

**EXPLANATORY MEMORANDUM TO  
THE COURT FUNDS (AMENDMENT) RULES 2007**

**2007 No. 729**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 The Court Funds Rules (S.I 1987/821, “the rules”) are rules of court that govern the payment in, investment and payment out of monies lodged under the Civil Procedure Rules and other statutory enactments.

- 2.2 This Statutory Instrument:-

- (a) contains consequential amendments to the rules, to take into account the changes made to the Civil Procedure Rules 1998 by the Civil Procedure (Amendment No 3) Rules 2006 (SI2006 No 3435)
- (b) Updates the rules governing transfers to the Unclaimed Balances account to take into account those monies that are unclaimed before they reach CFO.
- (c) Revokes rules which are now obsolete.
- (d) Updates outdated terminology in the rules, and corrects a typographical error.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None

4. **Legislative Background**

- 4.1 The instrument contains consequential amendments which reflect amendments that have been made to Part 36 and Part 37 of the Civil Procedure Rules.

5. **Extent**

- 5.1 This instrument applies to England and Wales.

6. **European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

- 7.1 The policy background for each of the amendments is set out below using the numbering from para 2.2;
- (a) Her Majesty's Courts Service consulted early in 2006 on proposals to simplify Part 36, in particular, on the possibility of removing the requirement for defendants to make offers to settle money claims in the form of a payment into court. The consultation clearly showed wide support for the proposal. The Civil Procedure Rule Committee conducted a follow-up consultation in the summer on the possibility of abolishing payments into court altogether. A majority of respondents agreed, and the recommendation of HMCS and the CPR Committee to adopt this proposal was accepted.
  - (b) These amendments are to take into account the fact that monies lodged under Section 63 of the Trustee Act 1925 (which relates to missing beneficiaries) and the Companies Act 1985 (which relates to assets unclaimed by shareholders) are only lodged with the Court Funds Office after thorough searches to trace the beneficiaries by the lodging parties. It is inappropriate to retain these monies on separate accounts for a further ten years before undertaking new searches prior to transfer to the Unclaimed Balances account.
  - (c) Rule 10, "Particulars of interest ordered to be paid as directed in judgment or order" and Rule 12, "Funds on which duty is payable" are revoked as they are obsolete.
  - (d) Rule 11("Regular Payments") is amended to remove the provision to make a regular payment net, as CFO does not have the ability to deduct tax. The use of the word "minor" is replaced by "child" throughout. Descriptions in Rule 2, the "Interpretation" are updated or deleted to take into account recent changes and, in Rule 40(2) the paragraph numbering is amended to correctly reflect the rules. These amendments are made to correct parts of the rules that had not previously been updated to ensure consistency of terminology and paragraph numbering.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

- 9.1 Elizabeth Jeary at the Court Funds Office [Tel: 0207 947 7292 or e-mail: [elizabeth.jeary@hmcourts-service.gsi.gov.uk](mailto:elizabeth.jeary@hmcourts-service.gsi.gov.uk)] can answer any queries regarding the instrument.