

Rules of the High Court (Amendment) Rules 2008

The Rules of the High Court (Cap. 4A)

Order 92 – LODGMENT, INVESTMENT, ETC. OF FUNDS IN COURT

Remarks:

Adaptation amendments retroactively made – see 25 of 1998 s. 2

Remarks

2. Payment into court under the Trustee Ordinance (O. 92, r. 2)

(1) Subject to paragraph (2), any trustee wishing to make a payment into court under section 62 of the Trustee Ordinance (Cap. 29) must make and file an affidavit setting out –

- (a) a short description of the trust and of the instrument creating it or, as the case may be, of the circumstances in which the trust arose,
- (b) the names of the persons interested in or entitled to the money or securities to be paid into court with their addresses so far as known to him,
- (c) his submission to answer all such inquiries relating to the application of such money or securities as the Court may make or direct, and
- (d) an address where he may be served with any summons or order, or notice of any proceedings, relating to the money or securities paid into court.

(2) Where the money or securities represents a legacy, or residue or any share thereof, to which a minor or a person resident outside Hong Kong is absolutely entitled, no affidavit need be filed under paragraph (1) and the money or securities may be paid into court in the manner prescribed by the High Court Suitors' Funds Rules (Cap. 4 sub. leg.) for the time being in force. (25 of 1998 s. 2)

4. Notice of lodgment (O. 92, r. 4)

Any person who has lodged money or securities in court in accordance with rule 2 must forthwith send notice of the lodgment to every person appearing from the affidavit on which the lodgment was made to be entitled to, or to have an interest in, the money or securities lodged.

5. Applications with respect to funds in court (O. 92, r. 5)

(1) Where an application to the Court –

Remarks

- (a) for the payment or transfer to any person of any funds in court standing to the credit of any cause or matter or for the transfer of any such funds to a separate account or for the payment to any person of any dividend of or interest on any securities or money comprised in such funds;
- (b) for the investment, or change of investment, of any funds in court;
- (c) for payment of the dividends of or interest on any funds in court representing or comprising money or securities lodged in court under any enactment; or
- (d) for the payment or transfer out of court of any such funds as are mentioned in sub-paragraph (c),

is made the application may be disposed of in chambers.

(2) Subject to paragraph (3), any such application must be made by summons and, unless the application is made in a pending cause or matter or an application for the same purpose has previously been made by petition or originating summons, the summons must be an originating summons.

(3) Where an application under paragraph (1)(d) is required to be made by originating summons, then, if the funds to which the application relates do not exceed \$50,000 in value, the application may be made ex parte to a master and the master may dispose of the application or may direct it to be made by originating summons. Unless otherwise directed, an ex parte application under this paragraph shall be made by affidavit.

(5) This rule does not apply to any application for an order under ~~Order 22~~ **Order 22A**.

(Enacted 1988)

Rule 121
Consequential
Amendment