

PART 37

MISCELLANEOUS PROVISIONS ABOUT PAYMENTS INTO COURT

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MONEY PAID INTO COURT UNDER A COURT ORDER – GENERAL

- 37.1 |
- (1) When a party makes a payment into court under a court order, the court will give notice of the payment to every other party.
 - (2) Money paid into court under a court order may not be paid out without the court's permission except where –
 - (a) the defendant treats the money as a Part 36 payment under rule 37.2; and
 - (b) the claimant accepts the Part 36 payment without needing the permission of the court.

(Rule 36.11 sets out when the claimant can accept a Part 36 payment without needing the permission of the court)

MONEY PAID INTO COURT MAY BE TREATED AS A PART 36 PAYMENT

- 37.2 |
- (1) Where a defendant makes a payment into court following an order made under rule 3.1(3) or 3.1(5) he may choose to treat the whole or any part of the money paid into court as a Part 36 payment.

(Rule 36.2 defines a Part 36 payment)

- (2) To do this he must file a Part 36 payment notice.

(Rule 36.6 sets out what a Part 36 payment notice must contain and provides for the court to serve it on the other parties)

- (3) If he does so Part 36 applies to the money as if he had paid it into court as a Part 36 payment.

MONEY PAID INTO COURT WHERE DEFENDANT WISHES TO RELY ON DEFENCE OF TENDER BEFORE CLAIM

- 37.3 |
- (1) Where a defendant wishes to rely on a defence of tender before claim^(GL) he must make a payment into court of the amount he says was tendered.
 - (2) If the defendant does not make a payment in accordance with paragraph (1) the defence of tender before claim^(GL) will not be available to him until he does so.
 - (3) Where the defendant makes such payment into court –
 - (a) he may choose to treat the whole or any part of the money paid into court as a Part 36 payment; and
 - (b) if he does so, he must file a Part 36 payment notice.

PROCEEDINGS UNDER FATAL ACCIDENTS ACT 1976⁽⁵⁵⁾ AND LAW REFORM (MISCELLANEOUS PROVISIONS) ACT 1934⁽⁵⁶⁾ – APPORTIONMENT BY COURT

- 37.4 |
- (1) Where –
 - (a) a claim includes claims arising under –
 - (i) the Fatal Accidents Act 1976; and
 - (ii) the Law Reform (Miscellaneous Provisions) Act 1934;
 - (b) a single sum of money is paid into court in satisfaction of those claims; and
 - (c) the money is accepted,
 the court shall apportion the money between the different claims.
 - (2) The court shall apportion money under paragraph (1) –
 - (a) when it gives directions under rule 21.11 (control of money received by a child or patient); or
 - (b) if rule 21.11 does not apply, when it gives permission for the money to be paid out of court.
 - (3) Where, in an action in which a claim under the Fatal Accidents Act 1976 is made by or on behalf of more than one person –
 - (a) a sum in respect of damages is ordered or agreed to be paid in satisfaction of the claim; or
 - (b) a sum of money is accepted in satisfaction of the claim,

(55) 1976 c.30.

(56) 1934 c.41.

the court shall apportion it between the persons entitled to it unless it has already been apportioned by the court, a jury, or agreement between the parties.

(Other rules about payments into court can be found –

- (a) in Schedule 1, in the following RSC – O.49 (garnishee proceedings); O.50 (stop orders in funds in court); O.92 (payments into court in particular circumstances); and
- (b) in Schedule 2, in the following CCR – O.30 (garnishee proceedings); O.49 (payment in under various statutes))