

2007 No. 729

SUPREME COURT OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

Court Funds (Amendment) Rules 2007

<i>Made</i> - - - -	<i>7th March 2007</i>
<i>Laid before Parliament</i>	<i>8th March 2007</i>
<i>Coming into force</i> - -	<i>6th April 2007</i>

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

Citation, commencement and interpretation

1. These Rules may be cited as the Court Funds (Amendment) Rules 2007 and come into force on 6th April 2007.
2. In these Rules a reference to a rule by number alone means the rule so numbered in the Court Funds Rules 1987(b).

Amendments to the Court Funds Rules 1987

3. The Court Funds Rules 1987 are amended as follows—
 - (a) for “minor”, wherever it appears, substitute “child”;
 - (b) for “minor’s”, wherever it appears, substitute “child’s”; and
 - (c) for “person under disability”, wherever it appears, substitute “person under a disability”.
4. In rule 2(2)—
 - (a) replace the definition of “Appointed Officer” with—

““Appropriation” means where the whole or any part of money paid into court under a court order or in support of a defence of tender before claim—

 - (i) prior to 6th April 2007, was treated as a CPR Part 36 payment in accordance with CPR Part 37 as it was in force immediately prior to that date; and
 - (ii) on or after 6th April 2007, is used to satisfy a Part 36 offer in accordance with CPR Part 37.3,

and the verb “appropriate” shall be construed accordingly.”;

(a) 1982 c. 53.

(b) S.I. 1987/821; relevant amending instruments are S.I. 1988/817, 1991/1227, 1997/177, 2000/2918, 2001/703, 2003/375 and 2003/720.

- (b) omit the definition of “Authorised Officer”;
- (c) in the definition of “The Bank” omit the words “the Bank of England or”;
- (d) omit the definition of “Court Funds Office”;
- (e) omit the definition of “Duty”;
- (f) before the definition of “Employment Appeal Tribunal” insert—
 - ““Effective date of appropriation” means, in relation to funds appropriated prior to 6th April 2007, the date on which a notice of appropriation was received by the Accountant General;”;
- (g) omit the definition of “Fund or Fund in Court”; and
- (h) after the definition of “Special Account” insert—
 - ““Transitional funds” means money which, less than 21 days prior to 6th April 2007, in satisfaction of a claim—
 - (i) had been paid into court in accordance with CPR Part 36; or
 - (ii) had been appropriated in accordance with CPR Part 37, as those Parts were in force immediately prior to 6th April 2007;”.

5. Omit rule 10.

6. In rule 11, omit “and whether the payments are” to the end of the rule.

7. Omit rule 12.

8. In rule 14, for “CPR rule 37.5”, wherever it appears, substitute “CPR rule 37.4”.

9. Rule 15 is amended as follows—

- (a) omit rule 15(1)(iii)(a); and
- (b) in rule 15(1)(iii)(b) for “CPR rule 37.3” substitute “CPR rule 37.2”.

10. In rule 19, after paragraph (3) insert—

“(4) Money paid to a court office under rules 16(7) or 19(2) and which is remitted to the Accountant General in accordance with rules 16(7) or 19(3) must be accompanied by a notice stating the reason for the payment and its date.”

11. For rule 25, substitute—

“**25.**—(1) Where—

- (i) a defendant has paid money into court under a court order or in support of a defence of tender before claim; and
- (ii) a Part 36 offer is subsequently accepted without needing the permission of the court,

any request for payment lodged with the Accountant General by the claimant must include the written consent of the defendant that all, or part, of the money paid into court may be used to satisfy the offer (in whole or in part).

(2) Where, before the date on which a request for payment is received under paragraph (1), interest has accrued on the money in question, some or all of the accrued interest may be included in the amount used to satisfy the offer, and this rule applies to the interest in the same way as it applies to the money paid into court.”

12. For rule 28(4) substitute—

“(4) This rule does not apply to transitional funds.”

13. For rule 31, substitute the following—

“Treatment of transitional funds

31.—(1) Transitional funds must be placed to a basic account 21 days after the effective date of lodgment or the effective date of appropriation and interest accrues on those funds from the date of placement to that account.

(2) Paragraph (1) does not apply where a request for payment from the claimant is received in the Court Funds Office within the 21 days specified in that paragraph.

(3) Where the claimant is a person under a disability—

- (i) paragraph (1) applies unless the court otherwise directs;
- (ii) where the court directs that paragraph (1) does not apply, interest accrues on the funds in court from the date they are placed to a basic account; and
- (iii) transitional funds placed to a basic account shall, unless the court otherwise directs, remain so placed until the claim is determined or the court approves a settlement, whether or not the claimant has indicated that he wishes to accept the payment or appropriation.”

14. For rule 32 substitute the following—

“Interest on payment out of money in court

32.—(1) No interest accrues on money held in court in relation to a claim after the date on which the claimant serves notice on the Accountant General of acceptance of a Part 36 offer.

(2) Where—

- (i) the permission of the court is not required to take money out of court; and
- (ii) money lodged or appropriated by the defendant in satisfaction of a claim has been accepted by and paid to the claimant,

the Accountant General must pay any accrued interest remaining in court in respect of that claim to the defendant.

(3) Where the permission of the court is required to take money out of court, including where the court determines a claim or approves a settlement on behalf of a person under a disability, any interest which has accrued on the money in court must be dealt with as the court orders.”

15. Omit rule 38(1)(i).

16. In rule 40(2) for “paragraphs (4) to (10)” substitute “paragraphs (4) to (9)”.

17. Rule 44 is amended as follows—

- (a) in rule 44(1) omit “and rule 45”;
- (b) In rule 44(2) omit “in accordance with Rule 25”;
- (c) for rule 44(4)(i) substitute—
 - “(i) funds have been lodged or appropriated by one or more, but not all, of a number of defendants sued jointly or in the alternative, unless—
 - (a) the claimant discontinues the claim against all the other defendants;
 - (b) those defendants consent in writing to the payment; and
 - (c) a copy of the notice of discontinuance and the written consent of each consenting defendant is lodged with the Accountant General.”
- (d) for rule 44(4)(ii) substitute—
 - “(ii) a defence of tender before claim has been pleaded, unless—
 - (a) a Part 36 offer is accepted without needing the permission of the court; and

- (b) the written consent of the defendant that all, or part, of the money paid into court in support of that defence may be used to satisfy the offer (in whole or in part) is lodged with the Accountant General;” and
- (e) for rule 44(4)(v) substitute the following—
 - “(v) in respect of transitional funds—
 - (a) the payment into court or appropriation was made less than 21 days prior to the start of the trial; or
 - (b) the claimant has not accepted the payment or appropriation within 21 days of the payment into court or appropriation; or
 - (vi) paragraphs 25(1)(i) and (ii) apply, unless the request for payment lodged with the Accountant General by the claimant includes the written consent of the defendant that all, or part, of the money paid into court may be used to satisfy the offer (in whole or in part).
- (5) Rule 44(4)(v) does not apply where—
 - (i) at the time the request for payment is made the claimant certifies to the Accountant General that the parties have agreed liability for costs; or
 - (ii) less than 21 days prior to 6th April 2007—
 - (a) the defendant increased a Part 36 payment or appropriation by lodging further funds or by appropriating all or a further part of a sum lodged in court; and
 - (b) the increased payment or appropriation is accepted within 21 days of the effective date of lodgment or appropriation of the further funds.”.

18. Omit rule 45.

19. Rule 57 is amended as follows—

- (a) in rule 57(2) omit the words “Subject to paragraph (3),”;
- (b) in rule 57(2)(i)–
 - (i) at the beginning of the rule insert “subject to paragraph (3),”;
 - (ii) for the word “and” substitute “or”;
- (c) for rule 57(2)(ii) substitute—
 - “(ii) subject to paragraph (4), the Accountant General is, at any time, satisfied that although all reasonable steps have been taken to trace the person entitled to it and to pay it to him, that person cannot be traced.”;
- (d) omit rule 57(5).

5th March 2007

Falconer of Thoroton, C

We concur,

7th March 2007

Dave Watts
Alan Campbell
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Court Funds Rules 1987 as a result of changes to Parts 36 and 37 of the Civil Procedure Rules 1998 contained in the Civil Procedure (Amendment No. 3) Rules 2006 (S.I. 2006/3435).

In addition the Court Funds Rules 1987 are amended as follows:

- The opportunity has been taken to remove some definitions which are no longer applicable.
- References to “minor” are changed to “child” throughout the rules.
- Rule 10 is revoked, on the basis that it has not been invoked for some years and is now obsolete.
- Rule 11 is amended, reflecting the fact that the Court Funds Office has no facility to deduct tax at source from monies held in court.
- Rule 12 is revoked, on the basis that it has not been invoked for some years and is now obsolete.
- Rule 57(2) is amended so that the Accountant General may treat a fund as unclaimed either if there is a balance on the account which has not been dealt with for 10 years, or if he is otherwise satisfied at any time that following reasonable steps to trace the person entitled to the money, that person cannot be traced.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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