

# PRACTICE DIRECTION – MISCELLANEOUS PROVISIONS ABOUT PAYMENTS INTO COURT

## THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 37

*For information about payments into and out of court in relation to offers to settle see Part 36 and the practice direction which supplements it.*

### PAYMENTS INTO COURT UNDER AN ORDER

- 1.1 Where money is paid into court under an order, the party making the payment should:
  - (1) lodge his payment, and
  - (2) file a copy of the order directing payment into court.
- 1.2 Where the order is made in a county court or district registry the payment will usually be made by cheque payable to Her Majesty's Paymaster General.
- 1.3 Where the order is made in the Royal Courts of Justice, the payment will usually be made by cheque payable to the Accountant-General of the Supreme Court, should be accompanied by a completed Court Funds Office forms 100 or 101, and a sealed copy of the order should be lodged in the Court Funds Office. A copy of the Court Funds Office receipt should be filed in the appropriate court office in the Royal Courts of Justice.

### DEFENCE OF TENDER

- 2.1 A defendant paying a sum of money into court in support of a defence of tender<sup>1</sup> should do so when filing his defence and should at the same time complete and file:
  - (1) a notice of payment into court, and
  - (2) where the defence is filed in the Royal Courts of Justice, Court Funds Office form 100.
- 2.2 A defence of tender will not be available to a defendant until he has complied with paragraph 2.1.

### GENERAL

- 3.1 Where money is paid into court:
  - (1) under an order permitting a defendant to defend or to continue to defend under rule 37.2(1), or

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<sup>1</sup> Rule 37.3.

(2) in support of a defence of tender under rule 37.3,

the party making the payment may, if a defendant, choose to treat the whole or any part of the money as a Part 36 payment<sup>2</sup>.

3.2 In order to do so the defendant must file a Part 36 payment notice in accordance with rule 36.6 (see also paragraph 6 of the practice direction which supplements Part 36).

3.3 Rule 37.4 deals with the apportionment of money paid into court in respect of claims arising under:

(1) the Fatal Accidents Act 1976, and

(2) the Law Reform (Miscellaneous Provisions) Act 1934.

(See also paragraph 8.8 of the practice direction supplementing Part 36.)

## **PAYMENT OUT OF COURT**

- 4.1 Except where money which has been paid into court is treated as a Part 36 payment and can be accepted by the claimant without needing the court's permission, the court's permission is required to take the money out of court.
- 4.2 Permission may be obtained by making an application in accordance with Part 23. The application notice must state the grounds on which the order for payment out is sought. Evidence of any facts on which the applicant relies may also be necessary.
- 4.3 To obtain the money out of court the applicant must comply with the provisions of paragraph 9 of the practice direction supplementing Part 36 where they apply.

## **FOREIGN CURRENCY**

- 5 For information on payments into court made in a foreign currency, see paragraph 10 of the practice direction supplementing Part 36.

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<sup>2</sup> Rules 37.2(2) and 37.3(3).