STATUTORY INSTRUMENTS

2019 No. 1057 (L. 5)

SENIOR COURTS OF ENGLAND AND WALES

The Non-Contentious Probate (Amendment) Rules 2019

Made - - - -	*25th June 2019*
Laid before Parliament	*27th June 2019*
Coming into force - -	*1st October 2019*

The President of the Family Division of the High Court (the judicial office holder nominated by the Lord Chief Justice), with the agreement of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by section 127 of the Senior Courts Act 1981(**a**).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Non-Contentious Probate (Amendment) Rules 2019, and come into force on 1st October 2019.

(2) In these Rules, a reference to a rule by number alone means the rule so numbered in the Non-Contentious Probate Rules 1987(**b**).

Amendments to the Non-Contentious Probate Rules 1987: interpretation

2. In rule 2 (interpretation), in the definition of "online portal", for "alternative", the first time it occurs, substitute "online".

Amendments to the Non-Contentious Probate Rules 1987: applications for grants through solicitors or probate practitioners

3. In rule 4(1A) (applications for grants through solicitors or probate practitioners), for the words from "at any registry" to the end, substitute "online under rule 4A (online procedure for applications through solicitors or probate practitioners).".

Amendments to the Non-Contentious Probate Rules 1987: alternative procedure for applications through solicitors or probate practitioners

4. For rule 4A (alternative procedure for applications through solicitors or probate practitioners), substitute—

(**a**) 1981 c.54. Section 127 was amended by sections 12(2) and 146 of, and paragraphs 11 and 12 of Part 2 of Schedule 1 and Part 1 of Schedule 18 to, the Constitutional Reform Act 2005 (c.4); and section 59(5) of, and paragraph 1 of Part 1 of Schedule 11 to, the Constitutional Reform Act 2005 provided for the Supreme Court Act 1981 to be cited as the Senior Courts Act 1981.

(**b**) S.I. 1987/2024. Relevant amendments were made by S.I. 1998/1903, S.I. 2005/2114, S.I. 2009/3348 and S.I. 2018/1137. There are other amendments but none is relevant.

"**Online procedure for applications through solicitors or probate practitioners**

4A.—(1) An application for a grant made through a solicitor or probate practitioner may be made online using the online portal.

(2) An application under this rule must be made by completing and sending the online application form provided through the online portal and electronically paying the appropriate fee.

(3) Where original documents are required to be sent in support of the application, these must be sent separately in accordance with instructions given through the online portal."

Amendments to the Non-Contentious Probate Rules 1987: online procedure for personal applications

5. In rule 5ZA(1) (online procedure for personal applications), for "applications", the first time it occurs, substitute "procedure".

Amendments to the Non-Contentious Probate Rules 1987: alternative procedure for personal applications

6. In rule 5A (alternative procedure for personal applications), for the heading, substitute "alternative online procedure for personal applications".

Transitional and saving provision

7. Where an application was begun under rule 4A before the date on which these Rules come into force, rule 4A, as it was in force immediately before that date, continues to have effect in respect of that application.

Andrew McFarlane

President of the Family Division

I allow these Rules

Paul Maynard

25th June 2019

Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Non-Contentious Probate Rules 1987 (S.I. 1987/2024) ("the 1987 Rules") in the following respects.

Rule 3 amends rule 4 (applications for grants through solicitors or probate practitioners) of the 1987 Rules to provide that applications made through a solicitor or probate practitioner may be made online under rule 4A (online procedure for applications through solicitors or probate practitioners) of the 1987 Rules without the need for an invitation from a registry, allowing for an online process for such applications, which has been piloted, to be introduced more widely.

Rule 4 substitutes a new rule 4A for the existing rule 4A, providing for the procedure an applicant must follow when making an online application through a solicitor or probate practitioner, in place of the previous requirement that the applicant must follow instructions given by the registry.

Rule 5 amends rule 5ZA (online procedure for personal applications) of the 1987 Rules to correct a typographical error.

Rule 6 amends the heading of rule 5A of the 1987 Rules in place of an earlier defective amendment.

Rule 2 makes consequential amendments to the definition of "online portal" in rule 2 (interpretation) of the 1987 Rules to reflect the new headings.

Rule 7 provides that applications begun under rule 4A of the 1987 Rules before the coming into force of these rules will be treated in accordance with rule 4A of the 1987 Rules as it stood immediately before the coming into force of these Rules.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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