



Queensland

Civil Proceedings Act 2011

Civil Proceedings Regulation 2024

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Civil Proceedings Regulation 2024

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Civil Proceedings Regulation 2024

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Civil Proceedings Regulation 2024*.

2 Commencement

This regulation commences on 1 September 2024.

3 Dictionary

The dictionary in schedule 1 defines particular words used in this regulation.

Part 2 Court funds

Division 1 Paying money or depositing securities into court

4 References to payments or deposits into court

In this division—

- (a) a reference to paying an amount into court is a reference to paying an amount into court under a law or a court order; and
- (b) a reference to depositing securities into court is a reference to depositing securities into court under a law or a court order.

5 Payment or deposit to be made to or with registrar

- (1) An amount to be paid into court must be paid to the registrar.
- (2) Securities to be deposited into court must be deposited with the registrar.

6 Affidavit to be filed for payment or deposit

- (1) If a person pays an amount into court or deposits securities into court, the person must file an affidavit in the court.
- (2) The affidavit must—
 - (a) state the name of the person by or for whom the payment or deposit is made; and
 - (b) state—
 - (i) for a payment—the amount; or
 - (ii) for a deposit—the number and face value of the securities; and
 - (c) state the way the payment or deposit is made; and
 - (d) either—
 - (i) for a payment or deposit made under a law—specify the law, including the provision of the law; or
 - (ii) for a payment or deposit made under a court order—include, as an exhibit, a copy of the order; and
 - (e) briefly describe the circumstances in which the payment or deposit is made; and
 - (f) ask the registrar to receive the money or securities.
- (3) If the person files an affidavit but the registrar considers it does not give enough information about the payment or deposit, the registrar may, by written notice, require the person to file another affidavit giving further stated information relating to the payment or deposit.
- (4) The person must comply with the requirement.

Note—

A requirement under this section is in addition to any requirement under rules of court or another law to file, serve or give an affidavit or other document relating to the payment or deposit.

7 Receipt for money or securities

- (1) The registrar must issue a receipt for an amount paid into court or securities deposited into court.
- (2) The receipt must—
 - (a) state the name of the person by or for whom the payment or deposit was made; and
 - (b) identify the proceeding or account to which the payment or deposit has been credited; and
 - (c) state—
 - (i) for a payment—the amount; or
 - (ii) for a deposit—a description of the securities.

8 Registrar to remit amounts received or notify securities deposited

- (1) As soon as practicable after an amount is paid into court, the registrar must remit the amount to the chief executive for payment into the court suitors fund.
- (2) As soon as practicable after securities are deposited into court, the registrar must give written notice of the deposit to the chief executive.

Division 2 Dealing with interest received on securities in court

9 Payment of interest into fund

- (1) This section applies if the chief executive receives an amount of interest that has accrued on securities in court.

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- (2) Unless a court orders otherwise, the chief executive must—
 - (a) pay the amount into the court suitors fund; and
 - (b) credit the proceeding or account for which the securities are deposited with the amount of the interest.

Division 3 Dealing with money or securities in court

10 Court order about payment or other dealing

- (1) This section applies if a person obtains a court order that money in court or securities in court be dealt with in a particular way or that the chief executive make a particular payment.
- (2) The person must give a copy of the order to the registrar.
- (3) On receiving the copy, the registrar must give a copy to the chief executive.
- (4) On receiving the copy, the chief executive must deal with the money in court or securities in court, or make the payment, in accordance with the court order.
- (5) In this section—
dealt with means paid, invested or sold.

11 Court order to pay money or securities in court includes interest

- (1) This section applies if a court orders money in court or securities in court to be paid to a person.
- (2) Unless the court orders otherwise, the amount or securities to be paid to the person includes any interest accrued on the money in court or securities in court.

12 Securities acquired using money or securities in court

- (1) This section applies if securities are acquired using money in court or securities in court.
- (2) Unless a court orders otherwise, the chief executive must credit the acquired securities to the same proceeding or account to which the money in court or securities in court are credited.

Division 4 Interest payable on money in court

13 Interest rate

The interest rate applying to money in court is the Reserve Bank of Australia's official cash rate plus 0.5%.

14 Accrual of interest on money in court

Interest accrues on the money in court credited to a proceeding or account as follows—

- (a) interest accrues at the rate applying under section 13;
- (b) interest accrues each month on the minimum monthly balance of the proceeding or account;
- (c) for paragraph (b), the minimum monthly balance is rounded down to the nearest whole dollar amount;
- (d) interest accrues for a month only if there is an amount credited to the proceeding or account on every day of the month;

Example—

Interest does not accrue for a month if, after the first day of the month, an amount is paid into court and credited to the proceeding or account for the first time.

- (e) interest does not accrue for a month during which the entire amount credited to the proceeding or account is paid out of the court suitors fund.

15 Calculation and crediting of interest

- (1) Within 15 days after the end of each half-year, the chief executive must, for each proceeding or account to which money in court is credited—
 - (a) calculate the interest that accrued during the half year on the amount of the money in court; and
 - (b) credit the proceeding or account with the amount of the interest.
- (2) Before paying an amount of money in court credited to a proceeding or account to a person entitled to it, the chief executive must—
 - (a) calculate the interest that accrued on the amount since interest was last calculated and credited to the proceeding or account under subsection (1); and
 - (b) credit the proceeding or account with the amount of the interest.
- (3) In this section—

half year means a period of 6 months ending on 30 June or 31 December in a year.

16 Use of excess interest

The chief executive may use an amount of interest earned by the court suitors fund that is not credited to any proceeding or account—

- (a) to make good any deficiency in the fund arising from an administrative error or in another way; or
- (b) to pay an expense incurred in administering the fund.

Division 5 Payment of money or securities out of court

17 Payment of amount awarded as costs after paying outstanding fees

- (1) This section applies if a court orders an amount of costs to be ascertained and then paid to a person out of money in court.
- (2) The chief executive must pay the amount to the person under the order to the extent of the balance of the relevant proceeding or account.
- (3) However, if the person has not paid a fee payable by the person to the registrar in relation to the proceeding, the chief executive must—
 - (a) if the amount of the unpaid fee is not more than the amount payable under subsection (2)—
 - (i) retain the amount of the unpaid fee and remit it to the registrar in payment of the fee; and
 - (ii) pay the balance of the amount payable under subsection (2) to the person; or
 - (b) if the amount of the unpaid fee is more than the amount payable under subsection (2)—retain the amount payable under subsection (2) and remit it to the registrar in partial payment of the fee.

18 Payment if person named in court order has died

- (1) This section applies if—
 - (a) a court orders money in court or securities in court to be paid to a person; and
 - (b) the order is to pay the person in the person's own right or for the person's own use, and not to pay the person as a trustee or personal representative; and
 - (c) the person dies before the payment is made; and

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- (d) the court does not, in that court order or any other court order of which a copy has been given to the registrar, state how payment is to be made if the person dies before payment is made; and
 - (e) for an order that named the person other than as a creditor—the registrar is satisfied the person died after the order was made.
- (2) The chief executive may pay the money or securities under the court order to the person’s personal representative.

19 Payment if personal representative has died

- (1) This section applies if—
- (a) a court orders money in court or securities in court to be paid to 2 or more persons as the personal representatives of a person; and
 - (b) any of the personal representatives dies before the payment is made; and
 - (c) the registrar is satisfied the personal representative died after the order was made.
- (2) The chief executive may pay the money or securities under the court order to the surviving personal representative or representatives.

20 Intestacy involving net estate assets of not more than \$2,000

- (1) This section applies if—
- (a) a court orders money in court or securities in court to be paid to a person; and
 - (b) the person dies before the payment is made; and
 - (c) the person’s net estate assets, including the money or securities, are not more than \$2,000; and
 - (d) the registrar is satisfied the person died intestate.

- (2) The chief executive may pay the money or securities under the court order to a spouse, child, sibling or parent of the deceased person who—
 - (a) is entitled to apply for letters of administration of the deceased person's estate; and
 - (b) files an affidavit in the court stating the facts relied on.

21 Partnerships

- (1) This section applies if a court orders money in court or securities in court to be paid to a partnership.
- (2) The chief executive may pay the money or securities under the court order to 1 or more of the partners.

Division 6 Requests by persons claiming entitlement to money or securities in court

22 Definition for div 6

In this division—

claimant means a person who claims an entitlement to money in court or securities in court.

23 Request to record entitlement

- (1) A claimant or a claimant's solicitor may ask the registrar of the court to record the claimant's claimed entitlement.
- (2) The request must—
 - (a) be in writing, signed by the claimant or solicitor; and
 - (b) include the following information—
 - (i) the name and address of the claimant or their solicitor;

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- (ii) the proceeding or account to which the money in court or securities in court are credited;
 - (iii) the grounds for the claimed entitlement.
- (3) If the claimed entitlement arises under a court order, the request must be accompanied by a copy of the court order.
- (4) The registrar must record the claimed entitlement and associated information in an appropriate way.

24 Request for information about money or securities in court

- (1) A claimant or a claimant's solicitor may ask the registrar for any of the following information—
 - (a) for money in court—the balance of the relevant proceeding or account;
 - (b) for securities in court—a description of the securities;
 - (c) details of any transactions relating to the money in court or securities in court.
- (2) The request must—
 - (a) be in writing, signed by the claimant or solicitor; and
 - (b) include the following information—
 - (i) the name and address of the claimant or their solicitor;
 - (ii) the proceeding or account to which the money in court or securities in court are credited;
 - (iii) the grounds for the claimed entitlement.
- (3) If the claimed entitlement arises under a court order, the request must be accompanied by a copy of the court order.
- (4) The registrar may give the requested information if the registrar is satisfied the claimant has a sufficient interest in the money or securities.
- (5) If the registrar gives the requested information, it must be current as at the start of the day on which it is given.

- (6) If the registrar gives the requested information, it must be accompanied by a statement of the following—
- (a) that the information is current as at the start of the day on which it is given;
 - (b) if the claimed entitlement relates to a proceeding or account on the most recently prepared list of inactive accounts—
 - (i) that the proceeding or account is on the list; and
 - (ii) the matters mentioned in section 26(2)(b) and (c);
 - (c) if the registrar has notice of a restraining order affecting the money or securities—
 - (i) that the registrar has notice of the restraining order; and
 - (ii) the date of the order; and
 - (iii) whether the order affects interest accruing on the money or securities; and
 - (iv) the name of each person for whom the order was made; and
 - (v) the name of each person who, under the order, must be notified of the order;
 - (d) if the claimed entitlement relates to securities in court and the registrar has notice of a charging order affecting the securities—
 - (i) that the registrar has notice of the charging order; and
 - (ii) the date of the order; and
 - (iii) whether the order affects interest accruing on the securities; and
 - (iv) the name of each person for whom the order was made; and
 - (v) the name of each person who, under the order, must be notified of the order.

(7) In this section—

charging order see section 90(5) of the Act.

restraining order, for money in court or securities in court, means a court order restraining the payment, transfer, delivery, sale or other dealing with the money or securities.

Division 7 Inactive accounts

25 Meaning of *inactive account*

A proceeding or account to which money in court or securities in court are credited is an *inactive account* on a particular day if, during the 6 year period before that day—

- (a) there has been no dealing with the money or securities other than—
 - (i) the accrual of interest; or
 - (ii) the ongoing investment of the money or securities under a court order; and
- (b) a party has not taken a step in the relevant proceeding.

26 Notice about inactive accounts

- (1) On or before 1 April in each year, the registrar of a court must—
 - (a) prepare a list of the proceedings or accounts that were inactive accounts on 1 January in the year; and
 - (b) file the list in the court; and
 - (c) prepare a notice under subsection (2); and
 - (d) display the notice at an appropriate place in the registry visible to members of the public; and
 - (e) send a copy of the notice to each party to a proceeding to which an inactive account relates; and
 - (f) publish the notice on the Queensland Courts website.

- (2) The notice must—
 - (a) contain the list of inactive accounts; and
 - (b) state that a person claiming an entitlement to money in court or securities in court credited to a proceeding or account on the list of inactive accounts may apply to the court under section 27 for an order for the payment of the money or securities; and
 - (c) state that, if an application mentioned in paragraph (b) is not made by a stated day (the *closing day*), the court may make an order—
 - (i) for money in court—that the money be paid into the consolidated fund; or
 - (ii) for securities in court—that the securities be sold and that the net proceeds of the sale, including any interest that accrued on the securities, be paid into the consolidated fund.
- (3) The closing day may not be earlier than 42 days after the later of the following days—
 - (a) the day the notice starts being displayed under subsection (1)(d);
 - (b) the day the notice starts being published under subsection (1)(f).
- (4) The notice must be sent to a party under subsection (1)(e) at least 42 days before the closing day.
- (5) The notice must remain displayed under subsection (1)(d) and published under subsection (1)(f) until the closing day.
- (6) As well as publishing the notice on the Queensland Courts website, the registrar may publish the notice in another way the registrar considers appropriate.
- (7) If the registrar incurs a cost for publishing the notice, the registrar may redeem the amount of the cost from the court suitors fund and debit the amount against the amounts held for the inactive accounts in proportion to the balance of each inactive account.

27 Payment out order

- (1) This section applies if a person claims an entitlement to money in court or securities in court credited to a proceeding or account on the most recently prepared list of inactive accounts.
- (2) The person may apply to the court for an order that the chief executive pay the money or securities to the person from the court suitors fund under this section (a *payment out order*).
- (3) The application must be made on or before the closing day or within the further time the court allows.
- (4) The person must file in the court an affidavit stating the facts relied on for the claim.
- (5) The person must serve a copy of the application and affidavit on—
 - (a) the registrar of the court; and
 - (b) each party to the proceeding to which the money in court or securities in court relate.
- (6) Before deciding the application, the court may, on application by the person—
 - (a) order that the registrar may not apply for a consolidated fund order before a stated day; or
 - (b) if the registrar has applied for a consolidated fund order—stay proceedings on the registrar’s application.
- (7) The court may decide the application by making—
 - (a) a payment out order; or
 - (b) another order the court considers appropriate.

28 Consolidated fund order

- (1) This section applies in relation to money in court or securities in court credited to a proceeding or account on the most recently prepared list of inactive accounts.

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- (2) At any time after the closing day, the registrar may apply to the court for an order (a **consolidated fund order**)—
- (a) for money in court—that the money be paid into the consolidated fund; or
 - (b) for securities in court—that the securities be sold and that the net proceeds of the sale, including any interest that accrued on the securities, be paid into the consolidated fund.
- (3) However, the registrar may not, without the leave of the court, apply for a consolidated fund order if there is a current application for a payment out order for the money or securities.

Note—

See also section 27(6).

- (4) For this section, an application for a payment out order for the money or securities is **current** if—
- (a) a person made the application on or after the day the notice under section 26 was published and served a copy of the application on the registrar under section 27(5); and
 - (b) the application has not been finally dealt with.
- (5) The court may grant leave under subsection (3) if the applicant for the payment out order has not prosecuted the application to finality within 3 months after the day it was made or the further time the court allows.
- (6) The registrar must file in the court—
- (a) a copy of the notice published under section 26; and
 - (b) an affidavit stating that—
 - (i) the registrar has complied with section 26; and
 - (ii) there is no current application for a payment out order for the money or securities.
- (7) The court may make a consolidated fund order if satisfied of the matters mentioned in subsection (6)(b)(i) and (ii).

29 Transfer back order

- (1) This section applies if—
 - (a) under a consolidated fund order—
 - (i) money in court is paid from the court suitors fund into the consolidated fund; or
 - (ii) securities in court are sold and the net proceeds of the sale, including any interest that accrued on the securities, are paid into the consolidated fund; and
 - (b) a person claims an entitlement to the money or securities.
- (2) The person may apply to the court for an order that the chief executive pay the amount of the money or proceeds into the court suitors fund to the credit of the same proceeding or account to which the consolidated fund order was made (a ***transfer back order***).
- (3) The person must file in the court an affidavit stating the facts relied on for the claim.
- (4) The person must serve a copy of the application and affidavit on—
 - (a) the registrar of the court; and
 - (b) each party to the proceeding to which the money in court or securities in court relates.
- (5) The court may decide the application by making—
 - (a) a transfer back order; or
 - (b) another order the court considers appropriate.
- (6) Unless the court orders otherwise, no interest accrues on an amount during the period from the day the amount is paid into the consolidated fund under the consolidated fund order to the day the amount is paid into the court suitors fund under the transfer back order.
- (7) A transfer back order does not authorise the payment of an amount from the consolidated fund.

30 Request for information about inactive account

- (1) A person who claims an entitlement to money in court or securities in court relating to a proceeding or account on the most recently prepared list of inactive accounts, or the person's solicitor, may ask the registrar for information about the money or securities.
- (2) The request must—
 - (a) be in writing, signed by the person or their solicitor; and
 - (b) include the following information—
 - (i) the name and address of the person or their solicitor;
 - (ii) the proceeding or account to which the money in court or securities in court are credited;
 - (iii) the grounds for the claimed entitlement.
- (3) The registrar may give the requested information to the person or their solicitor if the registrar is satisfied the person has a sufficient interest in the money or securities.

Division 8 Miscellaneous

31 Affidavits

- (1) If the registrar of a court requires evidence of a matter to give effect to an order of the court under the Act, the registrar may accept an affidavit filed in the court as evidence of the matter.
- (2) An affidavit under subsection (1) must be sworn by the person making it if—
 - (a) the affidavit is made by—
 - (i) a person entitled to the payment of interest under an order; or
 - (ii) the solicitor of a person entitled to the payment of interest under an order; and
 - (b) the affidavit is made to provide—

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- (i) evidence of compliance with a condition affecting the payment of the interest; or
- (ii) evidence that the person is alive.

32 Things that are not securities—Act, s 75A, definition *securities*

For section 75A of the Act, definition *securities*, paragraph (b), bank guarantees and personal guarantees are not securities.

Part 3 Transitional

33 Definitions for part

In this part—

repealed regulation means the repealed *Court Funds Regulation 2009*.

34 Court orders

- (1) This section applies in relation to a court order, made before the commencement, that the chief executive deal with money in court or securities in court in a particular way or that the chief executive make a particular payment.
- (2) The following provisions apply in relation to the court order to the extent the chief executive did not carry out the dealing or make the payment before the commencement—
 - (a) sections 10 and 11;
 - (b) part 2, division 5.

35 Requests to record information about claimant

- (1) This section applies in relation to a request made before the commencement under section 27 of the repealed regulation.

- (2) Section 23(4) applies in relation to the request to the extent the registrar did not record information under section 27 of the repealed regulation before the commencement.

36 Requests for information about money or securities in court

- (1) This section applies in relation to a request for information made before the commencement under section 29 of the repealed regulation.
- (2) Section 24(4) to (7) applies in relation to the request to the extent the registrar did not give the information under section 29 of the repealed regulation before the commencement.

37 Most recently prepared list of inactive accounts

Until a list is first prepared under section 26(1), a reference in this regulation to the most recently prepared list of inactive accounts is a reference to the last list of inactive accounts prepared under section 30 of the repealed regulation.

38 Applications for payment out order

- (1) This section applies in relation to an application to the court made under section 31 of the repealed regulation that, on the commencement, had not been finally dealt with.
- (2) The court may deal with the application under section 27 as if it had been made under that section.

39 Applications for consolidated fund order

- (1) This section applies in relation to an application to the court made under section 32 of the repealed regulation that, on the commencement, had not been finally dealt with.
- (2) The court may deal with the application under section 28 as if it had been made under that section.

40 Applications for transfer back order

- (1) This section applies in relation to an application to the court made under section 33 of the repealed regulation that, on the commencement, had not been finally dealt with.
- (2) The court may deal with the application under section 29 as if it had been made under that section.

41 Requests for information about accounts in list

- (1) This section applies in relation to a request for information made before the commencement under section 35 of the repealed regulation.
- (2) Section 30(3) applies in relation to the request to the extent the registrar did not give the information under section 35 of the repealed regulation before the commencement.

Schedule 1 Dictionary

section 3

balance, of a proceeding or account, means the amount of money in court credited to the proceeding or account.

claimant, for part 2, division 6, see section 22.

closing day see section 26(2)(c).

consolidated fund order, for part 2, division 7, see section 28(2).

inactive account see section 25.

pay, to a person, in relation to securities in court, includes deliver and transfer.

payment out order, for part 2, division 7, see section 27(2).

Queensland Courts website means—

- (a) www.courts.qld.gov.au; or
- (b) another website authorised by the chief executive for this definition.

transfer back order, for part 2, division 7, see section 29(2).