
STATUTORY INSTRUMENTS

1991 No. 1876

The Non-Contentious Probate (Amendment) Rules 1991

CONSEQUENTIAL AMENDMENTS

Amendments consequential upon the Children Act 1989(1)

2. In rule 2(1), the definitions of “statutory guardian” and “testamentary guardian” shall be omitted.

3. In rule 32(1), for the words from “the parents of the minor jointly” to “competent jurisdiction” there shall be substituted the words—

“(a) a parent of the minor who has, or is deemed to have, parental responsibility for him in accordance with—

(i) section 2(1), 2(2) or 4 of the Children Act 1989,

(ii) paragraph 4 or 6 of Schedule 14 to that Act, or

(iii) an adoption order within the meaning of section 12(1) of the Adoption Act 1976(2), or

(b) a guardian of the minor who is appointed, or deemed to have been appointed, in accordance with section 5 of the Children Act 1989 or in accordance with paragraph 12, 13 or 14 of Schedule 14 to that Act”.

4. The following shall be substituted for rule 32(2):

“(2) A district judge or registrar may by order appoint a person to obtain administration for the use and benefit of the minor, limited as aforesaid, in default of, or jointly with, or to the exclusion of, any person mentioned in paragraph (1) of this rule; and the person intended shall file an affidavit in support of his application to be appointed.”.

5. In rule 34(2) for the words “assigned as guardian” there shall be substituted the word “appointed”.

Amendments consequential upon section 74 of the Courts and Legal Services Act 1990 (District judges)(3)

6. In rule 2(1)—

(a) after the definition of “the Crown” there shall be inserted the following definition:

““district judge” means a district judge of the Principal Registry;”;

(b) after the definition of “gross value” there shall be inserted the following definition:

““judge” means a judge of the High Court;”;

(c) for the definition of “registrar” there shall be substituted the following definition:

““registrar” means the district probate registrar of the district probate registry—

(1) 1989 c. 41.

(2) 1976 c. 36; section 12 was amended by the Children Act 1989, paragraph 3 of Schedule 10.

(3) 1990 c. 41.

- (i) to which an application for a grant is made or is proposed to be made,
 - (ii) in rules 26, 40, 41 and 61(2), from which the grant issued, and
 - (iii) in rules 46, 47 and 48, from which the citation has issued or is proposed to be issued;” and
- (d) for the definition of “the Senior Registrar” there shall be substituted the following definition:

““the senior district judge” means the Senior District Judge of the Family Division or, in his absence, the senior of the district judges in attendance at the Principal Registry;”.

7.—(1) In the following provisions before the word “registrar”, wherever it appears, there shall be inserted the words “district judge or”:

- rule 2(2);
- rule 5(3)(c), (4), (5) and (7);
- rule 6(1) and (2) and the heading to that rule;
- rule 8(1) and (2);
- rule 10(2);
- rule 11(1);
- rule 12(1), (2) and (3);
- rule 13;
- rule 14(1), (2), (3) and (4);
- rule 16;
- rule 17(2);
- rules 18 and 19;
- rule 20(c) and (e);
- rule 25(2) and (3);
- rule 26(1) and (2);
- rule 27(3), (5), (6) and (8);
- rule 30(1)(b) and (c) and (2);
- rule 31(1) and (2);
- rule 32(1) and (3);
- rule 34(2);
- rule 35(1), (2), (3) and (4);
- rule 36(3);
- rule 37(2) and (3);
- rule 38;
- rule 39(3), (4) or (6);
- rule 40;
- rule 41(1);
- rule 44(1), (4), and (7);
- rule 46(1), (2), (4) and (5);

rule 47(4), (5) and (7);
rule 48(2);
rule 50(1) and (2);
rules 51, 52, 53, 54 and 55;
rules 58 and 59;
rules 61 and 62;
rules 65 and 66(2); and
rules 67 and 68.

(2) In rules 7 and 63, the words “district probate”, wherever they occur, shall be omitted.

(3) In rules 7(1) and (3), 37(4), 44(13) and (14), 45(3), 46(3), 60, 64 and 66(1), for the words “registrar of the Principal Registry” there shall be substituted the words “district judge”.

(4) In rules 36(2), 45(1) and (2), 56(1), and 57(1) and in Form 6 in the First Schedule, for the words “Senior Registrar” there shall be substituted the words “senior district judge”.

(5) In rules 15 and 36(4)(b), before the word “registrars” there shall be inserted the words “district judge’s or”.

(6) In the heading to rule 65, before the word “registrars” there shall be inserted the words “district judges or”.

(7) In Rule 66(1), for the words “registrar of the Principal Registry” there shall be substituted the words “district judge” and for the words “or registrar may direct” there shall be substituted the words “or district judge may direct”.

(8) In Form 4 in the First Schedule for the words “directions by a registrar of the Principal Registry or” there shall be substituted the words “directions by a district judge of the Principal Registry or a registrar of”.