EXPLANATORY MEMORANDUM TO

THE COURT FUNDS (AMENDMENT) RULES 2025

2025 No. 1275

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 David Lammy, the Secretary of State and Lord Chancellor at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

2.2 Vignes Mahalingam, Deputy Director for the Office of the Accountant General (OAG), at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Elizabeth Jeary at the Office of the Accountant General, Telephone: 07580 906 768 or email: Elizabeth.Jeary@justice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The SI's primary purpose is to amend the Court Funds Rules 2011 to provide more detail on the rules governing the accounts and investments of deposits of foreign currency, as currently the rules are shorter and less clear than the rules in relation to sterling. This will allow the treatment of foreign currency to be aligned to how sterling is treated as far as is possible but to make clear where there are any practical differences in their treatment. Further, the SI corrects an error made in the Court Funds (Amendment) Rules 2023, which accidentally inserted a requirement to provide a written request from an executor of the deceased estate into Rule 27 applications for payment out, when that document is not required. Following consultation with the SI registrar, it has been decided that the free issue procedure has been applied, as a result of the fact that the purpose of the SI is partially to correct an error.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 Under the Administration of Justice Act 1982 (AJA), the Court Funds Office (CFO), being the accounting office of the Accountant General, provides investment and banking administration services for clients whose money is held under the control of the civil courts of England and Wales, including the Court of Protection.

5.2 The Accountant General holds circa £4.3bn of funds with circa 153,000 clients which have been paid into court under his custodianship. Funds held by the Accountant General originate from three main sources:

- Damages awarded to children as a result of civil legal action in the county court in England or Wales or the High Court of Justice. These assets are held on their behalf until the child reaches majority (18 years of age).
- Assets belonging to people who lack the capacity to manage their own financial affairs where the Court of Protection has appointed someone else to manage their affairs.
- Cases where money is held in court pending settlement of civil court action, or on behalf of dissenting shareholders, widows and other clients whose funds are held under a variety of different statutes.

5.3 The changes are being introduced to ensure that the Rules clearly reflect that monies deposited in sterling and/or foreign currency are treated equally as far as the effective date of deposit for accrual of interest is concerned.

6. Legislative and Legal Context

How has the law changed?

6.1 The Accountant General administers client funds held under the control of civil courts in England and Wales. Section 38 of the Administration of Justice Act 1982, under which this instrument is made, makes provision about the Accountant General's functions in relation to such funds, and for rules to be made about administration and management of funds in court including the deposit, payment, delivery and transfer in, into and out of any court of funds in court.

The current Rules have a specific Rule for foreign currency in Part 3 accounts and investments, Rule 16. However, this Rule does not clearly cover all matters relating to foreign currency and certain parts of other rules also apply.

The amended rules remove Rule 16 so that sterling and foreign currency deposits are treated in the same way as far as the effective date of deposit for interest is concerned, with it being made clearer in each rule where there is a distinction between sterling and foreign currency.

This is to ensure that foreign currency deposits are practically dealt with as similarly as possible to sterling deposits and the treatment of foreign currency deposits is covered with the same level of detail.

6.2 The amended rules also remove the requirement in Rule 27 to provide a written request from an executor of the deceased estate for applications for payment out, as that document is not required.

Why was this approach taken to change the law?

6.3 To ensure that the Court Funds Rules were clear with regard to investment for deposits made in foreign currency a Rule change was the only option,

6.4 A Rule change was necessary to correct the requirement to provide a written request from an executor of the deceased estate into Rule 27 applications for payment out, as that document is not required.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation has taken place. The number of clients affected is very small and therefore consultation was not deemed appropriate.

8. Applicable Guidance

8.1 The CFO has a customer services team who will be the first point of contact and provide advice to anyone who needs help or further guidance. Up to date commentary will also be provided to the publishers of the Civil Court Practice and the White Book Service and via the CFO pages on www.gov.uk

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the impact on business is minimal, and the SI relates to updating existing Court Funds Rules.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is via client feedback, regular meetings with stakeholders and ongoing discussions.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").