

L.N. 147 of 2015

Hong Kong Court of Final Appeal Suitors' Funds Rules

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Hong Kong Court of Final Appeal Suitors' Funds Rules

(Made by the Chief Justice under section 40A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484))

1. Commencement

These Rules come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

2. Interpretation

In these Rules—

funds (儲存金) means any money standing in or to be placed to the Registrar's account;

ledger account (分類帳帳目) means any separate account that bears the title of a cause or matter opened or to be opened under an order or otherwise in the Registrar's books to which any funds are credited or to be credited;

order (命令) means an order of the Court and includes a judgment or decree, and any schedule to an order.

3. Payment into Court

(1) All funds to be paid into the Court on any ledger account must, unless required by any law to be dealt with in any particular way, be paid to the Registrar.

(2) The Registrar must establish and maintain at such bank as the Director of Accounting Services directs an account called in English the "Hong Kong Court of Final Appeal Suitors' Funds Account" and in Chinese "香港終審法院訴訟人儲存金帳戶", and must pay into it any funds paid into the Court.

4. Receipt to be given by Registrar

- (1) The Registrar must give to a person who makes a payment a receipt in respect of the payment.
- (2) The receipt must—
 - (a) specify the amount of funds received;
 - (b) specify the Court action number to which the payment is referable;
 - (c) specify the date of any order directing the payment;
 - (d) specify the party making the payment;
 - (e) specify the method of payment;
 - (f) contain a general description of the purposes of the payment; and
 - (g) be in Form 1 in the Schedule.

5. Keeping of accounts

The Registrar must—

- (a) keep appropriate ledger accounts to which all funds paid into the Court must be credited, and to which any such funds withdrawn or transferred from the accounts must be debited;
- (b) enter into the accounts in an appropriate manner the investment of any such funds; and
- (c) enter into the accounts in an appropriate manner any dealing, other than by way of payment, withdrawal, transfer or investment, of such funds as the circumstances of the case require.

6. Annual statement of accounts

- (1) The Registrar must cause to be prepared for every period of 12 months ending on 31 March in each year a statement of the accounts kept under rule 5.
- (2) The statement must—
 - (a) include a receipts and payments account and a statement of assets and liabilities; and
 - (b) be signed by the Registrar.

7. Payment out of funds in Court

- (1) Any funds paid into the Court may be paid out—
 - (a) if the amount does not exceed \$250, in cash or by cheque;
 - (b) if the amount exceeds \$250, by cheque; or
 - (c) in respect of any amount, by payments made by the transfer of funds from the bank account of the Court.
- (2) Any cheque or instruction to a bank for a transfer of funds must be signed by 2 persons as may from time to time be authorized in writing by the Registrar.
- (3) Payment out in cash or by cheque must be made at the Court on any day that is neither a Saturday nor a general holiday and during the opening hours of the accounts office of the Court.

8. Payment out to be ascertained by certificate of Registrar

- (1) If an order directs any sum to be ascertained by a certificate of the Registrar and to be afterwards paid in accordance with the certificate, the certificate must be in Form 2 in the Schedule.

- (2) On the request of a person entitled to payment under subrule (1), the Registrar must pay the sum in accordance with rule 7.

9. Payment of costs

- (1) If an order directs payment out of the funds of any costs directed to be taxed, the Registrar must state in a certificate of the Registrar the name and address of the person to whom the costs are payable, and the certificate must be in Form 3 in the Schedule.
- (2) On the request of a person entitled to payment under subrule (1), the Registrar must pay the costs in accordance with rule 7.

10. Order directing payment out of funds to describe persons entitled to payment etc.

- (1) An order directing funds to be paid out must—
 - (a) set out in full the name of every person to whom the payment is to be made, unless the name is to be stated in a certificate of the Registrar; or
 - (b) (for payment to a firm) state the business name of the firm.
- (2) If an order directs funds paid into the Court to be paid out to 2 or more persons described in the order or in a certificate of the Registrar as co-partners, the funds may be paid out to any one or more of the co-partners or to the surviving co-partners.

11. Order directing investment of funds paid into Court

- (1) If an order directs funds paid into the Court to be invested, the party having the carriage of the order must lodge with the Registrar a request in writing for the investment to be effected.
- (2) On receiving the request, the Registrar must procure the investment of the funds in the manner directed by the order.
- (3) An order directing investment of funds paid into the Court must set out the name or the name of office of the person in whose name the funds are directed to be invested.

12. Order directing other dealings with funds paid into Court

- (1) If an order directs funds paid into the Court to be dealt with otherwise than by payment, withdrawal or investment, the party having the carriage of the order must lodge with the Registrar a request in writing for the funds to be dealt with in the terms of the order.
- (2) On receiving the request, the Registrar must act in accordance with the order.

13. Carrying over of funds to separate account

If funds are ordered to be carried over to a separate account, the title of the account to be opened for the purpose must state the title of the cause or matter to which the funds relate.

14. Power of Registrar to invest funds

- (1) The Registrar may, unless an order directs otherwise—
 - (a) invest any funds paid into the Court that are standing to the credit of any ledger account in such manner as the Registrar thinks fit; and

- (b) vary the investment at any time.
- (2) Subject to subrule (3), if the Registrar invests any funds paid into the Court that are standing to the credit of any ledger account, any interest or any principal money the Registrar receives on or in respect of the investment must be—
 - (a) paid into the Hong Kong Court of Final Appeal Suitors' Funds Account; and
 - (b) placed in the Registrar's books to the credit of the account in which the investment was standing when the interest became due or when the principal money was received.
- (3) Unless an order directs otherwise and subject to subrule (4), no interest is to be credited to any funds paid into the Court that are standing to the credit of any ledger account if—
 - (a) the funds are paid into the Court as security for costs or by way of satisfaction or amends or in compliance with an order giving leave to defend on payment of the funds; or
 - (b) the amount is less than \$7,500.
- (4) If funds are paid into the Court for any purpose referred to in subrule (3)(a), interest must be credited to the ledger account for the relevant cause or matter, beginning on the 3rd business day after the day on which the funds are paid into the Court.
- (5) Interest on any funds paid into the Court is not to be computed on a fraction of \$1.
- (6) The Registrar is not required to apportion any amount of interest payable on funds paid into the Court that are standing to the credit of any ledger account.

(7) In this rule—

business day (工作日) means any day other than—

- (a) a general holiday;
- (b) a Saturday; or
- (c) a gale warning day or black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).

15. Surplus income

- (1) The Registrar must pay into the Treasury as soon as is practicable after the end of each financial year any sum standing in the Hong Kong Court of Final Appeal Suitors' Funds Account over and above the amounts required by these Rules to be credited to the various accounts.
- (2) The sum referred to in subrule (1) must be transferred to the general revenue.

16. Cost of administering Hong Kong Court of Final Appeal Suitors' Funds Account

The cost of administering the various accounts required to be kept under these Rules is to be defrayed out of the general revenue.

17. Certificate of amount and description of funds

- (1) On a request signed by or on behalf of a person claiming to be interested in any funds standing to the credit of an account specified in the request, the Registrar must, unless there is a good reason for refusing, issue a certificate of the amount and description of the funds.

- (2) A certificate issued under subrule (1) must refer to the state of the account at the beginning of the day of the date of the certificate, and must not include the transactions of that day.
- (3) A certificate issued under subrule (1) must state—
 - (a) the date of any charging order affecting, or of any order restraining, the payment of, or other dealing with, the funds standing to the credit of the account specified in the certificate, in respect of the order the Registrar receives notice;
 - (b) whether the charging or restraining order affects the principal money or interest that comprises the funds; and
 - (c) the names of the persons to whom the certificate is to be issued or in whose favour the charging or restraining order is made.
- (4) The Registrar may redate a certificate issued under subrule (1) if no alteration in the amount or description of funds has been made since the issue of the certificate.

18. Transcript of account in Registrar's books

On a request signed by or on behalf of a person claiming to be interested in any funds, the Registrar must, unless there is a good reason for refusing—

- (a) issue a transcript of the account in the Registrar's books specified in the request; and
- (b) supply other information or issue certificates with respect to any transaction or dealing with the funds as may from time to time be required in a particular case.

19. Transfer of unclaimed money in Court

- (1) If any sum of money remains unclaimed in the Court for 5 years, the Chief Justice may, on application by the Registrar, order the sum to be transferred to the general revenue.
- (2) Before making an order under subrule (1), the Chief Justice may direct that such notice as the Chief Justice thinks necessary must be given, and to such party as the Chief Justice thinks fit.

20. Funds in Court immediately before commencement

- (1) The Registrar must transfer the funds in the Court immediately before the commencement of these Rules to the Hong Kong Court of Final Appeal Suitors' Funds Account on such commencement.
 - (2) For the purposes of these Rules, the funds in the Court immediately before the commencement of these Rules are—
 - (a) treated on such commencement as paid into the Court; and
 - (b) to avoid doubt, treated as paid for the same purposes for and subject to the same conditions and restrictions (if any) under which they were paid before such commencement.
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Hong Kong Court of Final Appeal Suitors' Funds Rules

Schedule

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Form 3

[r. 9(1)]

HONG KONG COURT OF FINAL APPEAL SUITORS' FUNDS RULES

Certificate of taxed costs

IN THE HONG KONG COURT OF FINAL APPEAL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION

(*Title of cause or matter.* No. of)

I certify that I have taxed the bill of costs of (*name of party*) against
(*name of party*) on (*date of taxation*) pursuant to an order by (*name of
judge*) dated , , and allow as follows:

(*Basis of costs*)

Solicitors' profit costs	\$
Disbursements	\$
Costs of taxation	\$
Taxing fees	\$
Allowed at	\$

The above taxed costs and fees are payable to (*name of payee*) of
(*address of payee*) out of the funds in the Court.

(Signature)

Registrar

Hong Kong Court of Final Appeal Suitors' Funds Rules

Schedule

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Dated this day of , .

Geoffrey MA
Chief Justice

18 June 2015

Explanatory Note

These Rules relate to the administration of the suitors' funds kept by the Hong Kong Court of Final Appeal (*Court*) established under the Hong Kong Court of Final Appeal Ordinance (Cap. 484).

2. Rule 1 provides for commencement.
3. Rule 2 contains the definitions used in the Rules.
4. Rule 3 requires all funds to be paid to the Registrar of the Court (*Registrar*) and the Registrar to maintain an account called the "Hong Kong Court of Final Appeal Suitors' Funds Account" (*Account*).
5. Rule 4 requires the Registrar to issue a receipt for a payment into the Court. The rule also sets out the requirements of the receipt.
6. Rule 5 provides that the Registrar must keep records of all funds paid into the Court, including records of their withdrawal, transfer, investment, etc.
7. Rule 6 requires the Registrar to prepare an annual statement of the accounts kept under rule 5.
8. Rule 7 prescribes the means of paying out the funds paid into the Court and the time for the payment.
9. Rule 8 deals with the case where outgoing payments are ascertained by a certificate of the Registrar.

10. Rule 9 prescribes the details that a certificate of the Registrar must contain where payment of costs has to be taxed.
11. Rule 10 requires an order directing the payment of funds to name the persons entitled to the payment.
12. Rule 11 covers the procedures following the making of an order directing the investment of the funds paid into the Court.
13. Rule 12 covers the procedures following the making of an order directing other dealings with the funds paid into the Court.
14. Rule 13 provides for the carrying over of funds to a separate account.
15. Rule 14 empowers the Registrar to invest the funds paid into the Court. The rule also provides for the accrual of interest on the investment.
16. Rule 15 requires any surplus in the Account to be transferred to the general revenue.
17. Rule 16 provides that the cost of administering the accounts kept under the Rules is to be paid out of the general revenue.
18. Rule 17 provides that the Registrar must, on request, issue a certificate of the amount and description of the funds specified in the request. The rule also sets out the requirements of the certificate.
19. Rule 18 provides that the Registrar must, on request, issue a transcript of the account specified in the request.

Hong Kong Court of Final Appeal Suitors' Funds Rules

Explanatory Note
Paragraph 20

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20. Rule 19 provides for the transfer of unclaimed money in the Court to the general revenue.
21. Rule 20 provides for the treatment of the funds in the Court immediately before the commencement of the Rules.
22. The Schedule specifies the forms to be used under the Rules.