
STATUTORY INSTRUMENTS

1991 No. 1876

The Non-Contentious Probate (Amendment) Rules 1991

SUBSTANTIVE AMENDMENTS

Grants where two or more persons entitled in same degree

8.—(1) The following shall be substituted for rule 27(1):

“**27.—(1)** Subject to paragraphs (1A), (2) and (3) below, where, on an application for probate, power to apply for a like grant is to be reserved to such other of the executors as have not renounced probate, notice of the application shall be given to the executor or executors to whom power is to be reserved; and, unless the district judge or registrar otherwise directs, the oath shall state that such notice has been given.

(1A) Where power is to be reserved to executors who are appointed by reference to their being partners in a firm, and not by their names, notice need not be given to them under paragraph (1) above if probate is applied for by another partner in that firm.”.

(2) In rule 27(7), after the words “under this rule in” there shall be inserted the words “the Principal Registry or”.

Grants in respect of settled land

9. The following shall be substituted for rule 29:

“**29.—(1)** In this rule “settled land” means land vested in the deceased which was settled prior to his death and not by his will, and which remained settled land notwithstanding his death.

(2) The person or persons entitled to a grant of administration limited to settled land shall be determined in accordance with the following order of priority:

- (i) the special executors in regard to settled land constituted by section 22 of the Administration of Estates Act 1925(1);
- (ii) the trustees of the settlement at the time of the application for the grant; and
- (iii) the personal representatives of the deceased.

(3) Where there is settled land and a grant is made in respect of the free estate only, the grant shall expressly exclude the settled land.”.

Grants where deceased died domiciled outside England and Wales

10. In rule 30(1), for the words “a registrar may order that a grant” there shall be substituted the words “a district judge or registrar may order that a grant, limited in such way as the district judge or registrar may direct,”.

Standing searches

11.—(1) The following shall be substituted for rule 43(1):

“**43.**—(1) Any person who wishes to be notified of the issue of a grant may enter a standing search for the grant by lodging at, or sending by post to any registry or sub-registry, a notice in Form 2.”.

(2) In rule 43(3)(a), for the words “the Principal Registry” there shall be substituted the words “the registry or sub-registry at which the standing search was entered”.

(3) In Form 2 in the First Schedule, for the words “The Principal Registry” there shall be substituted the words “The Principal [orDistrict Probate] Registry”.

Caveats

12.—(1) The following shall be inserted at the end of rule 44(8):
“or until it is withdrawn under paragraph (11) below”.

(2) In rule 44(10), the words “and making an entry in the appropriate book” shall be omitted.

(3) In rule 44(13), for the words “Registrar of the Principal Registry” there shall be substituted the words “district judge or, where application to discontinue a caveat is made by consent, a registrar”.

Taxation of costs

13. The following shall be substituted for rule 60:

“**60.** Every bill of costs, other than a bill delivered by a solicitor to his client which falls to be taxed under the Solicitors Act 1974(2), shall be referred for taxation—

- (a) where the order for taxation was made by a district judge, to a district judge, or to a taxing officer of the Principal Registry authorised to tax costs in accordance with Order 62, rule 19 of the Rules of the Supreme Court 1965(3);
- (b) where the order for taxation was made by a registrar, to that registrar.”.

Power to require applications to be made by summons

14. At the beginning of rule 61(1) there shall be inserted the words “Subject to rule 7(2),”.

(2) 1974 c. 47.

(3) S.I.1965/1776; there are no relevant amending instruments