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STATUTORY INSTRUMENTS

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**1997 No. 177 (L.1)**

**COUNTY COURTS SUPREME  
COURT OF ENGLAND AND WALES**

**FUNDS**

**The Court Funds (Amendment) Rules 1997**

<i>Made</i>	- - - -	<i>28th January 1997</i>
<i>Laid before Parliament</i>		<i>29th January 1997</i>
<i>Coming into force</i>	- -	<i>21st February 1997</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 38(7) of the Administration of Justice Act 1982(1), and with the concurrence of the Treasury, hereby makes the following Rules:—

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Court Funds (Amendment) Rules 1997 and shall come into force on 21st February 1997.

(2) In these Rules, unless the context otherwise requires, a rule referred to by number alone means the rule so numbered in the Court Funds Rules 1987(2).

**Amendments to the Courts Funds Rules 1987**

2.—(1) In paragraph (2) of rule 2, the following definition shall be inserted after the definition of “The Bank”:—

““Bankers’ Automated Clearing System” means the method of payment whereby funds are transferred from one bank to another by means of an automated system;”.

(2) In paragraph (2) of rule 2, in the definition of “Any county court”, the words “or district judge” shall be substituted for the words “or registrar”.

(3) In paragraph (2) of rule 2, in the definition of “Master”, the words “a District Judge” shall be substituted for the words “a Registrar of the Family Division” and the words “, a District Registrar, a county court registrar” shall be omitted.

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(1) 1982 c. 53.

(2) S.I.1987/821; there are no relevant amending statutory instruments.

3. In paragraph (3) of rule 34, after the words “that court”, there shall be inserted the words “or the Public Trustee”.

4. For rule 40, there shall be substituted the following new rule:—

**“Payments out of money 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 (4) to (10) below, the payment out of money lodged in court may be made by the Accountant General, to a bank in the United Kingdom by means of the Bankers’ Automated Clearing System for the credit of the account of the payee at the bank.

(3) The Payment Schedule shall provide the necessary details of the payee’s bank and account to enable a payment to be made under paragraph (2) above.

(4) In cases where:—

- (i) the Payment Schedule or supplementary 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 as soon as is practicable;
- (ii) 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.

(5) On receipt of a written request from a donee under a power of attorney given by the payee, the Accountant General may make payment by means of the Bankers’ Automated Clearing System to a bank in the United Kingdom for the credit of the account of the payee at the bank.

(6) Where the Accountant General does not make a payment by means of the Bankers’ Automated Clearing System under paragraph (2) above, he shall make the payment by a cheque crossed “account payee” by post in accordance with paragraph (8).

(7) In cases where:—

- (i) the payee does not have an account which is suitable for the receipt of funds by means of the Bankers’ Automated Clearing System; or
- (ii) there is a written request from the payee for the payment to be made by cheque;

the Accountant General shall make the payment by a cheque crossed “account payee”.

(8) Where the Accountant General makes a payment under paragraph (6) or (7) above, it shall be sent 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 and, in a case where there has been a written request under paragraph (7)(ii) above, that request shall be sufficient for the purposes of this sub-paragraph.

- (9) The Accountant General may, if he thinks fit:—
- (i) refuse to make a payment until he is satisfied as to the identity and entitlement of any person claiming to be the payee and may require the personal attendance of the payee at the Court Funds Office or a court office as a condition of payment;
  - (ii) refuse to make a payment by means of the Bankers' Automated Clearing System in any individual case if the Payment Schedule is not completed with sufficient information or for another good reason.”.

5.—(1) For paragraph (2) of rule 44 there shall be substituted:—

“(2) Subject to paragraph (2B), the Accountant General shall, on receipt of a written request, pay

- (i) by cheque crossed “account payee” to the plaintiff, or
- (ii) to a bank in the United Kingdom by means of the Bankers' Automated Clearing System for the credit of the account of the plaintiff at the bank,

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 Civil Legal Aid (General) Regulations 1989<sup>(3)</sup>, the Accountant General shall pay the money to that solicitor, or to the Legal Aid Board if there is no longer a solicitor acting.”.

(2) After paragraph (2) of rule 44, the following new paragraphs shall be inserted:—

“(2A) the written request under paragraph (2) above shall, where payment is to be made under sub-paragraph (ii) of that paragraph, provide the necessary details of the plaintiff's bank and account.

(2B) In cases where:—

- (i) the plaintiff does not have an account which is suitable for the receipt of funds by means of the Bankers' Automated Clearing System; or
- (ii) there is a written request from the plaintiff for the payment to be made by cheque;

the Accountant General shall make the payment by a cheque crossed “account payee”, to the plaintiff by post.

(2C) The Accountant General may, if he thinks fit, refuse to make a payment by means of the Bankers' Automated Clearing System in any individual case if the plaintiff fails to provide him with sufficient information under paragraph (2A) above or for another good reason.”.

6. In paragraph (4) of rule 44, “(2)” shall be substituted for “(1)”.

Dated 28th January 1997

*Mackay of Clashfern, C.*

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(3) S.I. 1989/339; there are no relevant amending instruments.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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We concur,

Dated 28th January 1997

*Gyles Brandreth*  
*Roger Knapman*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Court Funds Rules 1987 so as to give the Accountant General the option to make the payment of court funds held by him by means of the Bankers' Automated Clearing System, in addition to by cheque. These Rules make other minor amendments where necessary to take account of changes in legislation.