

Subsidiary Legislation made under s.37.

Supreme Court Fund Rules

LN.1979/002

	<i>Commencement</i>	1.3.1979
Amending enactments	Relevant current provisions	Commencement date
LN. 1980/050	rr.7, 19(2), 20(2)-(3), 22(2)	
Act. 2007-17	rr. 4(1)(b), 7, 20(2)(f), 21(1), Sch.	14.6.2007
2016-18	rr. 9(2)(d), 20(2)(c)	23.4.2018

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ARRANGEMENT OF RULES

Rule

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SCHEDULE

Title.

1. These rules may be cited as the Supreme Court Fund Rules.

Rules to be read with English rules.

2. These rules shall be read with Order 22, rules 1 to 12 inclusive, Order 75, rule 24, and Order 92, rules 2 and 4, of the Rules of the Supreme Court, 1965, of England, as applied to Gibraltar, as from time to time amended or replaced.

Payment of money into court.

3.(1) Payment of money into court in accordance with any rule or order of court may be effected by paying the money—

- (a) to the Accountant General, together with a paying in statement in triplicate, signed by the payer and authorized by the Registrar; or
- (b) in Admiralty causes, to the Marshal, together with a paying in statement in duplicate, signed by the payer.

(2) The Accountant General or the Marshal, as the case may be, shall sign one copy of the paying in statement and return it to the payer and, where the payment is made to the Accountant General, he shall send one copy of the statement to the Registrar, together with the duplicate of the receipt issued to the payer.

(3) A paying in statement shall be as in Form I of the Schedule.

Lodgment of securities.

4.(1) Lodgment in court of securities in accordance with any rule or order of court may be made by delivering them to the Accountant General, together with—

- (a) a list of such securities in triplicate, signed by the person making the lodgment and authorized by the Registrar; and
- (b) in the case of securities not transferable by delivery a stock transfer form or, where appropriate, a deed of transfer, naming the Financial Secretary as the transferee.

(2) The Accountant General shall sign one copy of the list by way of receipt and return it to the person making the lodgment and shall send one copy to the Registrar.

Lodgment of effects.

5.(1) Lodgment of effects in court in accordance with any rule or order of court may be effected by delivering them to the Registrar together with a list of such effects in duplicate, signed by the person making the lodgment.

(2) Effects lodged with the Registrar shall be secured in locked boxes or otherwise to the satisfaction of the Registrar and any person lodging effects shall, if the Registrar so requires, permit them to be inspected in his presence by an officer of the Supreme Court.

(3) The Registrar shall sign one copy of the list by way of receipt and return it to the person making the lodgment.

Heading of paying in statements and lists.

6. Every paying in statement or list shall be headed with the title of the cause or matter to which it relates and, where the moneys, securities or effects comprise or form part of a trust fund, with the name of the beneficiary or with the name of the settlor, testator or intestate, as may be appropriate.

Foreign currency and securities.

7. Where payment into court of money is intended to be made and retained in any foreign currency or where any securities intended to be lodged are such that Part III of the Exchange Control Act applies to them, there shall be lodged with the Accountant General or the Marshal, as the case may be, the consent in writing of the Financial Secretary:

Provided that this rule shall not apply if there is in force any relevant exemption granted by the Governor under section 33 of the Exchange Control Act.

Opening of ledger accounts.

8. Moneys, securities or effects paid into or lodged in court shall be credited by the Registrar or the Marshal, as the case may be, to ledger accounts entitled to correspond with the heading of the lodgment statement or list.

Categories of ledger accounts.

9.(1) Ledger accounts shall be designated according to the following categories—

- (a) trust accounts;
- (b) interlocutory payments;

- (c) deposits by way of security;
 - (d) miscellaneous ledger accounts.
- (2) For the purposes of this rule-
- (a) moneys paid into court in satisfaction of a cause of action; interim payments ordered to be paid into court; moneys paid into court as a condition of liberty to defend, and payments into court in interpleader proceedings shall be designated as interlocutory payments;
 - (b) payments into court in execution proceedings and the proceeds of sale of property pendente lite in actions in personam or in rem, shall be designated as miscellaneous ledger accounts;
 - (c) payments into court under section 59 of the Sale of Goods Act shall be designated as interlocutory payments;
 - (d) payments into and lodgments in court of money or securities in pursuance of orders, directions or authorities made or given under section Part 5 of the Mental Health Act 2016 shall be designated as trust accounts;
 - (e) payments into court under section 31(2)(b) of the Land (Acquisition) Act shall be designated as interlocutory payments and the provisions of rule 14 shall apply to such payments subject to the provisions of section 28(2) of that Act;
 - (f) payments into court under rules made under paragraph 3(a) of Schedule 4 to the Exchange Control Act shall be designated as miscellaneous ledger accounts.

Dealings with funds in court.

10. The Accountant General shall not deal with any moneys or securities in court or any income arising therefrom otherwise than in funds in accordance with these rules or with directions of the court.

Investment of trust moneys.

11.(1) Where any sum, not being less than £500, is paid to the Accountant General to be credited to a trust account, he shall, unless the court otherwise directs, as soon as practicable cause such sum to be invested in one or more investments in which trustees are by law authorized to invest trust moneys.

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(2) Where any sum less than £500 is received by the Accountant General to be credited to a trust account, he shall, as soon as practicable—

- (a) if moneys credited to that account have been invested through the Crown Agents, remit such sum to the Crown Agents to be paid into the Joint Miscellaneous Fund or the Joint Consolidated Fund maintained by the Crown Agents, for the credit of that account; or
- (b) in any other case, deposit such sum in the Government Savings Bank in the name of the Accountant General as trustee for the beneficiary.

(3) Where moneys credited to a trust account are invested through the Crown Agents, interest and dividends on such investments shall, subject to any direction as to the payment out of income to or for the benefit of a beneficiary, forthwith be paid into the Joint Miscellaneous Fund or the Joint Consolidated Fund for the credit of the trust account.

(4) If at any time the moneys in the Joint Miscellaneous Fund or the Joint Consolidated Fund, or both those funds, or the moneys in the Government Savings Bank to the credit of a trust account exceed £500, those moneys and the accrued interest thereon shall, unless the court otherwise directs, be withdrawn and invested in any authorized investment.

Investment of deposits by way of security and miscellaneous funds.

12. Where any sum is paid to the Accountant General as a deposit by way of security or to be credited to a miscellaneous ledger account, he shall, unless the court otherwise directs, forthwith deposit such sum in the Government Savings Bank in the name of the Accountant General as trustee for the person making the payment.

Sums less than £20.

13. Notwithstanding the provisions of rules 11 and 12, the Accountant General shall not invest any sum less than £20 unless it is paid to him for the credit of an existing ledger account.

Interlocutory payments.

14. The Accountant General shall be accountable for any sum received by him as an interlocutory payment but, unless the court otherwise directs, shall not invest such sum and interest shall not accrue on any such sum for the benefit of the person entitled to it.

Directions as to investment.

15. A direction as to the investment of any moneys in court or the transfer, variation or sale of any such investment shall be as in Form 2 of the Schedule, shall be signed by the Registrar and shall be issued to the Accountant General.

Expenses of purchase and sale of investments or securities.

16. Subject to any direction of the court—

- (a) where moneys in court are invested under rule II or under any direction of the court the payment for the purchase shall include brokerage, management fee and any stamp duty or other tax payable;
- (b) where any such investment or any security lodged in court is sold, brokerage, management fee and any tax payable shall be deducted from the proceeds of sale.

Transmission of moneys in court by Marshal to Accountant General.

17.(1) The Marshal may at any time and shall at the request of any party claiming to have an interest therein, transmit to the Accountant General the moneys in court, or any part thereof, that he holds to the credit of a miscellaneous ledger credit :

Provided that the Marshal may refuse to transmit any such money if in his opinion it is likely to be required for fees or expenses or may retain such part of the money as he considers likely to be so required and a reasonable amount for contingencies.

(2) When the Marshal has released the property held by him under or in consequence of an arrest or has sold or otherwise disposed of the same and has discharged all fees and expenses payable by him in the matter, he shall transmit to the Accountant General any moneys in court held by him in relation thereto.

(3) The Marshal, when transmitting moneys under this rule shall send to the Accountant General a transmission statement in triplicate as in Form 3 of the Schedule.

(4) The Accountant General shall return one copy of the transmission statement to the Marshal, together with a receipt for the moneys, and shall send the other to the Registrar, who shall thereupon open a ledger account entitled to correspond with the heading of the transmission statement.

(5) The provisions of rules 12 and 13 shall apply to moneys transmitted in accordance with this rule.

Notice of appropriation.

18.(1) Where a defendant has paid money into court 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, he shall lodge with the Registrar a notice of appropriation as in Form 4 of the Schedule, together with the original receipt for the money paid in, and shall deliver a copy of such notice to the Accountant General.

(2) On receipt of a notice of appropriation, the Registrar shall note the relevant ledger credit accordingly.

Payment out of moneys in court.

19.(1) Subject to the provisions of rules 20 and 21, any moneys in court or the investments that represent such moneys shall be paid or transferred to the person entitled—

- (a) by the Accountant General, on receipt of a request in writing, signed by the person entitled or his solicitor and authorized by the Registrar; or
- (b) by the Marshal, on receipt of a request in writing, signed by the person entitled or his solicitor:

Provided that where the person entitled received legal aid under the Legal Aid and Assistance Act in respect of proceedings leading to or arising out of the payment in, payment shall only be made to his solicitor.

(2) A request for payment under this rule shall be as in Form 5 of the Schedule and shall be presented in duplicate to the Registrar or the Marshal, as the case may be:

Provided that the declaration may be omitted from the form if there is in force an exemption granted by the Governor under section 33 of the Exchange Control Act permitting the payment.

Payment out of money paid in satisfaction.

20.(1) Subject to the provisions of subrule (2), money paid into court in satisfaction of a claim under Order 22, rule 1 (including money appropriated in accordance with rule 18), which has been accepted under Order 22, rule 3 (1), shall be paid by the Accountant General to the plaintiff or his solicitor on receipt of a request in writing, signed by the plaintiff or his solicitor and authorized by the Registrar:

Provided that where the plaintiff received legal assistance under the Legal Aid and Assistance Act in respect of the relevant proceedings, payment shall only be made to his solicitor.

(2) The Registrar shall not authorize a request under subrule (1) where—

- (a) money has been lodged by some only of a number of defendants sued jointly or in the alternative, unless the plaintiff discontinues the action against all the other defendants and those defendants consent in writing to the payment, and a copy of the notice of discontinuance is lodged with the Registrar;
 - (b) a defence of tender before action has been pleaded;
 - (c) the claim is made by, or for the benefit of, a minor or a patient within the meaning of the Mental Health Act 2016;
 - (d) money has been paid in–
 - (i) in proceedings under Part IV of the Contract and Tort Act and under section 12 of that Act; or
 - (ii) in proceedings under Part IV of the Contract and Tort Act where more than one person is entitled to the money;
 - (e) money has been paid into court (or money in court has been increased by a further payment) and has been accepted under Order 22, rule 3(1) after the hearing of the action has begun;
 - (f) the payment is to, or for the credit of, a person resident outside the scheduled territories, unless the payment is permissible under an exemption granted by the Governor under section 33 of the Exchange Control Act, or the consent in writing of the Financial Secretary is lodged with the request.
- (3) A request for payment under this rule shall be as in Form 6 of the Schedule, and shall be presented in duplicate to the Registrar:

Provided that paragraph (iii) of the declaration may be omitted from the form if there is in force an exemption granted by the Governor under section 33 of the Exchange Control Act permitting the payment.

Payment out of money paid in under the Exchange Control Act.

21.(1) Money paid into court under rules made under paragraph 3 (a) of Schedule 4 to the Exchange Control Act, together with any accrued interest thereon, shall be paid by the Accountant General to the person entitled to it on receipt of a request in writing, signed by the person entitled or his solicitor and authorized by the Registrar, and the consent in writing of the Financial Secretary:

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Provided that where the person entitled received legal aid under the Legal Aid and Assistance Act in respect of the relevant proceedings, payment shall only be made to his solicitor.

(2) A request for payment under this rule shall be as in Form 7 of the Schedule and shall be presented in duplicate to the Registrar.

Delivery out of securities.

22.(1) Any securities lodged in court shall be delivered to the person entitled by the Accountant General, on receipt of a request in writing, signed by the person entitled or his solicitor and authorized by the Registrar.

(2) A request for delivery under this rule shall be as in Form 8 of the Schedule and shall be presented in duplicate to the Registrar:

Provided that the declaration may be omitted from the form if there is in force an exemption granted by the Governor under section 33 of the Exchange Control Act permitting the delivery.

Delivery out of effects.

23. Any effects lodged in court shall be delivered to the person entitled by the Registrar, on receipt of a request in writing, as in Form 9 of the Schedule signed by the person entitled or his solicitor.

Identification of payees.

24. Before paying any money out of court or delivering out any securities or effects, the Accountant General, the Registrar or the Marshal, as the case may be, may require evidence to his satisfaction as to the identity of the intended recipient.

Unclaimed moneys in court.

25.(1) On or before 31st March in each year, the Registrar shall prepare a list of all unclaimed moneys in court and shall post a copy of such list on the notice board of the court, where it shall remain for nine months.

(2) On 1st January in each year, the Registrar shall close the ledger accounts relating to such of the moneys shown in such list as have not then been claimed and shall send particulars of the closed accounts to the Accountant General, who shall thereupon transfer such moneys to the Consolidated Fund, where necessary selling investments or closing Government Savings Bank accounts.

(3) Moneys transferred to the Consolidated Fund under subrule (2) shall only be paid out on an order of the court.

(4) For the purposes of subrule (1), moneys shall be treated as unclaimed if—

- (a) they stand to the credit of a ledger account which has not been dealt with (otherwise than by the continuous investment of accrued interest, the compulsory conversion, redemption or acquisition of securities or the investment of any money arising therefrom or the payment of Court of Protection percentage) for a period of ten years immediately before the last preceding 1st January; and
- (b) the Registrar is satisfied that all appropriate steps have been taken to effect payment to the person entitled thereto :

Provided that moneys shall not be treated as unclaimed—

- (i) in the case of an account for the benefit of a minor, until he has attained the age of 21 years or, if the date of his birth is not known, until the account has not been dealt with (otherwise than as stated in paragraph (a) above) for a period of 25 years;
- (ii) where a person claiming an interest in the moneys notifies the Registrar that steps are being taken to deal with the fund and requests that the ledger account be not closed.

Certificates of moneys in court, etc.

26.(1) On receipt of a written request and on payment of the prescribed fee—

- (a) the Registrar or the marshal may issue to a person claiming an interest in moneys in court a certificate as to the amount standing to the credit of the ledger account and of the investments, if any, held on that account, and, where appropriate, the certificate shall state particulars of any charges or restraints on such moneys and investments.
- (b) the Registrar or the Marshal may issue to any interested person a certificate that any moneys or securities or effects have been or have not been paid into or lodged in court, as the case may be.

(2) Where a ledger account has been closed, a certificate issued under subrule (1) (a) shall state the amount that stood to the credit of the account immediately before it was closed.

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(3) A certificate issued under subrule (1)(a) shall state the date as at which the state of the ledger account is shown.

Copies of accounts, etc.

27.(1) On receipt of a written request and on payment of the prescribed fee, the Registrar or the Marshal shall issue to a person claiming an interest in moneys or securities in court a copy of the account relating thereto, and, if so required by that person, the copy shall bear a certificate by the Principal Auditor that the account has been audited, or as the case may be.

(2) If so requested, the Registrar may supply information relating to any particular transaction or any dealing with moneys or securities standing to the credit of a ledger account.

Returns.

28. The Accountant General shall—

- (a) as soon as practicable after making any investment under rule 11 or 12 or in accordance with any direction of the court, notify the Registrar of such investment;
- (b) as soon as practicable after the transfer, variation or sale of any investment or security in court, notify the Registrar thereof;
- (c) render a return monthly to the Registrar of all interest and dividends on investments and securities representing funds in court received by him or on his behalf, with particulars of the ledger accounts to which such interest and dividends should be credited;
- (d) as soon as practicable after paying out any moneys or transferring any securities that were in court, notify the Registrar thereof.

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SCHEDULE

FORM 1.

** (To be submitted in triplicate)*

SUPREME COURT FUND RULES.

PAYING IN STATEMENT.

Rule 3.

Title of cause or matter

Name of beneficiary or name of settlor, testator or intestate or "As above" whichever is appropriate.

LEDGER CREDIT:

**To the Accountant General/Admiralty Marshal*

**If addressed to the Admiralty Marshal the form is to be submitted in duplicate.*

Please receive the undermentioned moneys and credit them to the Supreme Court Fund for the above ledger account

Particulars of payment:

(Specify rule or order of court where appropriate.)

Full name of payer:

In block letters.

Amount £

Amount in words

Date:Signature

Address

Solicitor for

Accountant General

Please note that the account is designated

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For use by Registrar only.

- (a) trust account
- (b) interlocutory payment
- (c) deposit by way of security
- (d) miscellaneous

Delete as appropriate.

Date:

Registrar

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FORM 2.

SUPREME COURT FUND RULES.

DIRECTION AS TO INVESTMENT.

Rule 15.

Title of cause or matter

LEDGER CREDIT: *(As in paying in statement.)*

To the Accountant General

Please effect the following transaction in accordance with an order of the court dated
.....

Date.....

Registrar.

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FORM 3.

(To be submitted in triplicate)

SUPREME COURT FUND RULES.

TRANSMISSION STATEMENT.

Rule 17.

Title of cause or matter

LEDGER CREDIT: *(As in paying in statement.)*

To the Accountant General

Please receive the undermentioned moneys and credit them to the Supreme Court Fund for the above ledger account.

Amount £

Amount in words

Designation: Miscellaneous Ledger account

Date:.....

Marshal

Registrar, Supreme Court.

Marshal.

The above mentioned moneys have been credited to the Supreme Court Fund.

Date:.....

Accountant General.

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Rule 18.

FORM 4.

SUPREME COURT FUND RULES.

NOTICE OF APPROPRIATION.

TO BE ACCOMPANIED BY THE ORIGINAL RECEIPT FOR THE MONEY PAID IN

Title of cause or matter

LEDGER CREDIT: *(As in paying in statement.)*

To the Registrar

Take notice that £ being the whole/part *(Delete as appropriate)* of the sum paid into court to the above ledger credit is appropriated

by.....
(Name of party who paid money in).

in satisfaction of the claim of
(Name of party in whose favour moneys are appropriated).

Dated Signed

Address.....

Solicitor for

Copy to The Accountant General.

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Rule 19.

FORM 5.

(To be submitted in duplicate)

SUPREME COURT FUND RULES.

REQUEST FOR PAYMENT OUT OR TRANSFER OF INVESTMENTS IN COURT.

SUPREME COURT FUND RULES

Title of cause or matter

LEDGER CREDIT: *(As in paying in statement)*.

To the Accountant General

Please pay out the moneys standing to the credit of the above account and the accrued interest thereon, if any, or transfer the investments representing the same to *(Name and address in block letters)*

entitled thereto by reason of

And I declare that the payment or transfer is not to or for the credit of a person resident outside the scheduled territories as defined in the Exchange Control Act.

Dated Signed

Name

(in block letters)

Solicitor for

Authorized *(For use by Registrar only)*.

Dated..... Registrar.

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Rule 20.

FORM 6.
(To be submitted in duplicate)

SUPREME COURT FUND RULES. .

REQUEST FOR PAYMENT OUT OF MONEY PAID IN OR APPROPRIATED IN
SATISFACTION OF A CLAIM.

Title of cause or matter

LEDGER CREDIT (As in paying in statement).

To the Accountant General

Notice is hereby given that the sum of £ paid into court to the above ledger credit has been accepted by the plaintiff in satisfaction of the claim in respect of which it was paid in, and I request that payment of the said sum may be made to me the solicitor for the plaintiff.

I declare that—

- (i) notice of payment into court was received on ,20 , and notice of acceptance was served on ,20 ;
- (ii) the plaintiff has/has not received legal assistance in respect of these proceedings.
- (iii) the payment is not to or for the credit of a person resident outside the scheduled territories as defined in the Exchange Control Act.

Dated Signed

Name

(in block letters)

Solicitor for

Authorized

For use by Registrar only.

Dated Registrar.

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Rule 21.

FORM 7.

(To be submitted in duplicate)

SUPREME COURT FUND RULES.

REQUEST FOR PAYMENT OUT OF MONEY PAID INTO COURT UNDER
PARAGRAPH 3(a) OF SCHEDULE 4 TO THE EXCHANGE CONTROL ACT.

Title of cause or matter

LEDGER CREDIT: *(As in paying in statement)*.

To the Accountant General

Please pay out the sum of £ , together with accrued interest thereon, if any, paid into
court to the above ledger credit on the day of 20 , pursuant to the
Exchange Control Act. The consent in writing of the Financial Secretary is attached.

I declare that the person entitled has/has not received legal assistance in respect of these
proceedings.

Dated Signed

Name

(in block letters)

Solicitor for

Authorized

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Dated Registrar.

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Rule 22.

FORM 8.

(To be submitted in duplicate)

SUPREME COURT FUND RULES.

REQUEST FOR DELIVERY OF SECURITIES LODGED IN COURT.

Title of cause or matter

LEDGER CREDIT: *(As in lodgment list)*.

To the Accountant General

Please deliver the securities held to the credit of the above account to *Name and address (in block letters)*

entitled thereto by reason of

And I declare that the delivery is not to or for the credit of a person resident outside the scheduled territories as defined in the Exchange Control Act.

Dated..... Signed

Name.....

(in block letters)

Solicitor for

Authorized

For use by Registrar only.

Dated.....Registrar.

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1 Rule 23.

FORM 9.

SUPREME COURT FUND RULES.

REQUEST FOR DELIVERY OF EFFECTS LODGED IN COURT.

Title of cause or matter

LEDGER CREDIT: *(As in lodgment list)*.

To the Registrar.

Please deliver the effects held to the credit of the above account to *Name and address (in block letters)*

entitled thereto by reason of

Dated..... Signed

Name

(in block letters)

Solicitor for