STATUTORY INSTRUMENTS

1965 No. 1467 (L. 14)

SUPREME COURT OF JUDICATURE, ENGLAND

COUNTY COURTS

The Common Investment Funds Scheme 1965

Made - - - -	*26th July* 1965
Laid before Parliament	*30th July* 1965
Coming into Operation	*1st October* 1965

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, by virtue of the powers conferred on me by section 1 of the Administration of Justice Act 1965(a), hereby make the following scheme:—

1. This scheme may be cited as the Common Investment Funds Scheme 1965 and shall come into operation on 1st October 1965.

2.—(1) The Interpretation Act 1889(b) shall apply for the interpretation of this scheme as it applies for the interpretation of an Act of Parliament.

(2) In this scheme, unless the context otherwise requires:—

"accounting date" and "dividend date" mean the dates respectively specified in Schedule 2 in relation to each fund;

"fund" means a common investment fund;

"Funds Rules" includes rules made under section 7 of the Administration of Justice Act 1965 or section 168 or 169 of the County Courts Act 1959(c), and statutory deposit regulations;

"unit" means a share in a fund;

"valuation day" means a day appointed by the Public Trustee in accordance with paragraph 3(2) of Schedule 1 for the valuation of a fund.

3. There shall be established under the management and control of the Public Trustee with effect from 1st October 1965 three funds, to be known respectively as the "Capital Fund", the "High Yield Fund" and the "Gross Income Fund", for the purpose of the investment of money transferred to the Public Trustee in pursuance of Funds Rules.

4. In administering the funds referred to in the last foregoing paragraph, the Public Trustee shall have particular regard to the desirability—

(*a*) in the case of the Capital Fund, of increasing the capital employed as opposed to securing a high annual return thereon, and

(*b*) in the case of the High Yield and Gross Income Funds, of securing a high annual return on the capital employed.

(a) 1965 c. 2.
(b) 52 & 53 Vict. c. 63.
(c) 7 & 8 Eliz. 2. c. 22.

5. Dividends payable on the Gross Income Fund shall, in so far as arrangements in that behalf made between the Public Trustee and the Commissioners of Inland Revenue may permit, be paid without deduction of income tax.

6. The provisions of Schedule 1 shall apply to each Fund.

Dated 26th July 1965.

Gardiner, C.

SCHEDULE 1

PROVISIONS APPLICABLE TO EACH FUND

1.—(1) The fund shall be treated as being divided into units, each of which shall represent an equal undivided part of the fund.

(2) The number of units into which the fund is to be treated as being divided on the day on which it is established shall be such as to result in the initial value of a unit being £5.

(3) If at any time after the establishment of the fund the value of a unit appears to the Public Trustee to be too high to admit of moneys being conveniently invested in the fund, he may direct that each unit shall be divided in such manner as he may think fit.

2—(1) The Accountant-General shall alone be entitled to have units allotted to him and all units into which the fund is for the time being treated as being divided shall be deemed to be allotted to the Accountant-General.

(2) No document of title shall be issued in respect of any unit.

3.—(1) The following provisions of this paragraph shall have effect for the purpose of regulating the allotment of units to, and their realisation by, the Accountant-General.

(2) On such days as the Public Trustee may appoint, not being fewer than twenty-four in each calendar year during the whole of which the fund is operating, the fund shall be valued in accordance with the relevant provisions of this Schedule and the value of the fund and the buying and selling prices of units on each of those days shall be determined by him in accordance with those provisions.

(3) On a valuation day the Accountant-General shall—

(*a*) in the case of each account kept in pursuance of Funds Rules to the credit of which there stands money falling to be invested in the fund, estimate the number of units that can be purchased with that money and inform the Public Trustee of the aggregate number, and

(*b*) in the case of each such account to the credit of which there stand units which he is under a duty to realise, estimate the number of units to be realised and inform the Public Trustee of the aggregate number.

(4) If, on a valuation day, the aggregate number of units of which the Public Trustee is informed in pursuance of sub-paragraph (3)(*a*) above differs from that of which he is informed in pursuance of sub-paragraph (3)(*b*), he shall—

(*a*) estimate the cost attending the creation or realisation (according to which of those numbers exceeds the other) of units to a number equal to the difference;

(*b*) apportion the said cost in such manner as he may think just between the aggregate number of units of which he is informed in pursuance of sub-paragraph (3)(*a*) and sub-paragraph (3)(*b*) respectively; and

(*c*) inform the Accountant-General of the buying and selling prices of units on that day ascertained in accordance with paragraph 5(2) of this Schedule.

(5) The Accountant-General shall if necessary revise, in the light of the buying and selling prices of which he is informed in pursuance of sub-paragraph (4)(*c*) above, the number of units to be purchased and realised respectively and shall notify the Public Trustee accordingly.

(6) If, on a valuation day—

(*a*) the number of units to be purchased exceeds the number to be realised, the number of units into which the fund is treated as being divided and the number deemed to be allotted to the Accountant-General shall thereupon be increased by the difference;

(*b*) the number of units to be realised exceeds the number to be purchased, the number of units into which the fund is treated as being divided and the number deemed to be allotted to the Accountant-General shall thereupon be reduced by the difference.

4. For the purpose of valuing the fund—

(*a*) the value of any security quoted on a stock exchange shall be ascertained by reference to the published mid-market price on the previous day or, if there is no such price, by reference to the last published mid-market price; and the value of a security quoted on more than one stock exchange shall be ascertained by reference to the published mid-market price on the previous day on the exchange considered by the Public Trustee to be the most appropriate;

(*b*) the value of assets, other than securities quoted on a stock exchange, shall be such as may be determined by the Public Trustee, who may, for the purpose of making such a determination, obtain and accept a valuation by a professional valuer, accountant, stockbroker or other person considered by him to be duly qualified in that behalf.

5.—(1) The value of a unit on a valuation day shall be an amount equal to the quotient derived by dividing, by the number of units into which the fund is on that day treated as being divided, the value to the nearest pound of the fund on that day, plus—

(*a*) any income for the time being withheld by virtue of paragraph 8(2) of this Schedule; and

(*b*) any income accrued since the last accounting date;

minus any accrued liabilities chargeable against the fund.

(2) The buying or selling price of a unit on a valuation day shall be the value to the nearest sixpence of the unit on that day increased or reduced, if necessary, by the proportion attributable to the unit in accordance with paragraph 3(4)(*b*) of this Schedule of the cost attending the creation or realisation of units to the number required by paragraph 3(4)(*a*).

6. As soon as may be after a valuation day the Accountant-General and the Public Trustee shall strike a balance of the cost of purchase and proceeds of sale of units on that day, and the Accountant-General shall pay to the Public Trustee, or, as the case may be, the Public Trustee shall pay to the Accountant-General, the amount found due from him.

7. On each accounting date the Public Trustee shall determine the amount to be distributed as income expressed in terms of dividend payable on each unit held at that date, and on the dividend date next following shall pay to the Accountant-General the amount so determined.

8.—(1) The Public Trustee may determine, without regard to any rule of law applicable to trust funds, whether any special dividend, bonus issue of shares, cash or other property received by him in respect of property comprised in the fund shall be treated as income or as capital or shall be apportioned, and, if so, in what proportions, between income and capital.

(2) The Public Trustee may withhold income of the fund from distribution with a view to avoiding fluctuations in the amounts distributed.

9. In managing the fund the Public Trustee may—

(*a*) vary, at such times and in such manner as he may think fit, the way in which the fund is invested, and

(*b*) exercise, in relation to any land comprised in the fund, any powers which he could exercise if he were beneficially entitled to the land in question.

10. Any money required to be raised for the purpose of the management or improvement of any property comprised in the fund, of paying for any allotment of stock or securities of any company to which the Public Trustee may be entitled in respect of any investment held in the fund, of discharging any liability that falls properly to be discharged out of any property so comprised, or of paying any expenses relating to any such property, may be borrowed by the Public Trustee on the security of any such property or otherwise as he thinks fit.

11. The expenses (other than salaries and overhead charges) incurred by the Public Trustee in administering the fund may be defrayed by him out of the capital or the income of the fund; and he may determine, without regard to any rule of law applicable to trust funds, whether any such expenses shall be defrayed out of capital or out of income or shall be apportioned, and, if so, in what proportions, between capital and income.

12.—(1) The Public Trustee shall keep proper books of account with respect to—

(*a*) the income and expenditure of the fund;

(*b*) the assets and liabilities of the fund;

(*c*) the expenses (other than salaries and overhead charges) incurred by him in administering the fund;

(*d*) the allotment and realisation of units.

(2) The Public Trustee shall, once at least in every half year, prepare and send to the Accountant-General an income and expenditure account, being an account made up to a date not earlier than nine months before the date on which it is sent.

(3) The Public Trustee shall also, once at least in every half year, prepare and send to the Accountant-General a balance sheet relating to the fund as at the date to which the income and expenditure account is made up.

SCHEDULE 2

ACCOUNTING AND DIVIDEND DATES

Title of Fund	Accounting Dates		Dividend Dates	
	First	Subsequent	First	Subsequent
Capital Fund	1st April 1966	1st October and 1st April in each year	15th May 1966	15th November and 15th May in each year
High Yield Fund	15th February 1966	15th August and 15th February in each year	1st April 1966	1st October and 1st April in each year
Gross Income Fund	15th June 1966	15th December and 15th June in each year	1st August 1966	1st February and 1st August in each year

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This scheme establishes three common investment funds to be known respectively as the " Capital ", " High Yield " and " Gross Income " funds, under the control and management of the Public Trustee, for the purpose of investing funds in court. Under paragraph 4 of the scheme, the Public Trustee is required to have regard, in administering the Capital Fund, to the desirability of increasing the capital and, in the case of the other two funds, of securing a high annual return. Paragraph 5 provides for dividends payable on the Gross Income Fund to be paid without deduction of income tax in so far as arrangements made between the Public Trustee and the Commissioners of Inland Revenue may permit.

Schedule 1 prescribes the methods by which the funds are to be operated. Paragraphs 1 and 2 provide for each fund to be divided into units which may be allotted to the Accountant-General of the Supreme Court but to nobody else. Paragraphs 3 to 5 provide for the allotment and realisation of units on the relevant valuation days and the manner in which for this purpose units are to be valued and their buying and selling prices ascertained. Paragraph 6 provides for the payment by the Accountant-General to the Public Trustee, or conversely, of the balance due on the purchase or realisation of units. Paragraph 7 provides for the half-yearly distribution of income to the Accountant-General and paragraph 8 empowers the Public Trustee to apportion earnings between capital and income and to withhold income in order to avoid fluctuations in the amounts distributed. Paragraphs 9 to 11 confer on

the Public Trustee powers in connection with the management of the funds and the borrowing of money and also provide for his expenses of administration to be defrayed out of capital or income as he may determine. Paragraph 12 requires the Public Trustee to keep accounts and balance sheets and send them to the Accountant-General once every half-year.