

## PRACTICE DIRECTION 37

# MISCELLANEOUS PROVISIONS ABOUT PAYMENTS INTO COURT

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 37

## PAYMENT INTO COURT UNDER AN ORDER, ETC

- 1.1** Except where paragraph 1.2 applies, a party paying money into court under an order or in support of a defence of tender before claim must –
- (1)** send to the Court Funds Office –
    - (a) the payment, usually a cheque made payable to the Accountant General of the Senior Courts;
    - (b) a sealed copy of the order or a copy of the defence; and
    - (c) a completed Court Funds Office form 100;
  - (2)** serve a copy of the form 100 on each other party; and
  - (3)** file at the court –
    - (a) a copy of the form 100; and
    - (b) a certificate of service confirming service of a copy of that form on each party served.
- 1.2** Instead of complying with paragraph 1.1(1), a litigant in person without a current account may, in a claim proceeding in a county court or District Registry, make a payment into court by –
- (1)** lodging the payment in cash with the court; and
  - (2)** giving the court a completed Court Funds Office form 100.

## APPLICATIONS RELATING TO FUNDS IN COURT

- 2.1** This paragraph applies to an application relating to money or securities which have been paid into court other than an application for the payment out of the money or securities (for example, an application for money to be invested, or for payment of interest to any person).
- 2.2** An application –
- (1)** must be made in accordance with Part 23; and
  - (2)** may be made without notice, but the court may direct notice to be served on any person.

(Where money paid into court is accepted by or on behalf of a child or protected party, rule 21.11(1)(b) provides that the money shall be dealt with in accordance with directions given by the court under that rule and not otherwise. Paragraphs 8 to 13 of Practice Direction 21 make further provision about how the money may be dealt with).

## PAYMENT OUT OF COURT

- 3.1** Rule 37.3 provides that the court's permission is required to take money out of court except where the defendant agrees that the money which has been paid into court should be used to satisfy a Part 36 offer.

- 3.2** 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.
- 3.3** Where the court gives permission under rule 37.3, it will include a direction for the payment out of any money in court, including any interest accrued.
- 3.4** Where permission is not required to take money out of court, the requesting party should file a request for payment in Court Funds Office form 201 with the Court Funds Office, accompanied by a statement that the defendant agrees that the money should be used to satisfy the Part 36 offer in Court Funds Office form 202.

(Paragraph 3.6 of Practice Direction 36B provides that a defendant who made a Part 36 payment before 6th April 2007, and whose Part 36 offer underlying the payment is accepted without requiring the permission of the court, is not required to file form 202.)

- 3.5** The request for payment should contain the following details –
- (1)** where the party receiving the payment is legally represented –
    - (a)** the name, business address and reference of the legal representative; and
    - (b)** the name of the bank and the sort code number, the title of the account and the account number where the payment is to be transmitted;
  - (2)** where the party is acting in person –
    - (a)** his name and address; and
    - (b)** his bank account details as in paragraph (1)(b) above; and
  - (3)** whether the party receiving the payment is, or has been, in receipt of services funded by the Legal Services Commission as part of the Community Legal Service.
- 3.6** Where paragraph 3.4 applies, interest accruing up to the date of acceptance will be paid to the defendant.

(Rule 20.2 provides that in these Rules references to a claimant or defendant include a party bringing or defending an additional claim).

- 3.7** Subject to paragraph 3.8, if a party does not wish the payment to be transmitted into his bank account or if he does not have a bank account, he may send a written request to the Accountant-General for the payment to be made to him by cheque.
- 3.8** Where a party seeking payment out of court has provided the necessary information, the payment –
- (1)** where a party is legally represented, must be made to the legal representative;
  - (2)** if the party is not legally represented but has given notice under paragraph 3.5(3), must be made to the Legal Services Commission.

## PAYMENT INTO COURT BY LIFE ASSURANCE COMPANY

- 4.1** A company wishing to make a payment into court under the Life Assurance Companies (Payment into Court) Act 1896 ('the 1896 Act') must file a witness statement or an affidavit setting out –
- (1)** a short description of the policy under which money is payable;
  - (2)** a statement of the persons entitled under the policy, including their names and addresses so far as known to the company;
  - (3)** a short statement of –

- (a) the notices received by the company making any claim to the money assured, or withdrawing any such claim;
- (b) the dates of receipt of such notices; and
- (c) the names and addresses of the persons by whom they were given;
- (4) a statement that, in the opinion of the board of directors of the company, no sufficient discharge can be obtained for the money which is payable, other than by paying it into court under the 1896 Act;
- (5) a statement that the company agrees to comply with any order or direction the court may make –
  - (a) to pay any further sum into court; or
  - (b) to pay any costs;
- (6) an undertaking by the company to immediately send to the Accountant General at the Court Funds Office any notice of claim received by the company after the witness statement or affidavit has been filed, together with a letter referring to the Court Funds Office reference number; and
- (7) the company's address for service.

**4.2** The witness statement or affidavit must be filed at –

- (1) Chancery Chambers at the Royal Courts of Justice, or
- (2) a Chancery district registry of the High Court.

**4.3** The company must not deduct from the money payable by it under the policy any costs of the payment into court, except for any court fee.

**4.4** If the company is a party to any proceedings issued in relation to the policy or the money assured by it, it may not make a payment into court under the 1896 Act without the permission of the court in those proceedings.

**4.5** If a company pays money into court under the 1896 Act, unless the court orders otherwise it must immediately serve notice of the payment on every person who is entitled under the policy or has made a claim to the money assured.

## APPLICATION FOR PAYMENT OUT OF MONEY PAID INTO COURT BY LIFE ASSURANCE COMPANY

**5.1** Any application for the payment out of money which has been paid into court under the 1896 Act must be made in accordance with paragraph 3 of this practice direction.

**5.2** The application must be served on –

- (1) every person stated in the written evidence of the company which made the payment to be entitled to or to have an interest in the money;
- (2) any other person who has given notice of a claim to the money; and
- (3) the company which made the payment, if an application is being made for costs against it, but not otherwise.

## PAYMENT INTO COURT UNDER TRUSTEE ACT 1925

**6.1** A trustee wishing to make a payment into court under section 63 of the Trustee Act 1925 must file a witness statement or an affidavit setting out –

- (1) a short description of –

- (a) the trust; and
- (b) the instrument creating the trust, or the circumstances in which the trust arose;
- (2) the names of the persons interested in or entitled to the money or securities to be paid into court, with their address so far as known to him;
- (3) a statement that he agrees to answer any inquiries which the court may make or direct relating to the application of the money or securities; and
- (4) his address for service.

**6.2** The witness statement or affidavit must be filed at –

- (1) Chancery Chambers at the Royal Courts of Justice;
- (2) a Chancery district registry of the High Court; or
- (3) a county court.

**6.3** If a trustee pays money or securities into court, unless the court orders otherwise he must immediately serve notice of the payment into court on every person interested in or entitled to the money or securities.

## APPLICATION FOR PAYMENT OUT OF FUNDS PAID INTO COURT BY TRUSTEE

**7.1** An application for the payment out of any money or securities paid into court under section 63 of the Trustee Act 1925 must be made in accordance with paragraph 3 of this practice direction.

**7.2** The application may be made without notice, but the court may direct notice to be served on any person.

## PAYMENT INTO COURT UNDER VEHICULAR ACCESS ACROSS COMMON AND OTHER LAND (ENGLAND) REGULATIONS 2002

**8.1** In this section of this Practice Direction –

- (1) expressions used have the meanings given by the Vehicular Access Across Common and Other Land (England) Regulations 2002; and
- (2) a regulation referred to by number alone means the regulation so numbered in those Regulations.

**8.2** Where the applicant wishes to pay money into a county court under regulation 14 he must file a witness statement or an affidavit when he lodges the money.

**8.3** The witness statement or affidavit must –

- (1) state briefly why the applicant is making the payment into court; and
- (2) be accompanied by copies of –
  - (a) the notice served under regulation 6;
  - (b) any counter-notice served under regulation 8;
  - (c) any amended notice or counter-notice served under regulation 9;
  - (d) any determination of the Lands Tribunal of a matter referred to it under regulation 10; and
  - (e) any determination of the value of the premises by a chartered surveyor following the service of a valuation notice under regulation 12.

- 8.4** If an applicant pays money into court under regulation 14, he must immediately serve notice of the payment and a copy of the witness statement or affidavit on the land owner.
- 8.5** An application for payment out of the money must be made in accordance with paragraph 3 of this practice direction.

