
STATUTORY INSTRUMENTS

2011 No. 1734

The Court Funds Rules 2011

PART 4

Payment out from a fund in court

Documents required for payment

22.—(1) The general rule is that the Accountant General shall make a payment from a fund in court if provided with a payment schedule signed and authenticated by a court.

(2) The general rule does not apply if a payment is made under one of the following paragraphs in this rule.

(3) Subject to paragraphs (6) and (7), where a deputy has been appointed, the Accountant General shall only make a payment from a fund in court if provided with:

- (a) a written request from the deputy; and
- (b) a sealed copy of the court order authorising the payment.

(4) Where an enactment requires specific authority for payment, the Accountant General shall only make a payment from a fund in court if provided with:

- (a) a written request; and
- (b) any authority required to permit payment under the enactment.

(5) Where a court has ordered that a person may apply directly to the Court Funds Office for payment of a fund in court on or after reaching their majority, the Accountant General shall only make a payment from the fund in court if provided with a written request from that person.

(6) Where the Court of Protection is satisfied that a person no longer lacks capacity in relation to a fund in court to which that person is entitled, the Accountant General shall only make a payment from the fund in court if provided with:

- (a) a written request; and
- (b) a sealed copy of the court order.

(7) Where the Court of Protection has ordered a payment from a fund in court be made to a person other than the person entitled to the fund in court or a deputy, the Accountant General shall only make a payment from the fund in court if provided with:

- (a) a payment schedule signed and authenticated by the court; or
- (b) (i) a written request; and
(ii) a sealed copy of the court order authorising the payment.

Interest on payments

23. Where rule 22 applies, the Accountant General shall deal with any interest in accordance with:

- (a) the payment schedule; or
- (b) the other authority for payment.

Payment to a representative of a deceased person

24.—(1) This rule applies where a person entitled to a fund in court dies.

(2) Where a grant of representation has been obtained, the Accountant General shall pay out the fund in court to the personal representative of the deceased if provided with:

- (a) a written request; and
- (b) a sealed copy of the grant of representation.

(3) Where a grant of representation has been obtained by two or more persons, the Accountant General shall only pay out the fund in court if provided with:

- (a) the documents required under paragraph (2);
- (b) the written consent of each living person named as a personal representative in the grant of representation; and
- (c) a copy of the death certificate of any deceased person who was named as a personal representative in the grant of representation.

(4) Where the value of the estate is less than £5,000 and the person dies testate, the Accountant General shall pay out the fund in court to the person who claims to have the right to a grant of probate if provided with:

- (a) a written request;
- (b) a copy of the will of the deceased; and
- (c) a copy of the death certificate of the deceased.

(5) Where the value of the estate is less than £5,000 and two or more persons have a right to a grant of probate, the Accountant General shall only pay out the fund in court if provided with:

- (a) the documents required under paragraph (4);
- (b) the written consent of each living person who has been named as an executor in the deceased's will; and
- (c) a copy of the death certificate of any deceased person who was named as an executor in the deceased's will.

(6) Where the value of the estate is less than £5,000 and the person dies intestate, the Accountant General shall pay out the fund in court to the person who claims to have a prior right to a grant of letters of administration if provided with:

- (a) a written request;
- (b) a written declaration of kinship; and
- (c) a copy of the death certificate of the deceased.

(7) Where the value of the estate is less than £5,000 and two or more persons claim to have a prior right to a grant of letters of administration, the Accountant General shall only pay out the fund in court if provided with:

- (a) the documents required under paragraph (6);
- (b) the written consent of each person who appears to have a prior right to a grant of letters of administration; and
- (c) a written declaration of kinship of each such person.

Payment of funeral expenses

25.—(1) This rule applies where a person who is entitled to a fund in court and subject to an order of the Court of Protection dies.

(2) The Accountant General shall make a payment from the fund in court of the deceased to a funeral director in respect of reasonable funeral expenses if provided with:

- (a) a funeral invoice; and
- (b) a written request from:
 - (i) an executor of the deceased's estate; or
 - (ii) the person who arranged the funeral if the deceased died intestate.

Payment of inheritance tax

26.—(1) This rule applies where a person who is entitled to a fund in court and subject to an order of the Court of Protection dies.

(2) The Accountant General shall make a payment from the fund in court of the deceased to Her Majesty's Revenue and Customs in respect of all or part of the inheritance tax due on the deceased's estate if provided with:

- (a) the completed relevant form from Her Majesty's Revenue and Customs; and
- (b) a written request from:
 - (i) an executor of the deceased's estate; or
 - (ii) a person who appears to have a prior right to a grant of letters of administration of the estate if the deceased died intestate.

Payment in respect of CPR Part 36 (offers to settle)

27.—(1) This rule applies where:

- (a) a payment is to be made to a claimant out of a fund in court under CPR Part 36; and
- (b) the permission of a court is not required for the payment.

(2) Subject to rule 28(3), where a defendant has deposited money under a court order or in support of a defence of tender before claim and a CPR Part 36 offer is subsequently accepted, the Accountant General shall make a payment from a fund in court if provided with:

- (a) a written request from the claimant; and
- (b) written confirmation from the defendant that all, or part, of the fund in court may be used to satisfy the offer (in whole or in part).

(3) Subject to rule 28(3), where a CPR Part 36 deposit has been made and the CPR Part 36 offer has been accepted, the Accountant General shall make a payment from a fund in court if provided with a written request from the claimant.

(4) The Accountant General shall pay any accrued interest remaining in court following a payment under paragraph (2) or (3) or rule 28(2) to the defendant.

(5) The Accountant General may not make any payment under this rule where more than one defendant is sued jointly and not all of the defendants have deposited money in court unless:

- (a) the claimant has also discontinued the claim against the defendants who have not deposited money in court; and
- (b) the Accountant General is provided with a copy of:
 - (i) the notice of discontinuance; and

- (ii) the written consent to the discontinuance of each of those defendants.

Payment where the claimant’s legal representation has been funded by the Legal Services Commission

28.—(1) This rule applies where:

- (a) a payment is to be made to a claimant out of a fund in court under CPR Part 36;
- (b) the claimant’s legal representation has been funded by the Legal Services Commission; and
- (c) regulation 18(1) of the Community Legal Services (Costs) Regulations 2000(1) applies to the fund in court.

(2) Where the claimant is legally represented, the Accountant General shall pay the amount to be paid out under rule 27(2) or (3) to the claimant’s legal representative.

(3) Where the claimant is no longer legally represented, the Accountant General shall only make a payment from a fund in court if provided with a payment schedule signed and authenticated by a court.

Remaining balance

29. The remaining balance of a fund in court (if any) after a payment under rule 27 or 28(2) shall be paid out in accordance with rule 22.

Time for making payments

30. The Accountant General shall make any payment as soon as practicable after receipt of:

- (a) the payment schedule; or
- (b) the other authority for payment.

Regular payments

31. Where a payment schedule directs that regular payments are to be made, the payment schedule shall state the dates on which the payments shall be made.

Method of payment

32.—(1) In this rule:

“BACS” means the method of payment known as “Banks Automated Clearing System” by which money is transferred from one bank in the United Kingdom to another; and

“International money transfer” means a method of payment in which money is transferred from a bank in the United Kingdom to a bank outside the United Kingdom by means of an automated system.

(2) Unless the Accountant General directs otherwise, payment out from a fund in court shall be made by:

- (a) BACS;
- (b) international money transfer;
- (c) cheque; or
- (d) warrant.

(3) The Accountant General may deduct any charges incurred in paying money out of court from the fund in court from which the payment was made.

Dealing with a fund in court before the receipt of a payment schedule

33.—(1) Paragraph 2 applies where the Accountant General has dealt with a fund in court after the date of a court order but before the receipt of the related payment schedule.

(2) The Accountant General shall, if reasonably practicable, deal with an asset that is not mentioned in the payment schedule in accordance with the payment schedule.

Refusal to make a payment

34. The Accountant General may not make a payment if:

- (a) the identity or entitlement of a person claiming to be entitled to a payment is in doubt;
- (b) the request for payment is outside the scope of a deputy's power;
- (c) the person requesting payment has not complied with these Rules; or
- (d) there is any other good reason not to do so.

Identification of payees

35.—(1) If the Accountant General, in accordance with rule 34(a), does not make a payment, the Accountant General may require the personal attendance of the person claiming to be entitled to the payment at a court in order to provide evidence of their identity or entitlement.

(2) The Accountant General may not pay a person who changes their name before a fund in court has been paid, unless that person provides the Accountant General with evidence of their change of name.