

CAYMAN ISLANDS



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PRACTICE DIRECTION NO. 1 OF 2017

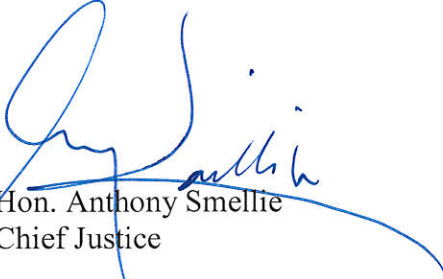


PRACTICE DIRECTION NO: 1 OF 2017

Payments into Court of trust funds under section 69 of the Trusts Law and Grand Court Rules Order 92 (GCR O. 92).

1. Section 69 of the Trusts Law prescribes a special jurisdiction and procedure for payments into court by trustees. It is a form of relief afforded to trustees who may, for a variety of recognized reasons, wish to relieve themselves of the responsibility for holding trust funds. Examples are where a trustee is unable to obtain a discharge for the funds (such as where the beneficiary of the trust is a minor or a patient) or where a beneficiary refused to consent to the sale of trust property against the wishes of the majority of beneficiaries. If a trustee is in doubt as to who is entitled to a fund in his hands, GCR O.85 is generally available for the purpose of getting the point decided and if so, this course should be followed instead of the funds being lodged in Court under section 69 of the Trusts Law.
2. For the purposes of section 69, the applicable rule is GCR Order 92 rule 2. Where there are as yet no proceedings before the Court, the applicable rule is sub-rule 2(3), in which case the required affidavit prescribed by sub-rule 2(1) must be filed with the Accountant General of the Court, instead of directly with the Court.
3. In the case of a trust fund which is already the subject of proceedings before the Court, the applicable procedure is prescribed by sub-rule 2(2) which requires the affidavit prescribed by sub-rule (1) to be filed directly with the Court and a copy served upon the Accountant General of the Court.
4. Monies paid in under sub-rule 2(2) or 2(3) will be held in escrow in a bank account by the Accountant General.

5. Notice of the payment in must be served upon every interested party by the trustee in keeping with rule 3.
6. Any interested party will then be able to apply to the Court for payment out under rule 4.
7. This practice is to be distinguished from that for dealing with payments into Court in relation to actions for debt or damages (see GCR Order 22); or in relation to orders for security for costs (as permitted by GCR Order 23 rule 2); or in relation to interpleader proceedings (GCR Order 17 rule 4(c)).



Hon. Anthony Smellie
Chief Justice

1 August 2017