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STATUTORY INSTRUMENTS

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**2020 No. 1059**

**The Non-Contentious Probate (Amendment) Rules 2020**

**Amendment to the Non-Contentious Probate Rules 1987: reliance on a witness statement in the alternative to an affidavit**

- 4.—(1) In rule 2(1) (Interpretation)—
- (a) in the definition of “statement of truth” omit “made for the purposes of rule 8 (statement of truth)”, and
  - (b) after the definition of “trust corporation” insert—  
““witness statement” means a written statement signed by a person which contains the evidence which that person would be allowed to give orally.”.
- (2) After rule 2 (Interpretation) insert—

**“Witness statements**

**2A.** Witness statements must be verified by a statement of truth.”.

- (3) In the following rules, after “an affidavit” insert “or a witness statement”—
- (a) rule 12(1) (Evidence as to due execution of will),
  - (b) rule 25(2) (Joinder of administrator),
  - (c) rule 26(1) (Additional personal representatives),
  - (d) rule 32(2) (Grants on behalf of minors),
  - (e) rule 44(12) (Caveats),
  - (f) rule 47(6) (Citation to accept or refuse to take a grant),
  - (g) rule 48(2)(a) (Citation to propound a will),
  - (h) rule 50(2) (Application for order to attend for examination or for subpoena to bring in a will),
  - (i) rule 51 (Grants to part of an estate under section 113 of the Act),
  - (j) rule 52 (Grants of administration under discretionary powers of court, and grants ad colligenda bona), and
  - (k) rule 55(2) (Application for rectification of a will).
- (4) In rule 12(2) (Evidence as to due execution of will)—
- (a) after “no affidavit” insert “or witness statement”, and
  - (b) after “on affidavit” insert “or by a witness statement”.
- (5) In the following rules, after “affidavit” insert “or witness statement”—
- (a) rule 10(1)(b) (Exhibition of Wills),
  - (b) rule 44(6) and (10) (Caveats),
  - (c) rule 46(4) (Citations),
  - (d) rule 47(4) (Citation to accept or refuse to take a grant), and

- (e) rule 55(3) (Application for rectification of a will).
- (6) For rule 16 (Affidavit as to due execution, terms etc., of will), substitute—

**“Affidavit or witness statement as to due execution, terms, etc., of will**

**16.** A district judge or registrar may require an affidavit or a witness statement from any person he may think fit for the purpose of satisfying himself as to any of the matters referred to in rules 13, 14 and 15, and in any such affidavit sworn or witness statement made by an attesting witness or other person present at the time of the execution of a will the deponent must depose to, or the maker of the witness statement must give evidence of, the manner in which the will was executed.”.

- (7) In rule 19 (Evidence of foreign law)—
  - (a) after “an affidavit” insert “or a witness statement”, and
  - (b) after “in the affidavit” insert “or in the witness statement”.
- (8) In rule 36(2)(a) (Grants to trust corporations and other corporate bodies), after “affidavits” insert “or witness statements”.
- (9) In rule 46(2) (Citations), after “affidavit sworn” in both places where it occurs, insert “or a witness statement made”.
- (10) In rule 53 (Applications for leave to swear to death)—
  - (a) for the heading substitute “Applications for leave to swear or give evidence as to death”,
  - (b) after “An application for leave to swear” insert “or give evidence as”, and
  - (c) after “an affidavit” insert “or a witness statement”.
- (11) In rule 54(3) (Grants in respect of nuncupative wills and copies of wills)—
  - (a) after “an affidavit” insert “or a witness statement”, and
  - (b) after “on affidavit” insert “or by a witness statement”.