
 STATUTORY INSTRUMENTS

1982 No. 446 (L. 13)

SUPREME COURT OF ENGLAND AND WALES

The Non-Contentious Probate (Amendment) Rules 1982

Made - - - - - *25th March 1982*

Laid before Parliament *29th March 1982*

Coming into Operation *20th April 1982*

The President of the Family Division, in exercise of the powers conferred upon him by section 127 of the Supreme Court Act 1981(a) and section 2(5) of the Colonial Probates Act 1892(b), and with the concurrence of the Lord Chancellor, hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Non-Contentious Probate (Amendment) Rules 1982 and shall come into operation on 20th April 1982.

(2) The amendments set out in these Rules shall be made to the Non-Contentious Probate Rules 1954(c), and references in these Rules to a rule by number are references to the rule so numbered in those Rules.

2. In rule 2(2):—

(a) in the definition of “The Act”, for “Supreme Court of Judicature (Consolidation) Act 1925”(d) substitute “Supreme Court Act 1981”;

(b) in the definition of “The Senior Registrar”, for the words “principal registrar” substitute the words “Senior Registrar”;

(c) after the definition of “The Treasury Solicitor” insert the following definition:

“Trust corporation” means a corporation within the meaning of section 128 of the Act as extended by section 3 of the Law of Property (Amendment) Act 1926(e);”.

3. Rule 2A is revoked.

(a) 1981 c.54.

(b) 1892 c.6.

(c) S.I. 1954/796, as amended by the Family Law Reform Act 1969 (c.46) and S.I. 1967/748, 1968/1675, 1969/1689, 1971/1977 and 1976/1362; there are other amendments not relevant to these Rules.

(d) 1925 c.49.

(e) 1926 c.11.

- 4.** For rule 3(1) substitute:—
“(1) A person applying for a grant through a solicitor may apply at any registry or sub-registry by post or otherwise.”.
- 5.** In rule 4(1), for the words “or to an officer” onwards substitute “or to any probate office established pursuant to any Order for the time being in force under section 104 of the Act”.
- 6.** In rule 5(4), for “section 167” substitute “section 120”.
- 7.** In rule 24(1), for “subsection (2) of section 160” substitute “section 114(4)”.
- 8.** In rule 29(*d*), omit the words “by virtue of section 160 of the Act”.
- 9.** In rule 31:—
(*a*) in paragraph (1), after “eighteen years shall,” insert “unless otherwise directed and”;
(*b*) in paragraph (4), omit the words “, by virtue of section 160 of the Act,”.
- 10.** In rule 34(1), for “within the meaning of section 175 of the Act as extended by section 3 of the Law of Property (Amendment) Act 1926” substitute “as defined by these rules”.
- 11.** In rule 38:—
(*a*) in paragraphs (1), (3), (5)(*d*) and (6), for “section 167”, whenever it occurs, substitute “section 120”;
(*b*) in paragraph (2)(*b*), for “the Solicitors Acts 1957 to 1965”(a) substitute “the Solicitors Act 1974”(b);
(*c*) in paragraph (2)(*d*), for “Local Government Act 1933”(c) substitute “Local Government Act 1972”(d).
- 12.** In rule 41A, for “section 167(3)” substitute “section 120(3)”.
- 13.** In rule 44(12)(c), for “section 163” substitute “section 117”.
- 14.** In rule 49(1):—
(*a*) in paragraph (1), for “section 26 of the Court of Probate Act, 1857,”(e) substitute “section 122 of the Act”.
(*b*) in paragraph (2), for “section 23 of the Court of Probate Act, 1858,”(f) substitute “section 123 of the Act”.
- 15.** In rule 50, for “section 155” substitute “section 113”.
- 16.** In rule 51(*a*), for “section 73 of the Court of Probate Act, 1857, or section 162” substitute “section 116”.

(a) 1957 c.27, 1959 c.42, 1965 c.31.
(d) 1972 c.70.

(b) 1974 c.47.
(e) 1857 c.77.

(c) 1933 c.51.
(f) 1858 c.95.

17. Rule 54 is revoked.
18. For rule 57 substitute:—
- “57.—(1) Notice of every application for a grant made in a district probate registry shall be sent by the registrar to the principal registry and shall be in the form of a document stating the full name of the deceased and the date of his death.
- (2) No grant shall be made by a district probate registrar in any estate until he has received from the principal registry a certificate that no other application appears to have been made in respect of that estate.
- (3) On receipt of the notice referred to in paragraph (1) above, the principal registry shall examine its records of current caveats, grants issued and applications for grants made elsewhere, and shall either give such a certificate or advise the district probate registrar of the reason why a certificate cannot be given.
- (4) Each district probate registrar shall in respect of the district probate registry for which he is responsible send to the principal registry at intervals directed by the Senior Registrar a copy of every grant issued from, and will proved in, that district probate registry during that period.
- (5) Each district probate registrar shall file and preserve all original wills proved in his registry.
- (6) In this rule “district probate registry” includes a sub-registry and, in paragraph (1), a probate office.”
19. In rule 58, for “section 170”, wherever it occurs, substitute “section 124”.
20. In rule 59(1), for “1957” substitute “1974”.
21. In rule 64, after “registered post” insert “or by recorded delivery”.
22. In rule 67, the proviso is revoked.

Dated 18th March 1982.

John Arnold, P.

I concur,

Dated 25th March 1982.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Non-Contentious Probate Rules 1954. The main changes are the deletion of the President's power under rule 2A to establish district probate sub-registries, since as from 20th April 1982 sub-registries are established by the District Probate Registries Order 1982 (S.I. 1982/379) and an amendment to rule 4(1) so as to bring in a reference to the probate offices established pursuant to that Order. The other amendments are consequential on the passing of the Supreme Court Act 1981 and consist of the updating of references to statutes repealed by that Act and the making of provision in a new rule 57 for searches for conflicting applications for grants, and certificates from the Principal Registry of the result of such searches, in place of section 152 of the Supreme Court of Judicature (Consolidation) Act 1925.

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