

# PART 64

## ESTATES, TRUSTS AND CHARITIES

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### GENERAL

- 64.1 | (1) This Part contains rules –
- (a) in Section I, about claims relating to –
    - (i) the administration of estates of deceased persons, and
    - (ii) trusts; and
  - (b) in Section II, about charity proceedings.
- (2) In this Part and its practice directions, where appropriate, references to trustees include executors and administrators.
- (3) All proceedings in the High Court to which this Part applies must be brought in the Chancery Division.

### **I CLAIMS RELATING TO THE ADMINISTRATION OF ESTATES AND TRUSTS**

#### SCOPE OF THIS SECTION

- 64.2 | This Section of this Part applies to claims –
- (a) for the court to determine any question arising in –
    - (i) the administration of the estate of a deceased person; or

- (ii) the execution of a trust;
- (b) for an order for the administration of the estate of a deceased person, or the execution of a trust, to be carried out under the direction of the court ('an administration order');
- (c) under the Variation of Trusts Act 1958<sup>1</sup>; or
- (d) under section 48 of the Administration of Justice Act 1985<sup>2</sup>.

## CLAIM FORM

64.3

A claim to which this Section applies must be made by issuing a Part 8 claim form.

## PARTIES

64.4

- (1) In a claim to which this Section applies, other than an application under section 48 of the Administration of Justice Act 1985 –
  - (a) all the trustees must be parties;
  - (b) if the claim is made by trustees, any of them who does not consent to being a claimant must be made a defendant; and
  - (c) the claimant may make parties to the claim any persons with an interest in or claim against the estate, or an interest under the trust, who it is appropriate to make parties having regard to the nature of the order sought.
- (2) In addition, in a claim under the Variation of Trusts Act 1958, unless the court directs otherwise any person who –
  - (a) created the trust; or
  - (b) provided property for the purposes of the trust,
 must, if still alive, be made a party to the claim.

(The court may, under rule 19.2, order additional persons to be made parties to a claim.)

## II CHARITY PROCEEDINGS

### SCOPE OF THIS SECTION AND INTERPRETATION

64.5

- (1) This Section applies to charity proceedings.
- (2) In this Section –
  - (a) 'the Act' means the Charities Act 1993<sup>3</sup>;
  - (b) 'charity proceedings' has the same meaning as in section 33(8) of the Act; and

<sup>1</sup> 1958 c.53.

<sup>2</sup> 1985 c.61. Section 48 has been amended by the Courts and Legal Services Act 1990 (c.41).

<sup>3</sup> 1993 c.10.

- (c) 'the Commissioners' means the Charity Commissioners for England and Wales.

## APPLICATION FOR PERMISSION TO TAKE CHARITY PROCEEDINGS

- 64.6
- (1) An application to the High Court under section 33(5) of the Act for permission to start charity proceedings must be made within 21 days after the refusal by the Commissioners of an order authorising proceedings.
  - (2) The application must be made by issuing a Part 8 claim form, which must contain the information specified in the practice direction.
  - (3) The Commissioners must be made defendants to the claim, but the claim form need not be served on them or on any other person.
  - (4) The judge considering the application may direct the Commissioners to file a written statement of their reasons for their decision.
  - (5) The court will serve on the applicant a copy of any statement filed under paragraph (4).
  - (6) The judge may either –
    - (a) give permission without a hearing; or
    - (b) fix a hearing.