
STATUTORY INSTRUMENTS

2003 No. 185

The Non-Contentious Probate (Amendment) Rules 2003

Amendment to the Non-Contentious Probate Rules 1987

5. For rule 60 there shall be substituted the following—

“Costs

60.—(1) Order 62 of the Rules of the Supreme Court 1965⁽¹⁾ shall not apply to costs in non-contentious probate matters, and Parts 43, 44 (except rules 44.9 to 44.12), 47 and 48 of the Civil Procedure Rules 1998⁽²⁾ (“the 1998 Rules”) shall apply to costs in those matters, with the modifications contained in paragraphs (3) to (7) of this rule.

(2) Where detailed assessment of a bill of costs is ordered, it shall be referred—

(a) where the order was made by a district judge, to a district judge, a costs judge or an authorised court officer within rule 43.2(1)(d)(iii) or (iv) of the 1998 Rules;

(b) where the order was made by a registrar, to that registrar or, where this is not possible, in accordance with sub-paragraph (a) above.

(3) Every reference in Parts 43, 44, 47 and 48 of the 1998 Rules to a district judge shall be construed as referring only to a district judge of the Principal Registry.

(4) The definition of “costs officer” in rule 43.2(1)(c) of the 1998 Rules shall have effect as if it included a paragraph reading—

“*(iv) a district probate registrar.*”

(5) The definition of “authorised court officer” in rule 43.2(1)(d) of the 1998 Rules shall have effect as if paragraphs (i) and (ii) were omitted.

(6) Rule 44.3(2) of the 1998 Rules (costs follow the event) shall not apply.

(7) Rule 47.4(2) of the 1998 Rules shall apply as if after the words “Supreme Court Costs Office” there were inserted “, the Principal Registry of the Family Division or such district probate registry as the court may specify”.

(8) Except in the case of an appeal against a decision of an authorised court officer (to which rules 47.20 to 47.23 of the 1998 Rules apply), an appeal against a decision in assessment proceedings relating to costs in non-contentious probate matters shall be dealt with in accordance with the following paragraphs of this rule.

(9) An appeal within paragraph (8) above against a decision made by a district judge, a costs judge (as defined by rule 43.2(1)(b) of the 1998 Rules) or a registrar, shall lie to a judge of the High Court.

(10) Part 52 of the 1998 Rules applies to every appeal within paragraph (8) above, and any reference in Part 52 to a judge or a district judge shall be taken to include a district judge of the Principal Registry of the Family Division.

(1) *S.I. 1965/1776*, frequently amended. The Rules of the Supreme Court were revoked and replaced by the Civil Procedure Rules 1998 (*S.I. 1998/3132*), but rule 3 of the Non-Contentious Probate Rules 1987 provides that those Rules as they were in force immediately before 26th April 1999 shall apply with any necessary modifications to non-contentious probate matters.

(2) *S.I. 1998/3132* as amended by *S.I. 1999/1008, 2000/221, 940, 1317* and *2002* and *2001/256, 1388* and *1769*.

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(11) The 1998 Rules shall apply to an appeal to which Part 52 or rules 47.20 to 47.23 of those Rules apply in accordance with paragraph (8) above in the same way as they apply to any other appeal within Part 52 or rules 47.20 to 47.23 of those Rules as the case may be; accordingly the Rules of the Supreme Court 1965 and the County Court Rules 1981 shall not apply to any such appeal.”.