
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 57 E+W

[^{F1}PROBATE, INHERITANCE, PRESUMPTION OF DEATH AND GUARDIANSHIP OF MISSING PERSONS]

[^{F1}^{F2}IV CLAIMS UNDER THE INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975

Textual Amendments

- F1** Pt. 57 inserted (15.10.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rule 1(b), [Sch.](#) (with [rule 19](#))
- F2** Pt. 57 Section 4 inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), [Sch. 4 Pt. 2](#)

Scope of this Section E+W

57.14 This Section contains rules about claims under the Inheritance (Provision for Family and Dependents) Act 1975(1) (“the Act”).

Proceedings in the High Court E+W

57.15.—(1) Proceedings in the High Court under the Act shall be issued in either—

- (a) the Chancery Division; or
- (b) the Family Division.

(2) The Civil Procedure Rules apply to proceedings under the Act which are brought in the Family Division, except that the provisions of the Family Proceedings Rules 1991(2) relating to the drawing up and service of orders apply instead of the provisions in Part 40 and [^{F3}Practice Direction 40B].

Textual Amendments

- F3** Words in [rule 57.15\(2\)](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), [32\(d\)](#)

Procedure for claims under section 1 of the Act **E+W**

57.16.—(1) A claim under section 1 of the Act must be made by issuing a claim form in accordance with Part 8.

(2) Rule 8.3 (acknowledgment of service) and rule 8.5 (filing and serving written evidence) apply as modified by paragraphs (3) to (5) of this rule.

(3) The written evidence filed and served by the claimant with the claim form must [^{F4}, except in the circumstances specified in paragraph (3A),] have exhibited to it an official copy of—

- (a) the grant of probate or letters of administration in respect of the deceased's estate; and
- (b) every testamentary document in respect of which probate or letters of administration were granted.

[^{F5}(3A) Where no grant has been obtained, the claimant may make a claim without naming a defendant and may apply for directions as to the representation of the estate. The written evidence must—

- (a) explain the reasons why it has not been possible for a grant to be obtained;
- (b) be accompanied by the original or a copy (if either is available) of the will or other testamentary document in respect of which probate or letters of administration are to be granted; and
- (c) contain the following information, so far as known to the claimant—
 - (i) brief details of the property comprised in the estate, with an approximate estimate of its capital value and any income that is received from it;
 - (ii) brief details of the liabilities of the estate;
 - (iii) the names and addresses of the persons who are in possession of the documents relating to the estate; and
 - (iv) the names of the beneficiaries and their respective interests in the estate.

(3B) Where a claim is made in accordance with paragraph (3A), the court may give directions as to the parties to the claim and as to the representation of the estate either on the claimant's application or on its own initiative.

(Section 4 of the 1975 Act as amended confirms that nothing prevents the making of an application under the Act before representation with respect to the estate of the deceased person is taken out.)]

- (4) [^{F6}Subject to paragraph (4A), the time] within which a defendant must file and serve—
 - (a) an acknowledgment of service; and
 - (b) any written evidence,

is not more than 21 days after service of the claim form on him.

[^{F7}(4A) If the claim form is served out of the jurisdiction under rule [^{F8}6.32 or 6.33], the period for filing an acknowledgment of service and any written evidence is 7 days longer than the relevant period specified in rule [^{F9}6.35] or [^{F10}Practice Direction 6B].]

(5) A defendant who is a personal representative of the deceased must file and serve written evidence, which must include the information required by [^{F11}Practice Direction 57].]

Textual Amendments

- F4** Words in rule 57.16(3) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **10(d)(i)**
- F5** Rule 57.16(3A)(3B) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **10(d)(ii)**
- F6** Words in rule 57.16(4) substituted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **17(a)**
- F7** Rule 57.16(4A) inserted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **17(b)**
- F8** Words in rule 57.16(4A) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **30(b)(i)**
- F9** Word in rule 57.16(4A) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **30(b)(ii)**
- F10** Words in rule 57.16(4A) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **32(e)**
- F11** Words in rule 57.16(5) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **32(b)(ii)**

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: IV CLAIMS UNDER THE INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975.