
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 57

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

SECTION I—PROBATE CLAIMS

[^{F1}Probate counterclaim in other proceedings

57.9.—(1) In this rule “probate counterclaim” means a counterclaim in any claim other than a probate claim by which the defendant claims any such remedy as is mentioned in rule 57.1(2)(a).

(2) Subject to the following paragraphs of this rule, this Part shall apply with the necessary modifications to a probate counterclaim as it applies to a probate claim.

(3) A probate counterclaim must contain a statement of the nature of the interest of each of the parties in the estate of the deceased to which the probate counterclaim relates.

(4) Unless an application notice is issued within 7 days after the service of a probate counterclaim for an order under rule 3.1(2)(e) or 3.4 for the probate counterclaim to be dealt with in separate proceedings or to be struck out, and the application is granted, the court [^{F2}will] order the transfer of the proceedings to either—

(a) the Chancery Division (if it is not already assigned to that Division) and to either the Royal Courts of Justice or a Chancery district registry (if it is not already proceeding in one of those places); or

[^{F3}(b) if the County Court has jurisdiction, to a County Court hearing centre where there is also a Chancery District Registry or the County Court at Central London.]

(5) If an order is made that a probate counterclaim be dealt with in separate proceedings, the order shall order the transfer of the probate counterclaim as required under paragraph (4).]

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** Word in rule 57.9(4) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), [24\(c\)\(i\)](#); S.I. 2014/954, art. 2(a)
- F3** Rule 57.9(4)(b) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), [24\(c\)\(ii\)](#); S.I. 2014/954, art. 2(a)

Status:

Point in time view as at 29/07/2021.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 57.9.