

SCHEDULE 1

RSC ORDER 85

ADMINISTRATION AND SIMILAR ACTIONS

Interpretation

Rule 1 In this Order “administration claim” means a claim for the administration under the direction of the Court of the estate of a deceased person or for the execution under the direction of the Court of a trust.

Determination of questions, etc., without administration

Rule 2.—(1) A claim may be issued for the determination of any question or for any remedy which could be determined or granted, as the case may be, in an administration claim and a claim need not be made for the administration or execution under the direction of the Court of the estate or trust in connection with which the question arises or the remedy is sought.

(2) Without prejudice to the generality of paragraph (1), a claim may be brought for the determination of any of the following questions:—

- (a) any question arising in the administration of the estate of a deceased person or in the execution of a trust;
- (b) any question as to the composition of any class of persons having a claim against the estate of a deceased person or a beneficial interest in the estate of such a person or in any property subject to a trust;
- (c) any question as to the rights or interests of a person claiming to be a creditor of the estate of a deceased person or to be entitled under a will or on the intestacy of a deceased person or to be beneficially entitled under a trust.

(3) Without prejudice to the generality of paragraph (1), a claim may be brought for any of the following remedies:—

- (a) an order requiring an executor, administrator or trustee to furnish and, if necessary, verify accounts;
- (b) an order requiring the payment into court of money held by a person in his capacity as executor, administrator or trustee;
- (c) an order directing a person to do or abstain from doing a particular act in his capacity as executor, administrator or trustee;
- (d) an order approving any sale, purchase, compromise or other transaction by a person in his capacity as executor, administrator or trustee;
- (e) an order directing any act to be done in the administration of the estate of a deceased person or in the execution of a trust which the Court could order to be done if the estate or trust were being administered or executed, as the case may be, under the direction of the Court.

Parties

Rule 3.—(1) All the executors or administrators of the estate or trustees of the trust, as the case may be, to which an administration claim or such a claim as is referred to in rule 2 relates must be parties to the proceedings, and where the proceedings are made by executors, administrators or trustees, any of them who does not consent to being joined as a claimant must be made a defendant.

Status: This is the original version (as it was originally made).

(2) Notwithstanding anything in CPR Rule 19.2 and without prejudice to the powers of the Court under that CPR Part, all the persons having a beneficial interest in or claim against the estate or having a beneficial interest under the trust, as the case may be, to which such a claim as is mentioned in paragraph (1) relates need not be parties to the proceedings; but the claimant may make such of those persons, whether all or any one or more of them, parties as, having regard to the nature of the remedy claimed in the proceedings, he thinks fit.

(3) Where, in proceedings under a judgment or order given or made in a claim for the administration under the direction of the Court of the estate of a deceased person, a claim in respect of a debt or other liability is made against the estate by a person not a party to the proceedings, no party other than the executors or administrators of the estate shall be entitled to appear in any proceedings relating to that claim without the permission of the Court, and the Court may direct or allow any other party to appear either in addition to, or in substitution for, the executors or administrators on such terms as to costs or otherwise as it thinks fit.

Judgments and orders in administration claims

Rule 5.—(1) A judgment or order for the administration or execution under the direction of the Court of an estate or trust need not be given or made unless in the opinion of the Court the questions at issue between the parties cannot properly be determined otherwise than under such a judgment or order.

(2) Where an administration claim is brought by a creditor of the estate of a deceased person or by a person claiming to be entitled under a will or on the intestacy of a deceased person or to be beneficially entitled under a trust, and the claimant alleges that no or insufficient accounts have been furnished by the executors, administrators or trustees, as the case may be, then, without prejudice to its other powers, the Court may—

- (a) order that proceedings be stayed for a period specified in the order and that the executors, administrators or trustees, as the case may be, shall within that period furnish the claimant with proper accounts;
- (b) if necessary to prevent proceedings by other creditors or by other persons claiming to be entitled as aforesaid, give judgment or make an order for the administration of the estate to which the claim relates and include therein an order that no proceedings are to be taken under the judgment or order, or under any particular account or inquiry directed, without the permission of the judge in person.

Conduct of sale of trust property

Rule 6 Where in an administration claim an order is made for the sale of any property vested in executors, administrators or trustees, those executors, administrators or trustees, as the case may be, shall have the conduct of the sale unless the Court otherwise directs.