
STATUTORY INSTRUMENTS

1987 No. 2024

The Non-Contentious Probate Rules 1987

Caveats

44.—(1) Any person who wishes to show cause against the sealing of a grant may enter a caveat in any registry or sub-registry, and the registrar shall not allow any grant to be sealed (other than a grant ad colligenda bona or a grant under section 117 of the Act) if he has knowledge of an effective caveat; provided that no caveat shall prevent the sealing of a grant on the day on which the caveat is entered.

(2) Any person wishing to enter a caveat (in these Rules called “the caveator”), or a solicitor on his behalf, may effect entry of a caveat—

- (a) by completing Form 3 in the appropriate book at any registry or sub-registry; or
- (b) by sending by post at his own risk a notice in Form 3 to any registry or sub-registry and the proper officer shall provide an acknowledgement of the entry of the caveat.

(a) (3) (a) Except as otherwise provided by this rule or by rules 45 or 46, a caveat shall be effective for a period of six months from the date of entry thereof, and where a caveator wishes to extend the said period of six months, he or his solicitor may lodge at, or send by post to, the registry or sub-registry at which the caveat was entered a written application for extension.

(b) An application for extension as aforesaid must be lodged, or received by post, within the last month of the said period of six months, and the caveat shall thereupon (save as otherwise provided by this rule) be effective for an additional period of six months from the date on which it was due to expire.

(c) A caveat which has been extended as above may be further extended by the filing of a further application for extension subject to the same conditions as set out in subparagraph (b) above.

(4) An index of caveats entered in any registry or sub-registry shall be maintained at the same registry in which the index of pending grant applications is maintained, and a search of the caveat index shall be made—

- (a) on receipt of an application for a grant at that registry; and
- (b) on receipt of a notice of an application for a grant made in any other registry,

and the appropriate registrar shall be notified of the entry of a caveat against the sealing of a grant for which application has been made in that other registry.

(5) Any person claiming to have an interest in the estate may cause to be issued from the registry in which the caveat index is maintained a warning in Form 4 against the caveat, and the person warning shall state his interest in the estate of the deceased and shall require the caveator to give particulars of any contrary interest in the estate; and the warning or a copy thereof shall be served on the caveator forthwith.

(6) A caveator who has no interest contrary to that of the person warning, but who wishes to show cause against the sealing of a grant to that person, may within eight days of service of the warning upon him (inclusive of the day of such service), or at any time thereafter if no affidavit has been filed under paragraph (12) below, issue and serve a summons for directions.

(7) On the hearing of any summons for directions under paragraph (6) above the registrar may give a direction for the caveat to cease to have effect.

(8) Any caveat in force when a summons for directions is issued shall remain in force until the summons has been disposed of unless a direction has been given under paragraph (7) above.

(9) The issue of a summons under this rule shall be notified forthwith to the registry in which the caveat index is maintained.

(10) A caveator having an interest contrary to that of the person warning may within eight days of service of the warning upon him (inclusive of the day of such service) or at any time thereafter if no affidavit has been filed under paragraph (12) below, enter an appearance in the registry in which the caveat index is maintained by filing Form 5 and making an entry in the appropriate book; and he shall serve forthwith on the person warning a copy of Form 5 sealed with the seal of the court.

(11) A caveator who has not entered an appearance to a warning may at any time withdraw his caveat by giving notice at the registry or sub-registry at which it was entered, and the caveat shall thereupon cease to have effect; and, where the caveat has been so withdrawn, the caveator shall forthwith give notice of withdrawal to the person warning.

(12) If no appearance has been entered by the caveator or no summons has been issued by him under paragraph (6) of this rule, the person warning may at any time after eight days of service of the warning upon the caveator (inclusive of the day of such service) file an affidavit in the registry in which the caveat index is maintained as to such service and the caveat shall thereupon cease to have effect provided that there is no pending summons under paragraph (6) of this rule.

(13) Unless a registrar of the Principal Registry by order made on summons otherwise directs, any caveat in respect of which an appearance to a warning has been entered shall remain in force until the commencement of a probate action.

(14) Except with the leave of a registrar of the Principal Registry, no further caveat may be entered by or on behalf of any caveator whose caveat is either in force or has ceased to have effect under paragraphs (7) or (12) of this rule or under rule 45(4) or rule 46(3).