

2023 No. 987

SENIOR COURTS OF ENGLAND AND WALES
COUNTY COURT, ENGLAND AND WALES
FAMILY COURT, ENGLAND AND WALES

The Court Funds (Amendment) Rules 2023

<i>Made</i> - - - -	<i>7th September 2023</i>
<i>Laid before Parliament</i>	<i>11th September 2023</i>
<i>Coming into force</i> - -	<i>27th October 2023</i>

The Lord Chancellor, in exercise of the powers conferred by section 38(7) to (9) of the Administration of Justice Act 1982(a), and with the concurrence of the Treasury, makes the following Rules.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Court Funds (Amendment) Rules 2023 and come into force on 27th October 2023.

(2) In these Rules, a reference to a rule by number alone means the rule so numbered in the Court Funds Rules 2011(b).

Amendment of the Court Funds Rules 2011

2. The Court Funds Rules 2011 are amended in accordance with rules 3 to 24 of these Rules.

Amendment of rule 3

3. In rule 3 (interpretation), in paragraph (2)—

(a) in the definition of “authenticated”, after “issued” insert “, or an electronic version approved,”; and

(b) after the definition of “Deputy” insert—

““Electronic request” means a request made in an electronic form approved by or using a digital platform maintained on behalf of the Accountant General to—

(a) deposit funds in court;

(b) deal with a fund in court; or

(c) receive payment from a fund in court.”.

(a) 1982 c. 53.

(b) S.I. 2011/1734, as amended by S.I. 2013/534 and to which there are other amendments not relevant to this instrument.

Amendment of rule 6

4. In rule 6 (documents accompanying deposit of funds in court)—
 - (a) for paragraph (2) substitute—

“(2) The general rule—

 - (a) applies subject to rule 6A; and
 - (b) does not apply if a fund is deposited in court under one of the following paragraphs in this rule.”;
 - (b) in paragraph (10), omit “written”; and
 - (c) in paragraph (11), omit “written”.

Insertion of new rule 6A

5. After rule 6 insert—

“Documents accompanying deposit of funds in court by electronic means

6A.—(1) A fund may be deposited by electronic means where the Accountant General has so directed.

(2) Where a fund is to be deposited by electronic means, the Accountant General shall only accept the deposit if it is accompanied by the documents in electronic form specified in paragraph (3).

(3) The documents are—

- (a) where the general rule in rule 6 applies—
 - (i) an electronic authenticated deposit schedule from the court; or
 - (ii) (aa) an electronic request to deposit; and
(bb) an electronic sealed copy of the order authorising the deposit;
- (b) where rule 6(3) applies—
 - (i) an electronic request to deposit;
 - (ii) an electronic sealed copy of the claim form; and
 - (iii) an electronic copy of the defence;
- (c) where rule 6(4) applies, an electronic copy of a request sealed by a court;
- (d) where rule 6(5) applies—
 - (i) an electronic request to deposit; and
 - (ii) an electronic sealed copy of the order authorising the deposit;
- (e) where rule 6(6) applies, either—
 - (i) (aa) an electronic sealed copy of a deposit schedule; and
(bb) an electronic copy of the witness statement or affidavit filed in accordance with CPR rule 37.4; or
 - (ii) (aa) an electronic request to deposit; and
(bb) an electronic sealed copy of the order authorising the deposit;
- (f) where rule 6(7) applies—
 - (i) an electronic request to deposit; and
 - (ii) an electronic copy of the document authorising the deposit;
- (g) where rule 6(8) applies—
 - (i) an electronic request to deposit; and
 - (ii) an electronic sealed copy of the order appointing the deputy;

- (h) where rule 6(9) applies—
 - (i) an electronic request to deposit; and
 - (ii) an electronic sealed copy of the order authorising the deposit of that currency.

Amendment of rule 7

6. In rule 7 (deposit of funds), in paragraph (2), for “unless” to the end substitute “, or by electronic transfer where rule 6A(1) applies”.

Amendment of rule 8

7. In rule 8 (deposit of funds at a District Registry or county court or the Mayor’s and City of London Court)—

- (a) for “Mayor’s and City of London Court” where it appears in the following places substitute “County Court at Central London”—
 - (i) the heading to the rule;
 - (ii) paragraphs (1), (5) and (7);
- (b) in paragraph (6), after “rule 6” insert “, or rule 6A as the case may be,”; and
- (c) in paragraph (7), after “rule 6” insert “, or rule 6A as the case may be”.

Amendment of rule 11

8. In rule 11 (interest bearing accounts)—

- (a) in paragraph (2)—
 - (i) at the end sub-paragraph (b), insert “or”;
 - (ii) at the end of sub-paragraph (c), for “; or” substitute a full stop; and
 - (iii) omit sub-paragraph (d);
- (b) in paragraph (3)—
 - (i) at the end of sub-paragraph (b), insert “or”;
 - (ii) at the end of sub-paragraph (c), for “; or” substitute a full stop; and
 - (iii) omit sub-paragraph (d); and
- (c) omit paragraph (4).

Amendment of rule 12

9. In rule 12 (transfer between accounts), in paragraph (2) after “such transfer” insert “, or if the case is one where the Accountant General has directed that electronic means may be used, an electronic authenticated copy of the payment schedule from that court”.

Amendment of rule 13

10. In rule 13 (accrual of interest)—

- (a) in paragraph (3), after “Part 36” insert “that is to be satisfied, in whole or in part, out of a fund in court under CPR rule 37.3”;
- (b) in paragraph (4)—
 - (i) in sub-paragraph (a), for “on the last Friday in March and September” substitute “on 31 March and 30 September”;
 - (ii) in sub-paragraph (b), for “on the last Friday in May and November” substitute “on 31 May and 30 November”;

- (iii) omit sub-paragraph (c); and
- (c) omit paragraph (6).

Amendment of rule 16

11. In rule 16 (foreign currency), in paragraph (1)—

- (a) in sub-paragraph (a), after “court” insert “, or if the case is one where the Accountant General has directed that electronic means may be used, an electronic authenticated copy of such schedule from that court,”; and
- (b) in sub-paragraph (b), omit “written”.

Amendment of rule 17

12. In rule 17 (authority to direct investment)—

- (a) in paragraph (1), after “written request” insert “(or, if the case is one where the Accountant General has directed that electronic means may be used, an electronic request)”;
- (b) in paragraph (2), after “written directions” insert “(or, if the case is one where the Accountant General has directed that electronic means may be used, an electronic version of such directions)”;
- (c) in paragraph (3), after “writing” insert “(which includes, if the case is one where the Accountant General has directed that electronic means may be used, an electronic version)”.

Amendment of rule 22

13. In rule 22 (documents required for payment), for paragraph (2) substitute—

“(2) The general rule—

- (a) applies subject to rule 22A; and
- (b) does not apply if payment is made under one of the following paragraphs in this rule.”.

Insertion of new rule 22A

14. After rule 22 insert—

“Documents required for payment where payment requested by electronic means

22A.—(1) A payment from a fund in court may be requested by electronic means where the Accountant General has so directed.

(2) Where a payment from a fund is requested by electronic means, the Accountant General shall only make payment if provided with the documents in electronic form specified in paragraph (3).

(3) The documents are—

- (a) where the general rule in rule 22 applies, an electronic authenticated copy of the payment schedule;
- (b) where rule 22(3) applies—
 - (i) an electronic request for payment from the deputy; and
 - (ii) an electronic sealed copy of the order authorising the payment;
- (c) where rule 22(4) applies—
 - (i) an electronic request for payment; and

- (ii) an electronic copy of the authority required to permit payment under the enactment;
- (d) where rule 22(5) applies, an electronic request for payment from the person referred to in rule 22(5);
- (e) where rule 22(6) applies—
 - (i) an electronic request for payment; and
 - (ii) an electronic sealed copy of the court order;
- (f) where rule 22(7) applies—
 - (i) an electronic request for payment; and
 - (ii) an electronic sealed copy of the order authorising the payment (unless the electronic request is authenticated by the court, in which case the additional document is not required).”.

Amendment of rule 23

15. In rule 23 (interest on payments), after “22” insert “or 22A”.

Amendment of rule 24

16. In rule 24 (payment to a representative of a deceased person)—

- (a) in paragraph (2), for “provided with:” to the end of the paragraph substitute—
 - “provided with either—
 - (a) (i) a written request; and
 - (ii) a sealed copy of the grant of representation; or
 - (b) where rule 22A(1) applies—
 - (i) an electronic request; and
 - (ii) an electronic sealed copy of the grant of representation.”;
- (b) in paragraph (3)—
 - (i) in sub-paragraph (a), at the end insert “and either—”; and
 - (ii) for sub-paragraphs (b) and (c) substitute—
 - “(b) (i) the written consent of each living person named as a personal representative in the grant of representation; and
 - (ii) a copy of the death certificate of any deceased person who was named as a personal representative in the grant of representation; or
 - (c) where rule 22A(1) applies—
 - (i) the electronically completed consent of each living person named as a personal representative in the grant of representation; and
 - (ii) an electronic copy of the death certificate of any deceased person who was named as a personal representative in the grant of representation.”;
- (c) in paragraph (4), for “provided with:” to the end of the paragraph substitute—
 - “provided with either—
 - (a) (i) a written request;
 - (ii) a copy of the will of the deceased; and
 - (iii) a copy of the death certificate of the deceased; or
 - (b) where rule 22A(1) applies—
 - (i) an electronic request;
 - (ii) an electronic copy of the will of the deceased; and

- (iii) an electronic copy of the death certificate of the deceased.”;
- (d) in paragraph (5)—
 - (i) in sub-paragraph (a), at the end insert “and either—”; and
 - (ii) for sub-paragraphs (b) and (c) substitute—
 - “(b) (i) the written consent of each living person named as an executor in the deceased’s will; and
 - (ii) a copy of the death certificate of any deceased person who was named as an executor in the deceased’s will; or
 - (c) where rule 22A(1) applies—
 - (i) the electronically completed consent of each living person named as an executor in the deceased’s will; and
 - (ii) an electronic copy of the death certificate of any deceased person who was named as an executor in the deceased’s will.”;
- (e) in paragraph (6), for “provided with:” to the end of the paragraph substitute—
 - “provided with either—
 - (a) (i) a written request;
 - (ii) a written declaration of kinship; and
 - (iii) a copy of the death certificate of the deceased; or
 - (b) where rule 22A(1) applies—
 - (i) an electronic request;
 - (ii) an electronic copy of the declaration of kinship; and
 - (iii) an electronic copy of the death certificate of the deceased.”; and
- (f) in paragraph (7)—
 - (i) in sub-paragraph (a), at the end insert “and either—”; and
 - (ii) for sub-paragraph (b) substitute—
 - “(b) (i) the written consent of each person who appears to have a prior right to a grant of letters of administration; and
 - (ii) a written declaration of kinship of each such person; or
 - (c) where rule 22A(1) applies—
 - (i) the electronically completed consent of each person who appears to have a prior right to a grant of letters of administration; and
 - (ii) an electronic copy of the declaration of kinship of each such person.”.

Amendment of rule 25

17. In rule 25 (payment of funeral expenses), in paragraph (2), for “provided with:” to the end of the paragraph substitute—

- “provided with either—
 - (a) (i) a funeral invoice; and
 - (ii) a written request from—
 - (aa) an executor of the deceased’s estate; or
 - (bb) if the deceased died intestate, the person who arranged the funeral; or
 - (b) where rule 22A(1) applies—
 - (i) an electronic copy of the funeral invoice; and
 - (ii) an electronic request from—
 - (aa) an executor of the deceased’s estate; or

- (bb) if the deceased died intestate, the person who arranged the funeral.”.

Amendment of rule 26

18. In rule 26 (payment of inheritance tax), in paragraph (2), for “provided with:” to the end of the paragraph substitute—

“provided with either—

- (a) (i) the completed relevant form from His Majesty’s Revenue and Customs; and
- (ii) a written request from—
 - (aa) an executor of the deceased’s estate; or
 - (bb) if the deceased died intestate, a person who appears to have a prior right to a grant of letters of administration of the estate; or
- (b) where rule 22A(1) applies—
 - (i) an electronic copy of the completed relevant form from His Majesty’s Revenue and Customs; and
 - (ii) an electronic request from—
 - (aa) an executor of the deceased’s estate; or
 - (bb) if the deceased died intestate, a person who appears to have a prior right to a grant of letters of administration of the estate.”.

Amendment of rule 27

19. In rule 27 (payment in respect of CPR Part 36 (offers to settle))—

- (a) in the heading, for “in respect of CPR Part 36 (offers to settle)” substitute “under CPR rule 37.3 (payment out of money paid into court)”;
- (b) in paragraph (1)(a), for “Part 36” substitute “rule 37.3”;
- (c) in paragraph (2), for “provided with” to the end of the paragraph substitute—

“provided with either—

 - (a) (i) a written request from the claimant; and
 - (ii) (aa) a written request from an executor of the deceased’s estate; or
 - (bb) 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; or

(b) where rule 22A(1) applies—

 - (a) (i) an electronic request from the claimant; and
 - (ii) (aa) an electronic request from an executor of the deceased’s estate; or
 - (bb) an electronic copy of the 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.”;
- (d) omit paragraph (3);
- (e) in paragraph (4), omit “or (3)”;
- (f) in paragraph (5)(b), after “copy” insert “, either by post or, where rule 22A(1) applies, by electronic means,”.

Amendment of rule 28

20. In rule 28 (payment where the claimant’s legal representation has been funded by the Legal Services Commission or provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012)—

- (a) in paragraph (1)(a) for “Part 36” substitute “rule 37.3”;

- (b) in paragraph (2) omit “or (3)”; and
- (c) in paragraph (3), after “a court” insert “, or if the case is one where the Accountant General has directed that electronic means may be used, an electronic authenticated copy of such schedule from that court”.

Amendment of rule 29

21. In rule 29 (remaining balance), after “22” insert “or 22A”.

Amendment of rule 32

22. In rule 32 (method of payment), in paragraph (1), for “Banks” substitute “Bankers”.

Amendment of rule 39

23. In rule 39 (unclaimed county court money), in paragraph (2), after “written” insert “(or, if the case is one where the Accountant General has directed that electronic means may be used, electronic)”.

Amendment of rule 41

24. In rule 41 (payment out of an unclaimed funds account), in paragraph (1), after “court” insert “, or if the case is one where the Accountant General has directed that electronic means may be used, an electronic authenticated copy of such schedule from that court”.

Alex Chalk
Lord Chancellor
Ministry of Justice

5th September 2023

We concur,

Amanda Solloway
Stuart Anderson
Two of the Lords Commissioners of His Majesty’s Treasury

7th September 2023

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Court Funds Rules 2011 (S.I. 2011/1734) (“the 2011 Rules”). The 2011 Rules relate to funds in court that are vested in the Accountant General under section 38 of the Administration of Justice Act 1982 (c. 53). The 2011 Rules govern the administration and management of funds in court by the Accountant General. These Rules amend the 2011 Rules for one main purpose, and make other more minor miscellaneous amendments.

Rules 3 to 7, 9, 11 to 19 to 21, 23 and 24 of these Rules make amendments to rules 3, 6 to 8, 12, 16, 17, 22 to 29, 39 and 41 of the 2011 Rules, and insert new rules 6A and 22A into the 2011 Rules, to enable deposits of funds into court, and payments out, to be made by electronic means.

The other amendments in these Rules reflect amendments to the Civil Procedure Rules 1998 (S.I. 1998/3132), amend the rules on when money must be paid into an interest-bearing account, amend the rules on payment of interest, update a court name and correct a typographical error.

A full impact assessment has not been produced for this instrument as no, or no significant impact on the private, voluntary or public sectors is foreseen.

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