

1976 No. 1362 (L. 23)
SUPREME COURT OF JUDICATURE, ENGLAND
PROCEDURE
The Non-Contentious Probate (Amendment) Rules 1976

<i>Made - - - -</i>	<i>21st July 1976</i>
<i>Laid before Parliament</i>	<i>26th August 1976</i>
<i>Coming into Operation</i>	<i>1st October 1976</i>

The President of the Family Division, in exercise of the powers conferred on him by section 2(5) of the Colonial Probates Act 1892(a) and section 100 of the Supreme Court of Judicature (Consolidation) Act 1925(b), and with the concurrence of the Lord Chancellor and the Lord Chief Justice, hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Non-Contentious Probate (Amendment) Rules 1976 and shall come into operation on 1st October 1976.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) The amendments set out in these Rules shall be made to the Non-Contentious Probate Rules 1954(d), as amended (e).

2. In rule 21 (order of priority for grant in case of intestacy) paragraph (5A) and in paragraph (6) the words “and legitimated” shall be omitted.

3. In paragraph (2)(a) of rule 41 (resealing under Colonial Probates Acts 1892 and 1927(f)) after the word “affidavit” there shall be inserted the words “or account”.

4. At the beginning of rule 43 (certificate of delivery of Inland Revenue affidavit) there shall be inserted the words “Where the deceased died before 13th March 1975”.

(a) 1892 c. 6.

(b) 1925 c. 49.

(c) 1889 c. 63.

(d) S.I. 1954/796 (1954 II, p. 2202).

(e) The relevant amending instruments are S.I. 1967/748, 1971/1977 (1967 II, p. 2225; 1971 III, p. 5650).

(f) 1927 c. 43.

5. Rule 44 (caveats) shall be amended as follows:—

(a) For paragraph (4) there shall be substituted the following paragraphs:—

“(4) Except as otherwise provided by this rule, a caveat shall remain in force for the period of six months beginning with the date on which it is entered.

(4A) Where a caveator, within the last month of a period of six months prescribed by paragraph (4) of this rule or of any additional period of six months prescribed by this paragraph, lodges at the Registry in which the caveat was entered a written application for its extension, the caveat shall (except as otherwise provided by paragraphs (8), (11) and (12) of this rule) remain in force for an additional period of six months.”

(b) In paragraph (13) after the words “whose caveat” there shall be inserted the words “is either in force or”.

6. In paragraph (1) of rule 57 (information as to grants in district probate registries to be sent to principal registry), for the words “an index card” to the end of the paragraph there shall be substituted the words “a document stating the full name of the deceased and date of his death”.

Dated 20th July 1976.

George Baker, P.

We concur,

Dated 21st July 1976.

Elwyn-Jones, C.

Dated 21st July 1976.

Widgery, C.J.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules, which amend the Non-Contentious Probate Rules 1954, provide a procedure for extending the operation of caveats and make other minor changes, including amendments consequential on provisions of the Finance Act 1975.

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