death or recovery of an incapable person.

53. (1) On the death or recovery of an incapable person, the Court may order any property belonging to the incapable person, or forming part of his estate, or remaining under the control of, or held under the directions of, the Court to be paid, transferred, delivered or released to the person who appears to be entitled thereto.

(2) If no grant of representation has been taken out to the estate of a deceased incapable person and it appears to the Court that the assets of the estate, after deduction of debts and funeral expenses, do not exceed £200 in value, the Court may 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 of them, or any other property of the incapable person remaining under the control, or held under the directions, of the Court be paid, transferred, delivered or released either to the personal representative of the deceased, when constituted, or to a person who appears to the Court to be entitled to apply for a grant of representation to his estate.

(3) If no application for an order under either sub-rules (1) or (2) of this rule is made within six months from the death of the incapable person, the Court may direct that any money or securities that belonged to the incapable person when he died and were not already in Court be transferred into Court.

XII.—SETTLEMENT AND APPROVAL OF DEEDS.

Documents to be settled by Court.

54. The Court may direct that any mortgage, lease or other disposition of an incapable person's land and any other deeds and documents relating to his estate be settled and approved by the Court.

Authentication by seal.

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

(2) Unless otherwise directed, no deed or other document shall be sealed, for the purpose mentioned in sub-rule (1) of this rule, 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 Court; and
- (b) where the deed or document contains a recital that any money has been lodged in Court, a certificate of the accountant is produced, stating that the lodgement has been made.

XIII.—FEES.

56. The several fees and percentages to be taken in respect of proceedings under the Act shall be those from time to time ordered to be taken and set out in the Scale of Fees and Percentages to be taken in the Supreme Court, pursuant to the Supreme Court Act, 1935.

Fees and percentages.

57. The Court may remit, or postpone the payment of, the whole or part of any fee in respect of proceedings under the Act, where, in the opinion of the Court, hardship might otherwise be caused to the incapable person or his dependants or where the circumstances are otherwise exceptional.

Postponement and remission of fees.

XIV.—COSTS.

58. All costs incurred in relation to proceedings under the Act or these rules are in the discretion of the Court and, in exercising that discretion, the Court may order any such costs to be paid by the incapable person or to be charged on, or paid out of, his estate.

Costs, generally.

59. A manager shall not, unless authorised by the Court, be entitled to employ a solicitor or other professional person, at the expense of the incapable person's estate, for any work not usually requiring professional assistance.

Cost of unnecessary employment of solicitor etc. not to be allowed.

60. Any costs incurred by the Public Trustee in relation to proceedings under the Act or these rules or in carrying out any directions given by the Court shall be paid by such party to, or such person attending, the proceedings or out of such funds, as the Court may direct.

Costs of Public Trustee.

61. Where, in proceedings under the Act or these rules, relating to an incapable person, a claim is made against his estate, in respect of costs (unrelated to those proceedings) that are alleged to have been incurred by him or on his behalf, the Court may refer the claim to the Taxing Master so that the amount due to the claimant may be ascertained by the Taxing Master or under his direction.

Ascertainment of prior costs.

XV.—REVOCATION OF PREVIOUS RULES AND TRANSITIONAL PROVISIONS.

62. In this Part, "existing order" means any order made under the Lunacy Act, 1903, that is in force on the coming into operation of the Act.

Interpretation.

63. The Lunacy Rules, 1905, published in the *Government Gazette* on the 26th May, 1905, and amended from time to time are revoked.

Revocation.

Proceedings pending under revoked rules.

64. Notwithstanding the revocation provided by rule 63, any proceeding that is commenced and pending on the coming into operation of these rules may be continued and be concluded, as if that revocation had not been effected.

Existing orders to remain in force.

65. (1) Any declaration made, or power conferred, by an existing order remains in force, until such time as the order is varied, rescinded or superseded.

(2) An application for the variation, rescission or supersession of an existing order shall be made as prescribed by these rules.

Passing of accounts pursuant to existing orders.

66. (1) Where an existing order makes provision for the passing of his accounts by a manager who is a natural person, that provision remains in force until varied or revoked, otherwise a manager appointed before the commencement of the Act shall pass his accounts in accordance with these rules.

(2) Where an existing order makes provision for the passing of its accounts by a manager that is a corporate trustee, the manager shall pass its accounts from the foot of its last account or, if no account has previously been passed, from the date of its appointment, up to and including the day prior to that on which the Act comes into operation.

Prior percentages and fees to apply in certain cases.

67. Where any accounts that ought to have been passed prior to the date of the coming into operation of the Act are passed after that date, the percentages and fees to be taken in respect of those accounts shall be those that applied prior to that date.

Rule 7.

SCHEDULE.

Form 1.

Originating Summons

IN THE SUPREME COURT }
OF WESTERN AUSTRALIA }

19 No.

IN THE MATTER of the Mental Health Act, 1962

— and —

IN THE MATTER of A.B.

LET all parties concerned attend the Judge in Chambers at the Supreme Court, Perth, on day the day of 19 at o'clock in the noon, on the hearing of an application on the part of (*state full name of applicant followed by his address and description*)

of
who is the (*state relationship*) of [or is not related to] the abovenamed (*state name of incapable person*) for—

- (1) a declaration that the said (*incapable person*) is incapable, by reason of mental illness, [mental defect or mental infirmity (*as the case may require*)], of managing his [her] affairs;

Rule 22.

Form 4.

Notice of Originating Proceedings.

[Heading as in Form 1.]

To (*Name of Incapable Person*)

1. You are informed that on _____, the _____ day of _____ 19____, at _____ o'clock in the _____ noon, the Court will inquire whether or not you are capable of managing your affairs and as to what steps should be taken in your interests to protect and manage your property and affairs if it is found that you are unable to do so [and whether (*state full name of proposed manager followed by his address and description*) of _____ or some other fit and proper person should be appointed to act as manager of your estate, under the directions of the Court].

2. If you wish to make any objection or observation by letter, the letter should be addressed as follows—

The Clerk-in-Charge,
Supreme Court of Western Australia,
Perth.

3. You may obtain copies of any documents relating to this proceeding, free of charge, on request from the undersigned.

4. Should you wish to be represented at the hearing, you may appoint a solicitor or counsel to attend on your behalf.

Dated the _____ day of _____, 19____.

.....
Signature and address of Applicant's solicitor or of Applicant
if acting in person.

Rule 23.

Form 5.

Affidavits of Particulars.

[Heading as in Form 1.]

I, (*full name, place of residence and description of deponent*), make oath and say, as follows:

1. I am a (*relationship, if any, and, if none, capacity in which deponent makes the affidavit*) of the abovenamed incapable person.

2. The incapable person—

- (a) ordinarily lives at _____ and is living there at the date hereof [but since the _____ has been living at _____];
- (b) prior to being incapacitated, was a (*occupation*); and
- (c) is aged _____ years and is [married, unmarried, widowed].

3. The nearest relatives of the incapable person are (*names and addresses stating relationship to incapable person and, in the case of children, their ages*).

4. The incapable person has not been referred [was on the referred to the (*approved hospital*)], under the provisions of the Mental Health Act, 1962 [on the (*date*) and was [not] admitted].

5. The affairs of the incapable person have not [have since the _____] been managed by the Public Trustee, under the Public Trustee Act, 1941.

6. The property belonging to the incapable person or in which the incapable person has any interest is specified in the Schedule hereto and, to the best of my knowledge and belief, the incapable person is not entitled to any other property or effects.

7. The income of the incapable person from all sources, after allowing for interest calculated on any uninvested cash and after deducting tax (if any) will amount to approximately _____ net, annually.

8. The incapable person is receiving a pension of _____ per fortnight [not receiving any pension], under the Social Services Act, 1947, of the Commonwealth.

9. The cost of the incapable person's maintenance [which has been paid up to _____] is _____, per week.

10. It will also be necessary to provide—

(a) the incapable person with extra comforts, pocket money and clothing amounting approximately to _____, per week;

(b) for the maintenance of the incapable person's wife [husband] amounting to _____, per week; and

(c) for the maintenance of _____ amounting to _____, per week,

making with the incapable person's own maintenance, a total of _____, per week.

11. In view of the foregoing, the income of the incapable person will [not] be sufficient for all the purposes mentioned [but _____ is willing to make up the deficiency] [and it will be necessary that resort be made to the incapable person's capital].

12. The debts of the incapable person, other than money owing on mortgage, amount to _____, of which full particulars are set out in the Schedule. [The incapable person has no debts].

13. The incapable person has [not, so far as I am aware,] made a will [and it is believed to be in the custody of _____].

14. The incapable person has granted a power of attorney dated the _____ to _____ [has not granted any power of attorney].

15. The appointment of (*full name*) _____ of _____ (*address and description*), aged _____ years, as manager of the incapable person's affairs is sought, he [she] being fully qualified to perform the duties of manager, by reason that he [she] (*here set out, in detail, such qualifications as the proposed manager may have that will ensure the proper management of the incapable person's affairs*).

16. As a reference of the fitness of _____ to be appointed manager, I submit the name of _____.

17. (*Set out a brief history of the incapable person, explaining the circumstances giving rise to the proceedings and giving such information as to the incapable person and the incapable person's relatives as may assist the Court. Further explanatory paragraphs should be added where the exercise of any additional powers conferred on the Court by Part VI of the Mental Health Act, 1962, is sought or is expedient. Where the incapable person is living at home, details of the arrangements made, or proposed to be made, for the care of the incapable person and the management of the home should be added*).

SCHEDULE.*

PART I—ABSOLUTE PROPERTY.

(a) Cash.

(*Either at bank or elsewhere, giving the name and address of bank and stating whether on deposit or current account. Where any of the money is not standing in the name of the incapable person, solely, the fact must be stated and the full names of the person under whose control the money then is must be shown and an explanation of the circumstances given in the body of the affidavit*).

(b) Pensions, Annuities, Allowances and Life Policies.

(Showing the full details of the policies and premiums payable and, where surrender may be advisable, the surrender value. Pension numbers and the reference number of annuities, allowances, etc., must be given, where possible.)

(c) Land and House Property (including tenancies).

(Stating whether freehold, leasehold or mere tenancy, showing the terms, rates and taxes, tenants' names and rental, together with the particulars of any mortgage thereon stating the names of the mortgagees and the rate of interest; details of insurances should also be given.)

(d) Investments.

(Being a complete list of the incapable person's investments and, in the case of mortgages, showing the names of the mortgagors, the rate of interest and particulars of the property on which the mortgage is secured. Where any of the investments are in joint names, full particulars should be given and details should be furnished showing the incapable person's beneficial interest.)

(e) Miscellaneous.

(Showing items such as rights under covenants, the furniture and effects, jewellery, motor cars, stock-in-trade, fixtures and goodwill or other property not otherwise appearing in the Schedule. A copy of the latest accounts of any business carried on by the incapable person should accompany the application.)

PART II—REVERSIONARY AND CONTINGENT INTERESTS, ETC.

(Showing the name and age of the person upon whose death the incapable person will become entitled, together with details of the property and particulars of the will or settlement and the names of the trustees.)

PART III.—LIFE INTERESTS.

(Showing the date and nature of the instrument creating the trust, the trustees' names, the property subject to the trusts and, in the case of a voluntary settlement, whether it is revocable.)

PART IV—DEBTS.

(Other than mortgages on the incapable person's property, those being shown in Part I (c), showing the names of the creditors and the nature of each debt.)

SWORN, etc.

*** Every portion of the Schedule must be included, and a nil entry made, where necessary.**

Rule 28.

Form 6.

Medical Affidavit.

[Heading as in Form 1.]

I, *(Full name and residential address)* a Legally Qualified Medical Practitioner make oath and say as follows:—

1. I am the medical attendant of the abovenamed [A.B.] who lives at _____ and have so acted since _____

or

[I am the *(Superintendent or other officer)* of the *(hospital)* where the abovenamed [A.B.] has been a patient since _____].

2. I last examined the said [A.B.] on the _____ *(date)* and in my opinion he [she] is, by reason of mental illness [defect or infirmity] incapable of managing his [her] affairs.

3. I base my opinion on the following facts—

(Deponent here to inscribe the facts by his own hand.)

4. The following particulars regarding the incapable person are accurate to the best of my knowledge and belief, namely—

(Set out (a) whether the incapable person is the patient of an approved hospital and, if so, whether an informal patient or detained; (b) duration of existing disorder; (c) any known previous history or family history of mental disorder, giving known details; (d) whether in any way dangerous to himself/herself or others; (e) whether the incapable person is capable of appreciating his/her surroundings; (f) whether capable of appreciating extra comforts and, if so, the recommended nature of these; (g) the incapable person's bodily health and prospects of life; and (h) prospects of recovery from the current disorder.)

SWORN, etc.

Rule 38.

Form 7.

Notice of Appeal from Order or Decision of Master.

[Heading as in Form 1.]

TAKE NOTICE that _____ of _____ will appeal to a Judge from the order [decision] of the Master made in this matter on the _____ day of _____, 19____, *(add if part only is appealed from, "so far as it directs that _____")*. AND THAT he intends to ask that the said order [decision] be discharged [varied] and that it be ordered that *(set out any other relief sought)*.

The appeal will be heard by the Judge in Chambers at the Supreme Court, Perth, on _____ day the _____ day of _____, 19____, at _____ o'clock in the _____ noon, or so soon thereafter as the appeal may be heard.

Dated the _____ day of _____, 19____.
(Signed)
 Solicitor for
 Address.

To _____
 and to his Solicitors, Messrs. _____

Rule 36.

Form 8.

Request for Leave to give Security by Lodgment in Court.

[Heading as in Form 1.]

I, _____ of *(state address and description)*, manager for the abovenamed incapable person, request the leave of the Court to give my security of _____ *(state penal sum)* by lodging that sum *(or state the amount and description of stock)* in Court, and I agree that if I make any default in paying or accounting to the estate of the incapable person for any money or securities coming into my hands as manager or otherwise in the due performance of my duties as manager, of which default the Court shall be sole judge, the said security may forthwith be transferred to the incapable person's account or otherwise dealt with for his benefit as the Court may direct, provided that if I prove that the loss (including any costs) occasioned to the incapable person's estate by reason of my default amounts to a lesser sum, the balance of the security remaining after deducting that sum, or so much of the balance as shall not have been applied for the benefit of the incapable person, may be returned to me.

Dated the _____ day of _____, 19____.
(Signed)

To the Master,
 Supreme Court.

Rule 36.

Form 9.

Manager's Bond with Guarantee Company as Surety.

[Heading as in Form 1.]

KNOW ALL MEN BY THESE PRESENTS THAT WE C.D. of
(address and description or occupation) (hereinafter called "the
 Manager") and the [S.T. Guarantee Co. Ltd.] whose registered office is
 situate at *(address)* (hereinafter called "the Sureties") are bound and
 firmly obliged to our Sovereign Lady the Queen in the sum of
 pounds of good and lawful money (subject to reduction as hereinafter
 provided) to be paid to the same Lady the Queen Her heirs or successors
 to which payment well and truly to be made I the Manager for myself
 my heirs executors and administrators and WE the Sureties for our-
 selves and our successors do bind ourselves jointly and severally by these
 presents.

SEALED with the Seal of the Manager and also with the Common Seal
 of the Sureties this day of One thousand nine
 hundred and hundred and

THE CONDITION of the above written obligation is such that WHEREAS
 the Manager has been appointed Manager in the matter of the above-
 named A.B. (hereinafter called "the incapable person") and WHEREAS
 the Master of the Supreme Court has approved the Sureties as sureties
 for the due performance of the duties of the Manager as appears by the
 Seal of the Court impressed in the margin hereof.

IF THEREFORE the Manager shall duly account for the rents issues
 and profits of the real estate of the incapable person and also for his
 personal estate and the profits thereof which shall come to his posses-
 sion and shall observe and perform every order and direction of the
 Court concerning the incapable person or his estate and concerning all
 such moneys as shall be found due upon the taking and passing of the
 accounts delivered to the Court and shall be careful to see the houses
 and buildings of the incapable person to be well and sufficiently repaired
 and so kept and maintained and shall carefully preserve and keep all the
 deeds evidences and writings in the possession of the Manager touching
 the estate of the incapable person and shall in all things demean himself
 as a careful and faithful Manager of the estate of the incapable person
 then the said obligation to be void or else the same to stand remain
 and be in full force and virtue PROVIDED ALWAYS that the Court may
 by indorsement on these presents testified by the Seal of the Court reduce
 the said sum of pounds to such reduced sum as may be
 necessary and upon such indorsement these presents shall as from the
 date thereof continue to be in full force and virtue as if such reduced
 sum had originally been contained in these presents instead of the said
 sum of pounds PROVIDED ALWAYS that a certificate
 under the Seal of the Court that this Bond has become forfeited in the
 sum stated in such certificate shall be sufficient and conclusive evidence
 against the Manager and the Sureties of the truth of the contents of
 such certificate and that this Bond has become forfeited to the amount
 of the sum so stated and that such sum forms a valid and binding claim
 not only against the Manager but also against the Sureties PROVIDED
 ALWAYS AND IT IS FURTHER AGREED between the Manager and the
 Sureties that the Manager on being discharged from his office shall
 forthwith give notice to the Sureties.

PROVIDED ALWAYS that if the Manager shall not pay to the Sureties
 the annual premium upon this Bond within fifteen days of the due date
 thereof the Sureties may apply to the Court to be relieved from further
 liability as such Sureties as aforesaid.

SIGNED SEALED AND DELIVERED by the }
 Manager in the presence of *(name)* } (Manager's signature)
address and description of witness } [L.S.]

THE SEAL OF THE SURETIES was here- }
 unto affixed in the presence of *(name)* } (Seal of guarantee
address and description of witness) } company.)

Rule 36.

Form 10.

Manager's Bond with Personal Sureties.

[Heading as in Form 1.]

KNOW ALL MEN BY THESE PRESENTS THAT WE C.D., of
(address and description or occupation) (hereinafter called "the
 Manager"), and [J.K.], of *(address and description or occupation)*,
 and [K.L.], of *(address and description or occupation)* (hereinafter called
 "the Sureties") are bound and firmly obliged to our Sovereign Lady, the
 Queen, in the sum of _____ pounds of good and lawful money to
 be paid to the same Lady the Queen Her heirs and successors to which
 payment well and truly to be made we the Manager and the Sureties
 bind ourselves jointly and severally and our respective heirs executors
 and administrators by these presents.
 SEALED with our seals this _____ day of _____ One
 thousand, nine hundred and _____

THE CONDITION of the above written obligation is such that WHEREAS
 the Manager has been appointed Manager in the matter of the above-
 named A.B. (hereinafter called "the incapable person") AND WHEREAS
 the Master of the Supreme Court has approved the Sureties as sureties
 for the due performance of the duties of the Manager as appears by the
 Seal of the Court impressed in the margin hereof.

IF THEREFORE the Manager shall duly account for the rents issues
 and profits of the real estate of the incapable person and also for his
 personal estate and the profits thereof which shall come to his posses-
 sion and shall observe and perform every order and direction of the
 Court concerning the incapable person or his estate and concerning all
 such moneys as shall be found due upon the taking and passing of the
 accounts delivered to the Court and shall be careful to see the houses
 and buildings of the incapable person to be well and sufficiently repaired
 and so kept and maintained and shall carefully preserve and keep all
 the deeds evidences and writings in the possession of the Manager
 touching the estate of the incapable person and shall in all things
 demean himself as a careful and faithful Manager of the estate of the
 incapable person then the said obligation to be void or else the
 same to stand remain and be in full force and virtue PROVIDED
 ALWAYS that a certificate under the Seal of the Court that this Bond
 has become forfeit in the sum stated in such certificate shall be sufficient
 and conclusive evidence against the Manager and the Sureties of the
 truth of the contents of such certificate and that this Bond has become
 forfeited to the amount of the sum so stated that such sum forms a
 valid and binding claim not only against the Manager but also against
 the Sureties, PROVIDED ALWAYS AND IT IS FURTHER AGREED
 between the Manager and the Sureties that the Manager on being dis-
 charged from his office shall forthwith give notice in writing thereof
 to the Sureties.

SIGNED SEALED AND DELIVERED by the } (Manager's signature)
 Manager in the presence of *(name* } [L.S.]
address and description of witness) }

SIGNED SEALED AND DELIVERED by the } (Surety's signature)
 abovenamed J.K. in the presence of } [L.S.]
(name address and description of }
witness) }

SIGNED SEALED AND DELIVERED by the } (Surety's signature)
 abovenamed K.L. in the presence of } [L.S.]
(name address and description of }
witness) }

INSTRUCTIONS RELATING TO PREPARATION OF ACCOUNTS OF MANAGERS.

(See Forms 11 and 12.)

RECEIPTS.

(1) RENTS: If any rents are collected by an agent, bring in the net amounts as received from the agent and lodge his accounts with this account. If any rents are collected by or outgoings on property paid by the manager details should be shown on Form 12 and the totals brought into this account under "Receipts" or "Miscellaneous" respectively.

(2) ALL OTHER RECEIPTS:

- (a) Deal with each source of income separately and exhaust each before dealing with the next.
- (b) Keep income from free property separate from income from trust property **under separate subheadings** (stating, in the case of trust income, the nature of the instrument creating the trust and the names of the trustees).
- (c) Show the period covered by each item of income.
- (d) If no interest or dividend has been received in respect of a particular holding or source of income, this fact must be stated at the foot of "Receipts".
- (e) Counterfoils of dividend and interest warrants must be lodged with the account.

PAYMENTS.

(3) MAINTENANCE OF PATIENT:

- (a) Set out each payment showing when paid and period covered.
- (b) Any medical fees, clothing, comforts, pocket money, etc., paid separately should then be dealt with.
- (c) If the patient is living in his own or a rented property the outgoings in respect thereof should follow under "Maintenance".

(4) MISCELLANEOUS: Income tax, solicitors' costs, bank charges, etc., should be included. **Maintenance items must not be entered under "Miscellaneous."**

GENERALLY.

- (5) Accounts must be typewritten.
- (6) All sums received and paid **during the accounting period** must be included even if they have not been paid into or from the Managership bank account in the same period. **No other receipts or payments may be included.**
- (7) The actual date of any receipt or payment must appear in first column in the account form and all items must be numbered consecutively in the second column and the relative vouchers numbered to correspond.
- (8) Unless the balance of the account agrees with the balance appearing in the Managership bank account the Reconciliation Statement must be completed.
- (9) The Summary must be completed.

Rule 40.

Form 11.

[Heading as in Form 1.]

Statement of Account No.

BALANCE FROM PREVIOUS ACCOUNT (carry to Summary)	£	s.	d.
--------------------------------------------------	---	----	----

DATES	No.	RECEIPTS *	£	s.	d.
		Carry to Summary	£		

PAYMENTS

DATES	No.	I MAINTENANCE	£	s.	d.
		Carry to Summary	£		
		II MISCELLANEOUS	£	s.	d.
		Carry to Summary	£		

RECONCILIATION STATEMENT.

SUMMARY.

	£	s.	d.		£	s.	d.		£	s.	d.
Balance in Managership Bank Account				Balance on previous Account							
Cash in Manager's Hands				Receipts							
				Total Receipts	£						
				Maintenance							
				Miscellaneous							
Cheques drawn and unrepresented				Total Payments	£						
				Balance due from Manager							

* Details of rentals not collected by an agent must be set out, item by item, in Form 12.

Rule 40.

Form No. 12.

19..... No.....

STATEMENT OF RENTS COLLECTED BY MANAGER.*

Address of Property	Tenant's Name	Rent Payable and Whether Weekly, Monthly, etc.	Arrears at Opening Day of Account			Total Rent Due (including arrears)			Rent Received			Arrears at Closing Date of Account			Remarks, e.g., Change of Tenant, Rent, Insurance, etc. (with dates)
			£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	

CARRY TO "RECEIPTS" ON MANAGER'S ACCOUNT FORM £

STATEMENT OF EXPENDITURE ON PROPERTY PAID BY MANAGER.

Date	No.	Address of Property Concerned	Nature of Expenditure and to Whom Paid	£	s.	d.

CARRY TOTAL TO "MISCELLANEOUS" ON MANAGER'S ACCOUNT FORM £

* This form should not be used where an agent collects the rents.

Rule 40.

Form 13.

Report of Master on Passing Accounts of Manager.

[Heading as in Form 1.]

C.D., the Manager of the estate of A.B. the abovenamed incapable person, having brought in pursuant to Rule 40 of the Supreme Court (Mental Health) Rules, 1965, his accounts of the rents and profits of the said estate and of the disbursement in respect thereof for the period from the day of 19 to the day of 19 , I have taken an account in the presence of and I find and report as follows:—

1. After taking into consideration the disallowances hereinafter mentioned, the sum of was found to be the balance due from the Manager on the passing of the said accounts, which balance the Manager has retained to meet coming expenditure (or as the case may be).

2. The Manager received out of the rents and profits of the said estate the sum of and from general receipts the sum of which sums, together with the balance carried forward from the last account, amount to the sum of .

3. The Manager properly disbursed from the said estate the sum of .

4. I have disallowed items and of the disbursements on the grounds that .

5. I allow the costs of the Manager of passing the said accounts at the sum of including disbursements, and direct that such costs be paid out of the said estate.

DATED the day of 19 .

MASTER.

(Note: *This Form may be varied and adapted as the circumstances require.*)

Dated this 9th day of September, 1965.

A. A. WOLFF,
Chief Justice.

L. W. JACKSON,
Senior Puisne Judge.

J. E. VIRTUE,
Puisne Judge.

R. V. NEVILLE,
Puisne Judge.

G. B. D'ARCY,
Puisne Judge.

JOHN HALE,
Puisne Judge.

OSCAR J. NEGUS,
Puisne Judge.

TOTALISATOR AGENCY BOARD BETTING ACT, 1960-1963.

Totalisator Agency Board,
Perth, 15th September, 1965.

HIS Excellency the Governor in Executive Council has been pleased to approve of the regulations set forth in the schedule hereunder, made by the Totalisator Agency Board pursuant to the provisions of section 57 of the Totalisator Agency Board Betting Act, 1960-1963.

J. P. MAHER,
Chairman, Totalisator Agency Board.

Schedule.

Regulations.

- Principal regulations. 1. In these regulations the Totalisator Agency Board Betting Regulations, 1961, published in the *Government Gazette* on the 8th February, 1961, and reprinted pursuant to the Reprinting of Regulations Act, 1954, in the *Government Gazette* on the 24th February, 1965 and amended by notice published in the *Government Gazette* on the 8th January, 1965, are referred to as the principal regulations.
- Reg. 35 amended. 2. Regulation 35 of the principal regulations is amended by revoking subparagraph (i) of paragraph (d) and substituting the following subparagraph:—
- (i) The respective horse races known as the Christmas Handicap and the Port Adelaide Cup held at the race-course situated at Cheltenham; .

TOTALISATOR AGENCY BOARD BETTING ACT, 1960-1963.

Totalisator Agency Board,
Perth, 15th September, 1965.

HIS Excellency the Governor in Executive Council has been pleased to approve of the regulations set forth in the schedule hereunder, made by the Totalisator Agency Board pursuant to the provisions of section 57 of the Totalisator Agency Board Betting Act, 1960-1963.

J. P. MAHER,
Chairman, Totalisator Agency Board.

Schedule.

Regulations.

- Principal regulations. 1. In these regulations the Totalisator Agency Board Betting Regulations, 1961, published in the *Government Gazette* on the 8th February, 1961, and amended from time to time thereafter by notices published in the *Government Gazette*, are referred to as the principal regulations.
- Reg. 8 amended. 2. Regulation 8 of the principal regulations is amended by inserting after the word, "fraction" in the penultimate line of sub-regulation (1), the words, "is equal to or".
- Reg. 31A and heading thereto added. 3. The principal regulations are amended by adding after regulation 31, the following heading and regulation:—
- Double Event Bets and other Bets that may be Made and Received by the Board.
- 31A. (1) Subject to these regulations, the Board may make and receive bets known as double event bets, quinella bets, and forecast (straight quinella) bets in respect of horse races conducted on race courses within the State, and on such race courses outside the State as are specified in regulation 35 of these regulations.

(2) In a double event bet, the person making the bet shall nominate a combination of two horses, or the same horse twice on the chance that those horses or that horse will fill the first place in each of two horse races selected by the Board as the double event.

(3) In a quinella bet, the person making the bet shall nominate a combination of two horses in the same race on the chance that those horses will fill first and second places in that race, irrespective of the order in which they finish.

(4) In a forecast (straight quinella) bet, the person making the bet shall nominate one horse to fill first place and another horse to fill second place in that order in the same race.

4. Regulation 32 of the principal regulations is amended by inserting after the word, "fraction" in the penultimate line of paragraph (a) of subregulation (5), the words, "is equal to or". Reg. 32
amended.

5. Regulation 33 of the principal regulations is revoked and the following regulation substituted:— Reg. 33
substituted.

33. (1) Where a person makes a double event bet in respect of horse races within the State and the horse nominated by that person in the first race of the double event on which the bet is made fails to start in that race, the Board shall refund to that person the amount of the bet together with the amount of any investment tax paid in respect thereof.

(2) Where a person makes a double event bet in respect of horse races within the State and the horse nominated by that person in the second race of the double event on which the bet is made fails to start in that race, the Board shall substitute for the horse so nominated the horse that first appears in the official notice displayed by the Board for the second race of that double event and actually starts in that race, and the person making the bet shall be deemed to have nominated the horse so substituted.

6. Regulation 34 of the principal regulations is amended— Reg. 34
amended.

(a) by substituting for subregulation (3), the following subregulation:—

(3) The totalisator pool may be so established as to receive bets for a win and a place or combination win and place, or for bets known as double events or quinellas or forecasts (straight quinellas), or for all or any of those kind of bets. ;

(b) by substituting for subregulation (6), the following subregulation:—

(6) Where either or both of the horses nominated by a person making a quinella bet or a forecast (straight quinella) bet is or are scratched, the Board shall refund to that person the amount of the bet together with the amount of any investment tax paid thereon. ; and

(c) by deleting subregulations (7), (8) and (9).

7. Regulation 34A of the principal regulations is amended— Reg. 34A
amended.

(a) by substituting for subregulations (2) and (3), the following subregulations:—

(2) Where the two horse races that comprise the double event are conducted on the same day, if—

(a) the horse nominated for the first race of the double event by a person making a bet thereon fails to start in that

race, the Board shall refund to that person the amount of the bet together with the amount of any investment tax paid in respect thereof;

- (b) the horse nominated for the second race of the double event by a person making a bet thereon fails to start in that race, the Board shall substitute for the horse so nominated the horse that first appears in the official notice displayed by the Board for the second race of that double event and actually starts in that race, and the person making the bet shall be deemed to have nominated the horse so substituted.

(3) Where the two horse races that comprise the double event are conducted on different days and either or both of the horses nominated by a person making a bet on that double event fails or fail to start, the bet shall be treated as a losing bet and the amount of the bet shall form part of the gross takings of the pool; and

- (b) by deleting subregulations (4), (5) and (6).

Reg. 34C
added.

8. The principal regulations are amended by adding after regulation 34B, the following regulation:—

34C. In relation to double event, quinella and forecast (straight quinella) totalisator pools conducted by the Board, the following provisions apply:—

- (1) Before any dividend is calculated and declared after allowing for refunds where applicable, the Board shall deduct a totalisator commission of fifteen per centum of the gross takings remaining in the totalisator pool and shall pay the amount of the resulting balance by way of dividend to the holder of the winning ticket or, if there is more than one such ticket, the amount of the balance shall be divided by the number of winning tickets and the amount derived therefrom shall be paid by the Board in respect of each winning ticket to the holder thereof, provided that on a unit bet of five shillings (5s.) fractions of one shilling (1s.) shall not be paid by way of dividend unless the fraction is equal to or exceeds sixpence, in which case sixpence shall be paid.
- (2) If no bet placed in the pool is on the winning combination, the Board, after deduction of the fifteen per centum totalisator commission pursuant to these regulations, shall carry forward the balance of the gross takings and add that balance to the amount invested in a subsequent pool conducted for the same kind of bet in respect of which no bet on the winning combination was made, whether on the same day or another day as the Board determines.
- (3) Where details of a bet otherwise properly received by the Board to be recorded in the totalisator pool have not been so recorded owing to a failure in the means of or error in transmission or to other circumstances beyond the control of the Board, if a dividend would have been payable in respect of that bet had it been so recorded, the Board shall pay in respect of the bet the same dividend as would have been payable had the bet been duly recorded in the totalisator pool.

- (4) Where a bracket is applied to two or more horses by the totalisator on the racecourse outside the State on which the horse race or horse races are to be run, the Board shall remove such brackets and such brackets shall not operate.

9. The principal regulations are amended by substituting for the heading immediately preceding regulation 36, the following heading:—

Heading preceding Reg. 36 substituted.

Totalisator Pools—Win and Place Betting on Horse Races outside the State.

10. Regulation 36 of the principal regulations is revoked and the following regulation substituted:—

Reg. 36 substituted.

36. (1) In relation to a totalisator pool conducted for a win on a horse race held on a racecourse outside the State, the Board shall—

- (a) after allowing for refunds, place the amount of all bets received for a win on that horse race into a separate pool;
- (b) before deducting any commission, calculate the primary dividend by dividing the number of winning tickets based on a unit investment of five shillings (5s.) per ticket into the amount placed in the pool, such primary dividend to be calculated to the nearest sixpence;
- (c) where the primary dividend is—
- (i) not in excess of eleven shillings (11s.), declare as a secondary dividend the amount of the primary dividend;
- (ii) in excess of eleven shillings (11s.) and not in excess of forty shillings (40s.), deduct from the primary dividend a commission equal to twenty per centum of the amount by which the primary dividend exceeds eight shillings (8s.), such commission being calculated to the nearest sixpence, and declare the balance of the primary dividend then remaining as the secondary dividend;
- (iii) in excess of forty shillings (40s.), in addition to the deduction for commission stated in subparagraph (ii) of this paragraph, deduct from the primary dividend an additional commission equal to twenty-five per centum of the amount by which the primary dividend exceeds forty shillings (40s.), such total commission being calculated to the nearest sixpence, and declare the balance of the primary dividend then remaining as the secondary dividend; and
- (d) pay to the holder of each winning ticket the amount declared as the secondary dividend.

(2) In relation to a totalisator pool conducted for a place on a horse race held on a racecourse outside the State in which the number of horses finally starting is not less than eight (8), the Board shall—

- (a) after allowing for refunds place the amount of all bets received for a place on that horse race into a separate pool and divide the

total amount thereof into three equal and separate parts or pools, on behalf of the horses placed first, second and third respectively;

- (b) before deducting any commission, calculate primary dividends for first, second and third places by dividing the number of winning tickets, based on a unit investment of five shillings (5s.) per ticket on the horses placed first, second and third into the amounts of the respective parts or pools for such horses placed first, second and third, such primary dividends to be calculated to the nearest sixpence;
- (c) where the primary dividend is—
 - (i) not in excess of six shillings (6s.), declare as a secondary dividend the amount of the primary dividend;
 - (ii) in excess of six shillings (6s.) and not in excess of ten shillings (10s.), deduct from the primary dividend a commission equal to twenty per centum of the amount by which the primary dividend exceeds four shillings (4s.), such commission being calculated to the nearest sixpence, and declare the balance of the primary dividend then remaining as the secondary dividend;
 - (iii) in excess of ten shillings (10s.), in addition to the deduction for commission stated in subparagraph (ii) of this paragraph, deduct from the primary dividend an additional commission equal to twenty-five per centum of the amount by which the primary dividend exceeds ten shillings (10s.), such total commission being calculated to the nearest sixpence, and declare the balance of the primary dividend then remaining as the secondary dividend; and
- (d) pay to the holder of each winning ticket the amount declared as the secondary dividend.

(3) In relation to a totalisator pool conducted for a place on a horse race held on a racecourse outside the State, if the number of horses finally starting is less than eight (8), the amount of the pool shall be divided into two separate parts or pools on behalf of the horses placed first and second only and the other provisions of subregulation (2) of this regulation shall apply *mutatis mutandis*.

(4) In relation to a win or place bet made, and win and place totalisator pools conducted pursuant to this regulation the following provisions apply:—

- (a) Where the horse nominated by the person making the bet fails to start in the particular race concerned, the Board shall refund to that person the amount of the bet, together with the amount of any investment tax paid in respect thereof.
- (b) Where details of a bet otherwise properly received by the Board to be recorded in the totalisator pool have not been so recorded

owing to a failure in the means of or error in transmission or to other circumstances beyond the control of the Board, if a dividend would have been payable in respect of that bet had it been so recorded, the Board shall pay in respect of the bet, the same dividend as would have been payable had the bet been duly recorded in the totalisator pool.

- (c) Where a bracket is applied to two or more horses by the totalisator on the racecourse outside the State on which the horse race is or horse races are to be run, the Board shall remove such brackets and such brackets shall not operate.
- (d) To ensure that a dividend can be declared and paid, the Board itself shall invest one five shillings (5s.) bet for both a win and a place on every horse that finally starts in each particular horse race.
- (e) Where the dividend calculated as a secondary dividend is less than five shillings (5s.), the Board may at its sole discretion declare and pay a secondary dividend of five shillings (5s.).

11. Regulation 37 of the principal regulations is revoked and the following regulation substituted:— Reg. 37 substituted.

37. (1) In relation to a totalisator pool conducted for a combination of win and place betting on a horse race held on a racecourse outside the State the following provisions apply:—

- (a) Where the number of horses finally starting is not less than eight (8), the person making a bet shall nominate one horse on the chance that such horse will fill first, second or third place;
- (b) The Board, after allowing for refunds, shall place all of such bets in one combined win and place pool and before deducting any commission shall allocate the total amount of such pool—
 - (i) as to fifty per centum thereof to the horse placed first;
 - (ii) as to twenty-five per centum thereof to the horse placed second; and
 - (iii) as to twenty-five per centum thereof to the horse placed third.
- (c) After making the allocation in accordance with paragraph (b) of this subregulation, the Board shall deduct from each of three separate parts so allocated a commission of twenty per centum of the losing bets respectively therein, and the amount of the balance then remaining in each of the parts shall be divided by the respective number of the winning tickets therein based on a unit investment of five shillings (5s.), and the amounts derived therefrom shall be paid by the Board in respect of each winning ticket to the holder thereof, provided that fractions of one shilling (1s.) shall not be paid unless the fraction is equal to or exceeds sixpence, in which case sixpence shall be paid.

(2) In relation to a totalisator pool conducted for a combination of win and place betting on a horse race held on a racecourse outside the State where the number of horses finally starting is less than eight (8), the following provisions apply:—

- (a) The person making the bet shall nominate one horse on the chance that such horse will fill first or second place.
- (b) After allowing for refunds, the total amount of the pool shall be allocated—
 - (i) as to two-thirds thereof, to the horse placed first; and
 - (ii) as to one-third thereof, to the horse placed second.
- (c) The provisions of paragraph (c) of subregulation (1) of this regulation shall apply *mutatis mutandis*, in respect of this subregulation.

(3) In relation to a combination win and place bet made and combined win and place totalisator pools conducted pursuant to this regulation, the following provisions apply:—

- (a) Where the horse nominated by the person making the bet fails to start in the particular race concerned, the Board shall refund to that person the amount of the bet together with the amount of any investment tax paid in respect thereof.
- (b) Where details of a bet otherwise properly received by the Board to be recorded in the totalisator pool have not been so recorded owing to a failure in the means of or error in transmission or to other circumstances beyond the control of the Board, if a dividend would have been payable in respect of that bet had it been so recorded, the Board shall pay in respect of the bet the same dividend as would have been payable had the bet been duly recorded in the totalisator pool.
- (c) Where a bracket is applied to two or more horses by the totalisator on the racecourse outside the State on which the horse race is or horse races are to be run, the Board shall remove such brackets and such brackets shall not operate.
- (d) To ensure that a dividend can be declared and paid, the Board itself shall invest one five shilling (5s.) bet on every horse that finally starts in each particular horse race.
- (e) Where the dividend calculated as a secondary dividend is less than five shillings (5s.), the Board may at its sole discretion declare and pay a secondary dividend of five shillings (5s.).