

## SCHEDULE 1

### RSC ORDER 15

#### CAUSES OF ACTION, COUNTERCLAIMS AND PARTIES

##### **Proceedings against estates**

**Rule 6A.**—(1) Where any person against whom a claim would have lain has died but the cause of action survives, the claim may, if no grant of probate or administration has been made, be brought against the estate of the deceased.

(2) Without prejudice to the generality of paragraph (1), a claim brought against “the personal representatives of A.B. deceased” shall be treated, for the purposes of that paragraph, as having been brought against his estate.

(3) A claim purporting to have been commenced against a person shall be treated, if he was dead at its commencement, as having been commenced against his estate in accordance with paragraph (1), whether or not a grant of probate or administration was made before its commencement.

(4) In any such claim as is referred to in paragraph (1) or (3)—

(a) the claimant shall, during the period of validity for service of the claim form, apply to the court for an order appointing a person to represent the deceased’s estate for the purpose of the proceedings or, if a grant of probate or administration has been made for an order that the personal representative of the deceased be made a party to the proceedings, and in either case for an order that the proceedings be carried on against the person appointed or, as the case may be, against the personal representative, as if he had been substituted for the estate;

(b) the court may, at any stage of the proceedings and on such terms as it thinks just and either of its own motion or on application, make any such order as is mentioned in paragraph (a) and allow such amendments (if any) to be made and make such other order as the Court thinks necessary in order to ensure that all matters in dispute in the proceedings may be effectually and completely determined and adjudicated upon.

(5) Before making an order under paragraph (4) the Court may require notice to be given to any insurer of the deceased who has an interest in the proceedings and to such (if any) of the persons having an interest in the estate as it thinks fit.

(5A) Where an order is made under paragraph (4) appointing the Official Solicitor to represent the deceased’s estate, the appointment shall be limited to his accepting service of the claim form by which the proceedings were begun unless, either on making such an order or on a subsequent application, the Court, with the consent of the Official Solicitor, directs that the appointment shall extend to taking further steps in the proceedings.

(6) Where an order is made under paragraph (4), rules 7 (4) and 8 (3) and (4) shall apply as if the order had been made under rule 7 on the application of the claimant.

(7) Where no grant of probate or administration has been made, any judgment or order given or made in the proceedings shall bind the estate to the same extent as it would have been bound if a grant had been made and a personal representative of the deceased had been a party to the proceedings.