
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 64

ESTATES, TRUSTS AND CHARITIES

Textual Amendments

F1 Pt. 64 inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), [Sch. 5](#)

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General

- 64.1.**—(1) This Part contains rules—
- (a) in Section I, about claims relating to—
 - (i) the administration of estates of deceased persons, and
 - (ii) trusts; and
 - (b) in Section II, about charity proceedings.

Status: Point in time view as at 01/10/2007.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 64. (See end of Document for details)*

(2) In this Part and its practice directions, where appropriate, references to trustees include executors and administrators.

(3) All proceedings in the High Court to which this Part applies must be brought in the Chancery Division.

SECTION I: CLAIMS RELATING TO THE ADMINISTRATION OF ESTATES AND TRUSTS

Scope of this Section

64.2 This Section of this Part applies to claims—

- (a) for the court to determine any question arising in—
 - (i) the administration of the estate of a deceased person; or
 - (ii) the execution of a trust;
- (b) for an order for the administration of the estate of a deceased person, or the execution of a trust, to be carried out under the direction of the court (“an administration order”);
- (c) under the Variation of Trusts Act 1958(1); or
- (d) under section 48 of the Administration of Justice Act 1985(2).

Claim form

64.3 A claim to which this Section applies must be made by issuing a Part 8 claim form.

Parties

64.4.—(1) In a claim to which this Section applies, other than an application under section 48 of the Administration of Justice Act 1985—

- (a) all the trustees must be parties;
- (b) if the claim is made by trustees, any of them who does not consent to being a claimant must be made a defendant; and
- (c) the claimant may make parties to the claim any persons with an interest in or claim against the estate, or an interest under the trust, who it is appropriate to make parties having regard to the nature of the order sought.

(2) In addition, in a claim under the Variation of Trusts Act 1958, unless the court directs otherwise any person who—

- (a) created the trust; or
- (b) provided property for the purposes of the trust,

must, if still alive, be made a party to the claim.

(The court may, under rule 19.2, order additional persons to be made parties to a claim.)

SECTION II: CHARITY PROCEEDINGS

Scope of this Section and interpretation

64.5.—(1) This Section applies to charity proceedings.

(1) 1981 c. 54. Section 35A was inserted by the Administration of Justice Act 1982 (c. 53), section 15(1), Schedule 1, Part I.
(2) 1984 c. 28. Section 69 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 46.

(2) In this Section—

- (a) “the Act” means the Charities Act 1993⁽³⁾;
- (b) “charity proceedings” has the same meaning as in section 33(8) of the Act; and
- (c) “the Commissioners” means the Charity Commissioners for England and Wales.

Application for permission to take charity proceedings

64.6.—(1) An application to the High Court under section 33(5) of the Act for permission to start charity proceedings must be made within 21 days after the refusal by the Commissioners of an order authorising proceedings.

(2) The application must be made by issuing a Part 8 claim form, which must contain the information specified in the practice direction.

(3) The Commissioners must be made defendants to the claim, but the claim form need not be served on them or on any other person.

(4) The judge considering the application may direct the Commissioners to file a written statement of their reasons for their decision.

(5) The court will serve on the applicant a copy of any statement filed under paragraph (4).

(6) The judge may either—

- (a) give permission without a hearing; or
- (b) fix a hearing.]

Status:

Point in time view as at 01/10/2007.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, PART 64.