
STATUTORY INSTRUMENTS

1987 No. 821

The Court Funds Rules 1987

PART VII

PAYMENT, TRANSFER AND DELIVERY OF FUNDS OUT OF COURT

Payments out of money by post and identification of payees

40.—(1) In this rule the person entitled to the payment out of money lodged in court is referred to as the payee.

(2) Subject to paragraphs (3) and (4) below, the payment out of money lodged in court shall be made by the Accountant General, by a cheque crossed generally, by post as follows:—

- (i) where the address of the payee is stated in the Payment Schedule or supplementary authority and that schedule or authority is dated not more than one year prior to the date on which the Accountant General is able to make payment, he shall make payment to the payee at the address so stated;
- (ii) where the Payment Schedule or supplementary authority is dated more than one year prior to the date on which the Accountant General is able to make payment, he shall make payment on receipt of a written request from the payee in the approved form.

(3) On receipt of a written request from the payee or a donee under a power of attorney given by the payee the Accountant General may make payment to a bank in the United Kingdom for the credit of the account of the payee at that bank or at a bank in the country in which he resides.

(4) The Accountant General may, if he thinks fit, refuse to make a payment until he is satisfied as to the identity and entitlement of any person claiming to be the payee and the Accountant General may refuse to make a remittance by post in any individual case and may require the personal attendance of the payee at the Court Funds Office or a court office as a condition of payment.

Payment etc. after a change of name or style

41. Where a person entitled to payment of a fund in court changes his name or style before the fund is paid, transferred or delivered to him, the Accountant General shall, except where payment is to be made to the person as Receiver under Part VII of the Mental Health Act 1983, require evidence of the change before dealing with the fund.

Payment pursuant to direction of the Court of Protection

42. Where a patient is entitled to a fund in court (other than pursuant to an order made under Part VII of the Mental Health Act 1983) the Accountant General shall, on receipt of a direction from the Master of the Court of Protection, either pay the money to the patient's Receiver or carry it over to such account as the Master may direct.

Payment etc. to representatives of deceased persons

43.—(1) Where a person entitled to a fund in court either in his own right or as sole or sole surviving executor dies, the Accountant General may, where the fund exceeds £5,000, pay it to the personal representative of the deceased on production of a grant of probate or office copy thereof, or, where the deceased was entitled to the fund in his own right, letters of administration in respect of the deceased's estate.

(2) Where a person entitled to a fund in court in his own right dies intestate and no grant of administration has been issued, the Accountant General may, where the assets of the deceased (including the fund in court and after deduction of debts and funeral expenses) do not exceed £5,000, pay the fund to the person who appears to him to have the prior right to a grant of administration of the estate, on lodgment in the Court Funds Office of a written declaration of kinship.

(3) Where two or more persons were entitled to payment of a fund in court as personal representatives and any of them dies before the fund is dealt with, the Accountant General may pay the fund to the surviving personal representatives on proof of the death of the deceased personal representative; and where the fund does not exceed £5,000 the Accountant General may, unless a court otherwise directs, pay the fund to any one of them.

Payment out without order of money lodged in satisfaction

44.—(1) In this rule and in rule 45 a person in respect of whose cause of action a sum has been paid into court in satisfaction, whether by way of claim or counterclaim, is referred to as a plaintiff and a person against whom such a cause of action lies is referred to as a defendant.

(2) The Accountant General shall, on receipt of a written request, pay by cheque to the plaintiff money lodged in court in satisfaction of a claim, or appropriated in accordance with rule 25, and accepted by him in accordance with Rules of Court: provided that where a solicitor is acting for the plaintiff in the proceedings in which the money was lodged or appropriated by virtue of a legal aid certificate issued in accordance with the Legal Aid (General) Regulations 1980(1), the Accountant General shall pay the money to that solicitor, or to the Law Society if there is no longer a solicitor acting.

(3) In the case of proceedings in a District Registry, the plaintiff shall, when he sends the written request to the Court Funds Office, send a copy of it to the District Registry in question.

(4) The Accountant General shall not make any payment under paragraph (1) where:—

- (i) money has been lodged by one, or some, only off several defendants sued jointly or in the alternative, unless the plaintiff discontinues the action against all the other defendants and those defendants consent in writing to the payment, and a copy of the notice of discontinuance and the written consent of each consenting defendant required by RSC Order 22, rule 4 or CCR Order 11, rule 4(3), as the case may be, is lodged with the Accountant General; or
- (ii) a defence of tender before action has been pleaded; or
- (iii) the claim is made by, or on behalf of, a minor or a patient; or
- (iv) money has been lodged in proceedings under the Fatal Accidents Act 1976(2) and the Law Reform (Miscellaneous Provisions) Act 1934(3), or under the first mentioned Act alone where more than one person is entitled to the money; or
- (v) money has been lodged in court, or money in court has been increased by a further lodgment, and has been accepted after the hearing of the action has begun, except in circumstances provided for under RSC Order 22, rule 3.

(1) S.I.1980/1894, as amended.

(2) 1976 c. 30.

(3) 1934 c. 41.

Payment out to defendant without order

45. Where money lodged or appropriated by the defendant in satisfaction of the whole of the plaintiff's claim has been accepted and paid to the plaintiff in accordance with rule 44, the Accountant General shall forthwith pay any accrued interest remaining in court in respect of that claim to the defendant but no interest shall be payable to the defendant after the date on which the plaintiff serves notice of acceptance.

Payment out of interest on securities

46. Where securities are lodged in court under rule 15 or money lodged under that rule is invested, any interest which accrues shall (subject to any contrary provision contained in the relevant enactment) be paid by the Accountant General to the person in whose name the lodgment was made.

Transfer or delivery of securities

47.—(1) Subject to paragraph (2) where pursuant to directions of the court or under these Rules the Accountant General is required to transfer or deliver any securities or effects held in his name he shall issue directions accordingly which shall be sufficient authority for the transfer or delivery and, in the case of a transfer of securities on sale, for the Bank to receive the proceeds of sale.

(2) The directions of the Accountant General shall not be required for the transfer of National Savings Stock, on sale or otherwise.

Charges on purchase or sale of securities

48. Except where rule 34 applies and subject to any directions of the court:—

- (i) where money in court is invested in the purchase of securities, the payment for the purchase shall include all applicable charges; and
- (ii) where securities in court are sold, all applicable charges shall be deducted from the proceeds of sale:

provided that, if the schedule directing a purchase or sale also directs that charges are not to be deducted from the fund in court, the transaction shall not be completed until such charges have been paid either to the stockbroker or to the Accountant General, as the case may be.

Application of funds dealt with before receipt of Payment Schedule

49. Unless otherwise directed by the court, where an order has been made dealing with a fund and, after the date of the order but before the Payment Schedule relating to it is received in the Court Funds Office, interest has accrued or money and interest have been dealt with in accordance with a previous direction of the court or under these Rules, the part of the fund attributable to accrued interest or to money or interest shall be treated as follows:—

- (i) interest on securities directed to be transferred, delivered or carried over shall be dealt with as the securities are directed to be dealt with under the Payment Schedule;
- (ii) interest which has accrued on securities directed to be sold shall be dealt with as the proceeds of sale are directed to be dealt with under the Payment Schedule, except where the sale is to raise a specified sum of money, when the interest is included with the capital;
- (iii) where interest which has accrued on securities directed to be transferred, delivered or carried over has been invested in the purchase of further securities, the securities so purchased and any interest on them shall be dealt with as the original securities are directed to be dealt with;

- (iv) where interest which has accrued on securities directed to be sold has been invested in the purchase of further securities, the securities so purchased shall be sold and the proceeds of sale added to the proceeds of the original securities;
- (v) money or accrued interest which has been placed to a basic or special account shall be withdrawn and, together with any interest credited on withdrawal, applied as directed by the Payment Schedule: provided that where such money is directed to be invested, any interest credited on withdrawal shall be applied as interest accruing on the investment is directed to be applied.

Payment of suitors' money out of a county court

50.—(1) Subject to the provisions of this rule, the proper officer of each county court shall appoint a day in the week on which all payments out of court shall be made, and may appoint a different day from time to time.

(2) In each week on the appointed day the proper officer shall, without demand, pay to each entitled person all money to which that person has become entitled since the appointed day in the previous week.

(3) Money paid out of court under paragraph (2) shall be paid by crossed payable order to the person entitled to it or to his solicitor and the proper officer shall, at the same time, furnish him with a statement of the money so paid.

(4) Notwithstanding anything in this rule, the proper officer may, on request, pay money out of court to the person who he is satisfied is entitled to it on a day other than the appointed day.

Specially created account

51.—(1) In apportioning to any account the interest received in respect of securities the Accountant General shall exclude all fractions of one penny and shall carry over the aggregate of such fractions to a specially created account.

(2) The Accountant General shall from time to time transfer to the cash account of Her Majesty's Paymaster General, for the credit of the Administration of Justice: England and Wales (Lord Chancellor's Department) Vote all sums standing to the specially created account.