
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 295

JUDICATURE, NORTHERN IRELAND

Court Funds (Amendment No. 2) Rules (Northern Ireland) 1997

Made - - - - - *16th June 1997*

To be laid before Parliament

Coming into operation *21st July 1997*

The Lord Chancellor, in exercise of the powers conferred on him by section 82(1) of the Judicature (Northern Ireland) Act 1978(1) and with the concurrence of the Treasury, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Court Funds (Amendment No. 2) Rules (Northern Ireland) 1997 and shall come into operation on 21st July 1997.

Interpretation

2. In these Rules a reference to a Rule or Form by number is a reference to that Rule or Form so numbered in the Court Funds Rules (Northern Ireland) 1979(2).

Meaning of BACS

3. In Rule 2(1) after the meaning of “the Bank” there shall be inserted the following meaning—
““Bankers Automated Clearing System” means the method of payment whereby funds are transferred from one bank to another by means of an automated system;”.

Persons under disability

4. In Rule 18, after paragraph (1) there shall be inserted the following paragraph—
“(1A) Where money is paid into court in satisfaction of a claim by a person under disability the request for lodgment or notice of payment into court in the county court shall clearly state that the plaintiff is a person under disability.”.

(1) 1978 c. 23

(2) S.R. 1979 No. 105 as amended by S.R. 1997 No. 166

Appropriation

5. For Rule 28 there shall be substituted the following Rule—

“Appropriation

28.—(1) Where a defendant has lodged money in court pursuant to an order made under Order 14 of the Rules as a condition of liberty to defend and desires to appropriate the whole or any part of such money in satisfaction of the whole or any part of the plaintiff’s claim pursuant to Order 22 rule 8 of the Rules, he shall lodge with the Accountant General a notice of appropriation in Form 2.

(2) On receipt of a notice of appropriation the Accountant General shall—

(i) note the relevant account accordingly; and

(ii) withdraw the sum mentioned in the notice from the deposit account.

(3) If the plaintiff does not give notice of acceptance within the time limited by the Rules the Accountant General shall place the money in the deposit account 21 days after he has received the notice of appropriation.

(4) Where, before appropriation, interest has accrued on the money in question the interest may be included in the appropriation, and this rule shall apply to the interest in the same way as it applies to the money lodged.”.

Time when interest accrues on money other than money appropriated or lodged in court

6. In Rule 32A—

(a) for paragraphs (2) and (3) there shall be substituted the following paragraphs—

“(2) Interest on money placed to the deposit account shall be paid at the rate of 4% per annum.

(3) Interest on money placed to the short term investment account shall be paid at the rate of 5% per annum.”;

(b) in paragraph (4) after the words “short-term investment account shall” there shall be inserted the words “, subject to rule 34B.”.

Interest on money in court

7. For Rules 33 to 35 there shall be substituted the following Rules—

“Time for placing money to an interest bearing account

33.—(1) Subject to Rules 34 and 34A and to any direction of the court, all money (including interest) shall be placed to the deposit account or in the case of a person under disability to the short-term investment account, on the day on which the Schedule or other authority is received in the Office or on the effective date of lodgment of the money, whichever is the later.

(2) Where judgment is given in favour of a person under disability, or settlement of his claim is approved by the court, the money to which he is entitled shall, subject to any directions of the court, be placed to the short-term investment account at the date of the judgment or on the effective date of lodgment of the money, whichever is the later, without further authority.

(3) Interest shall not accrue from a date earlier than that on which the money is placed to an interest bearing account in accordance with this Rule.

Money not to be placed to the deposit account

34. Money, including interest, shall not be placed to the deposit account where the money—

- (i) has been directed by any order or another authority to be dealt with other than by being placed to the deposit account; or
- (ii) has been carried over to an account of unclaimed balances under Rule 55.

Money paid in satisfaction, etc

34A.—(1) Where money is lodged in the Supreme Court under Order 22, rule 1 of the Rules or is appropriated under Order 22, rule 8 of the Rules in satisfaction of a claim and is not accepted within the time limited by Order 22 rule 3 of the Rules, it shall be placed to a deposit account 21 days after the effective date of lodgment or appropriation.

(2) Where money is lodged into a county court in satisfaction of a claim under Order 21, rule 2 of the County Court Rules and the plaintiff has not given notice of acceptance of the payment within the time limited by Order 21, rule 3 of the County Court Rules it shall be placed to a deposit account 28 days after the effective date of lodgment.

(3) Where the plaintiff is under disability money lodged in to the Supreme Court under Order 22, rule 1 of the Rules or appropriated under Order 22, rule 8 of the Rules or money lodged into a county court under Order 21, rule 2 of the County Court Rules shall be placed to the deposit account in any event whether or not he has accepted it, until the claim is determined or settlement is reached, unless the court otherwise directs.

Interest on money paid in satisfaction

34B.—(1) Subject to paragraphs (3) and (5) interest on money lodged into the Supreme Court in accordance with Order 22, rule 1 of the Rules or appropriated under Order 22, rule 8 of the Rules in satisfaction of a claim shall start to accrue 21 days after the effective date of lodgement into the Supreme Court.

(2) Subject to paragraphs (3) and (5) interest on money lodged into a county court in accordance with Order 21, rule 2 of the County Court Rules in satisfaction of a claim shall start to accrue 28 days after the effective date of lodgement into the county court.

(3) Interest on money lodged into a county court or the Supreme Court in such circumstances that it is to await the outcome of an order of court shall start to accrue from the effective date of payment into the Supreme Court or a county court as the case may be.

(4) Where a court determines a claim or, as the case may be, approves a settlement on behalf of a person under a disability, any interest which has accrued on the money in court shall be dealt with as the court orders.

(5) Where money placed to a deposit account under Rule 34A(1) or 34A(2) is accepted within the time limited by Order 22, rule 3 of the Rules or Order 21, rule 3 of the County Court Rules as the case may be, no interest shall be payable in respect of the period between lodgment or appropriation, or where there has been more than one lodgment or appropriation between the latest lodgment or appropriation, and the date of acceptance.

Withdrawal of money from an interest bearing account

35. Money shall only be withdrawn from an interest bearing account where the money, including any interest which has accrued at the time of withdrawal, is required to be withdrawn for the purpose of giving effect to a direction of the court or these Rules; provided that such interest shall not be used if directed by the court to be otherwise dealt with.”

Payments out of money and identification of payees

8. For Rule 38, there shall be substituted the following Rule—

“Payments out of money

38.—(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 (9) 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 that bank.

(3) The Payment Schedule or other authority 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 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 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 that 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 “not negotiable” 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 “not negotiable”.

(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 and that Schedule 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 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, 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.”

Payment etc to representatives of deceased persons

9.—(1) In Rule 41 in paragraphs (1)(i), (1)(ii) and (3) for the sum “£1500” there shall be substituted the sum “£5000”.

(2) In Form 5 for the sum “£1500” in both places where it occurs there shall be substituted the sum “£5000”.

Payment out without order of money lodged in satisfaction

10. In Rule 43 after paragraph (1) insert the following paragraphs—

“(1A) Subject to paragraph (1B) the Accountant General shall, on receipt of a written request to pay money in accordance with paragraph (1), pay—

(i) by cheque crossed “not negotiable” 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 that bank.

(1B) The written request under paragraph (1A) 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.

(1C) 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 “not negotiable” to the plaintiff by post.

(1D) 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 (1B) above or for another good reason.”.

Revocations

11.—(1) Rules 29, 30 and 54 are revoked.

(2) In Rule 43(1), the words “by cheque” are revoked.

(3) In Rule 50(1) the words “on receipt of a written request from the appropriate officer of the County Court” are revoked.

(4) Form 3 is revoked.

(5) In Form 6, in the Notes the words “Payment will be made by a crossed cheque or crossed form of receipt which must be passed through a bank” are revoked.

(6) In Form 8, paragraph 2 which is entitled “Request for remittance by post” is revoked.

Transitional Provision

12. The amendments made by Rules 4 to 7 and 11(1) of these Rules shall not apply to any sum appropriated or lodged in satisfaction of a claim in the Supreme Court in accordance with Order 14

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

or 21 of the Rules of the Supreme Court (Northern Ireland) 1980⁽³⁾ or a County Court in accordance with Order 21 of the County Court Rules (Northern Ireland) 1981⁽⁴⁾ before 21st July 1997.

Dated 16th June 1997.

Irvine of Lairg, C.

We concur,

L.S.

Bob Ainsworth

Jon Owen Jones

Two of the Lord's Commissioners of Her Majesty's Treasury

Dated 17th June 1997.

(3) S.R. 1980 No. 346; the relevant amending instruments are; S.R. 1983 No. 144, S.R. 1985 No. 70, S.R. 1986 No. 128, S.R. 1990 No. 267, S.R. 1995 No. 462, S.R. 1996 No. 267

(4) S.R. 1981 No. 225; the relevant amending instruments are; S.R. 1990 No. 278, S.R. 1991 No. 230, S.R. 1992 No. 478, S.R. 1995 No. 151, S.R. 1995 No. 258.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Court Funds Rules (Northern Ireland) 1979 so as to:

- (a) provide for interest to accrue on lodgments of money paid in satisfaction of a plaintiff's claim in court;
- (b) make clear that the rates of interest prescribed in respect of two accounts maintained by the Court Funds Office, namely the deposit account and short-term investment account, are annual rates;
- (c) increase from £1500 to £5000 the sum which may be paid out of court to representatives of deceased persons in certain circumstances;
- (d) provide for payment out of court of money by means of the Bankers Automated Clearing System in addition to payment by cheque.