

SCHEDULE 1

RSC ORDER 99

INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975(1)

Order to apply to High Court and County Court

Rule A1 This Order applies to proceedings both in the High Court and the county court.

Interpretation

Rule 1 In this Order “the Act” means the Inheritance (Provision for Family and Dependents) Act 1975 and a section referred to by number means the section so numbered in that Act.

Assignment to Chancery or Family Division if proceedings in High Court

Rule 2 Proceedings in the High Court under the Act may be assigned to the Chancery Division or to the Family Division.

Application for financial provision

Rule 3.—(1) An application under section 1 is made by the issue of a claim form.

(3) There shall be filed with the Court a witness statement or affidavit by the applicant in support of the claim, exhibiting an official copy of the grant of representation to the deceased’s estate and of every testamentary document admitted to proof, and a copy of the witness statement or affidavit shall be served on every defendant with the claim form.

Powers of Court as to parties

Rule 4.—(1) The Court may at any stage of proceedings under the Act direct that any person be added as a party to the proceedings or that notice of the proceedings be served on any person.

(2) Order 15, rule 13, shall apply to proceedings under the Act as it applies to the proceedings mentioned in paragraph (1) of that rule.

Witness statement or affidavit in answer

Rule 5.—(1) A defendant to an application under section 1 who is a personal representative of the deceased shall and any other defendant may, within 21 days after service of the claim form on him, inclusive of the day of service, file with the Court a witness statement or affidavit in answer to the application.

(2) The witness statement or affidavit filed by a personal representative pursuant to paragraph (1) shall state to the best of the witness’s ability—

- (a) full particulars of the value of the deceased’s net estate, as defined by section 25 (1);
- (b) the person or classes of persons beneficially interested in the estate, giving the names and (in the case of those who are not already parties) the addresses of all living beneficiaries, and the value of their interests so far as ascertained;
- (c) if such be the case, that any living beneficiary (naming him) is a child or patient within the meaning of CPR rule 21.1(2); and

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(d) any facts known to the witness which might affect the exercise of the Court's powers under the Act.

(3) Every defendant who lodges a witness statement or affidavit shall at the same time serve a copy on the claimant and on every other defendant who is not represented by the same solicitor.

Separate representation

Rule 6 Where an application under section 1 is made jointly by two or more applicants and the claim form is accordingly issued by one solicitor on behalf of all of them, they may, if they have conflicting interests, appear on any hearing of the claim by separate solicitors or counsel or in person, and where at any stage of the proceedings it appears to the Court that one of the applicants is not but ought to be separately represented, the Court may adjourn the proceedings until he is.

Endorsement of memorandum on grant

Rule 7 On the hearing of an application under section 1 the personal representative shall produce to the Court the grant of representation to the deceased's estate and, if an order is made under the Act, the grant shall remain in the custody of the Court until a memorandum of the order has been endorsed on or permanently annexed to the grant in accordance with section 19 (3).

Disposal of proceedings in private

Rule 8 Any proceedings under the Act may, if the Court so directs, be disposed of in private.

Subsequent applications in proceedings under section 1

Rule 9 Where an order has been made on an application under section 1, any subsequent application under the Act, whether made by a party to the proceedings or by any other person, shall be made by the issue of an application notice in accordance with CPR Part 23.

Drawing up and service of orders

Rule 10 The provisions of the Family Proceedings Rules relating to the drawing up and service of orders shall apply to proceedings in the Family Division under this Order as if they were proceedings under those Rules. In this rule "Family Proceedings Rules" means rules made under section 40 of the Matrimonial and Family Proceedings Act 1984.