STATUTORY INSTRUMENTS

1965 No. 1608 (L. 21)

SUPREME COURT OF JUDICATURE, ENGLAND

The Supreme Court Funds (Amendment) Rules 1965

Made - - - -	14*th August* 1965
Laid before Parliament	24*th August* 1965
Coming into Operation	1*st October* 1965

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me by sections 4(1) and 7(1) and (2) of the Administration of Justice Act 1965(a), and with the concurrence of the Treasury, hereby make the following Rules:—

Citation and Commencement

1. These Rules may be cited as the Supreme Court Funds (Amendment) Rules 1965 and shall come into operation on 1st October 1965.

Interpretation

2.—(1) In these Rules, "the principal Rules" means the Supreme Court Funds Rules 1927(b), as subsequently amended(c), and a rule referred to by number means the rule so numbered in the principal Rules.

(2) The Interpretation Act 1889(d) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Amendments to the principal Rules

3. The following rule shall be substituted for rule 3:—

"*Interpretation*

3.—(1) Except where the context otherwise requires, expressions used in these Rules shall have the same meanings as in the Rules of the Supreme Court, and the following expressions shall have the meanings hereby respectively assigned to them:—

"Accountant-General" includes a deputy appointed in accordance with the next following rule;

"accumulation", in relation to interest, means investment from time to time without further order;

"Audit Office" means the Office of the Comptroller and Auditor-General;

"the Bank" means the Bank of England;

(a) 1965 c. 2.
(b) S.R. & O. 1927/1184 (1927, p. 1638).
(c) The relevant amending instruments are S.R. & O. 1935/666, 1938/449, 1941/1622, 1942/983, 1943/1331, 1944/503, 1947/2547; S.I. 1950/692, 1951/210, 1953/264, 1960/728, 1931, 1961/2299, 1962/554, 2543 (1935, p. 1649; 1938 II, p. 3188; 1941 I, p. 1125; 1942 I, p. 807; 1943 I, p. 939; 1944 I, p. 980; 1947 I, p. 2089; 1950 II, p. 908; 1951 II, p. 679; 1953 II, p. 2247; 1960 III, pp. 3122, 3125; 1961 III, p. 4053; 1962 I, p. 531; III, p. 3404).
(d) 52 & 53 Vict. c. 63.

" brokerage " includes stamp duties under the Stamp Acts for the time being in force, and the registration fee, if any, chargeable by the Bank or by a company on the transfer of securities pursuant to a purchase or sale;

" carry over ", in relation to a fund in court, means to transfer the fund or any part thereof from one account to another in the books of the Pay Office;

" common investment fund " means a fund established by a scheme made under section 1 of the Administration of Justice Act 1965;

" court " means the Supreme Court and includes the Court of Protection;

" designated securities " means securities of a kind designated by the Accountant-General in which transactions may be effected in accordance with rule 81;

" duty ", in relation to funds in court, means estate duties;

" funds " or " funds in court " means any money, securities, or other investments standing or to be placed to the account of the Accountant-General, and includes money placed on deposit or to a short-term investment account, and any effects;

" interest ", when mentioned in the schedule to an order, means (unless otherwise specified) the dividends and interest on all the funds referred to in the heading thereof;

" ledger credit " means the title of the cause or matter and the separate account (if any) opened or to be opened under an order or otherwise in the Pay Office books, to which any funds are credited or to be credited;

" lodge in court " means pay or transfer into court, or deposit in court;

" Master of the Court of Protection " means the Master of that court, the Deputy Master, an Assistant Master, or any other officer thereof nominated by the Lord Chancellor to act for the purposes of Part VIII of the Mental Health Act 1959(a);

" Master's certificate " or " certificate of a Master " means a certificate made by a Master of the Supreme Court, the Master of the Court of Protection, a Taxing Officer, a Registrar in Bankruptcy or the District Registrar of Liverpool or Manchester acting as a Master;

" order " means an order or judgment of the High Court or Court of Appeal, whether made in court or in chambers, an order under Part VIII of the Mental Health Act 1959, or a certificate of the Master of the Court of Protection and includes a direction under rule 45 and the schedule to an order;

" Pay Office " means the office for carrying on the business of the Accountant-General;

" Pay Office Account " means the cash account of the Accountant-General at the Bank;

" Registrar " means a Registrar of the Chancery or Probate Division of the High Court, or a Registrar in Bankruptcy and includes:—

(i) the District Registrars of Liverpool and Manchester;

(ii) for the purposes of rules 28, 29, 34, 96 and 106, the other District Registrars of the High Court;

(iii) the Chief Clerk of the Court of Protection or such other officer of that court as the Master may direct;

(a) 7 & 8 Eliz. 2. c. 72.

" securities " includes units, and, for the purposes of rules 54 to 57 and rule 60, investments effected by placing money to a short-term investment account;

" short-dated securities " means securities the final date of redemption of which is within five years;

" taxing officer " means a Master of the Supreme Court Taxing Office or other person who has power to tax costs;

" unit " means one of the shares into which a common investment fund is treated as being divided.

(2) References in these Rules to forms shall be construed as references to the forms set out and numbered in the Appendix to these Rules.

(3) The Interpretation Act 1889 shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament."

4. The following rule shall be inserted after rule 3:—

"*Accountant-General's Deputies*

3A. The functions of the Accountant-General under these Rules may be discharged, subject to such conditions as he may direct, by deputy appointed by him under his hand."

5. The following rule shall be substituted for rule 29:—

" 29.—(1) The lodgment of funds in court otherwise than in proceedings in a District Registry shall be effected as follows—

(*a*) The direction of the Accountant-General, issued in accordance with rule 99, shall be produced to the Bank before any fund is lodged in court, and such direction shall be the necessary and sufficient evidence of the order or other authority quoted therein for the lodgment;

(*b*) Money required by section 4(1) of the Administration of Justice Act 1965 to be paid into the Bank to the credit of the Accountant-General's account shall be paid into the Law Courts Branch of the Bank and, if the payment is made by cheque, the cheque shall be made payable to the Bank for the credit of the Pay Office Account;

(*c*) Securities transferable by delivery and effects required by section 4(3) of the said Act to be delivered to the Bank shall be delivered to the Law Courts Branch of the Bank;

(*d*) Effects delivered to the Bank in accordance with sub-paragraph (*c*) above shall be deposited in locked boxes or otherwise secured to the satisfaction of the Bank, and any person depositing such effects shall, if the Bank so requires, permit the effects to be inspected in his presence by the Bank;

(*e*) A person lodging funds in court in accordance with the foregoing provisions of this paragraph of this rule shall be entitled to receive from the Bank a receipt for the funds so lodged;

(*f*) The Accountant-General's directions for the lodgment in court of securities (other than securities transferable by delivery) shall be accompanied by a stock transfer form (or, where appropriate, a deed of transfer) naming " the Accountant-General of the Supreme Court " as the transferee and any document of title arising from such lodgment shall be deposited at the Law Courts Branch of the Bank.

(2) The foregoing provisions of this rule shall apply to—

(*a*) the lodgment of funds in court in proceedings in the Chancery Division in the District Registry of Liverpool or Manchester, with the sub-

stitution, for references to the Law Courts Branch of the Bank, of references to the Liverpool or Manchester Branch, as the case may be; and

(*b*) the lodgment of funds in court (otherwise than by the payment of money) in any other proceedings in a District Registry.

(3) Money to be paid into court in proceedings in a District Registry (otherwise than in proceedings in the Chancery Division in the District Registry of Liverpool or Manchester) shall be paid to the District Registrar at his office, who shall, after giving a written receipt for the money, pay it into his official banking account."

6. The following amendments shall be made to rule 34:—

(1) The following paragraph shall be substituted for paragraph (1):—

"(1) When money paid into a District Registry has been ordered or is otherwise required to be placed on deposit or invested, the District Registrar shall send to the Accountant-General the order or an office copy thereof (or, where there is no such order, a statement of the circumstances requiring the money to be so placed or invested), together with a cheque for the appropriate amount and the Accountant-General shall forthwith pay such amount into the Bank."; and

(2) In paragraph (3), the words "any Division in" shall be omitted.

7. In rule 40(2), for the words "rule 70(3)" there shall be substituted the words "rule 70(4)".

8. In rule 41, for the words "Order III or Order XLII", there shall be substituted the words "Order 6 or Order 42".

9. The following amendments shall be made to rule 43:—

(1) at the beginning there shall be inserted the figure "(1)";

(2) for the words "thereupon, for the purposes of payment out of court, the money mentioned in the notice shall be subject to the next following rule. The person leaving such notice must" there shall be substituted the word "shall";

(3) at the end there shall be added the following two paragraphs:—

"(2) On a notice being left at the Pay Office in accordance with the last foregoing paragraph of this rule, the money mentioned therein shall be withdrawn from deposit and any interest which has accrued on that money shall be dealt with in accordance with rule 67(2)(1).

(3) Money mentioned in a notice of appropriation and withdrawn from deposit under the last foregoing paragraph of this rule shall, for the purposes of payment out of court, be subject to the next following rule."

10. The following amendments shall be made to rule 44:—

(1) In paragraph (1)—

(*a*) for the words "Order XXII Rule 2(1)", there shall be substituted the words "Order 22 rule 3(1)"; and

(*b*) the following shall be substituted for the second proviso:—

"Provided also that no payment shall be made under this paragraph in any case—

(*a*) where an order restraining such payment has been produced to the Accountant-General;

(*b*) where money has been lodged by some but not all of the defendants sued jointly or in the alternative, unless the plaintiff discontinues the

action against all the other defendants and these defendants or their solicitors consent in writing to such payment;

(*c*) where a defence of tender before action has been pleaded;

(*d*) where the claim is made by or for the benefit of an infant or a patient within the meaning of the Mental Health Act 1959;

(*e*) where money has been lodged in proceedings under the Fatal Accidents Acts 1846 to 1959 and the Law Reform (Miscellaneous Provisions) Act 1934(**a**), or under the first mentioned Acts and more than one person is entitled to the money; or

(*f*) except with the permission of the Treasury, where the payment is to or for the credit of a person resident outside the scheduled territories as defined by the Exchange Control Act 1947(**b**) or where the defendant is acting by order or on behalf of a person so resident ".

(2) In paragraph (4)—

(*a*) for the words " Order III or Order XLII " there shall be substituted the words " Order 6 or Order 42 ", and

(*b*) after the words " shall be paid " there shall be inserted the words " together with any interest accrued thereon ".

11. The following amendments shall be made to rule 45 : —

(1) For the words " rule 17, 44, 46, 55, 56, 57, 67, 68, 70, 71 and 101 to 104 inclusive " there shall be substituted the words " rules 17, 44, 46, 54, 55, 56, 67, 68, 70, 71, 72, 75, 97 and 101 to 104 inclusive ".

(2) In paragraph (2) of the proviso, for the words " not exceeding £100 " there shall be substituted the words " not exceeding £200, or the transfer or delivery of any security not exceeding £200 in value ".

12. In rule 46(3), after the words " amount to be transferred " and " pay the money " there shall be inserted the words " together with any interest accrued thereon ".

13. In rule 53, for the words " rule 81 ", in both places where they occur, there shall be substituted the words " rule 72 or 81 ".

14. In rule 67(2)—

(1) in sub-paragraph (*i*), for the words " Government securities " there shall be substituted the words " designated securities "; and

(2) after sub-paragraph (*k*) there shall be added the following sub-paragraph : —

" (*l*) Any accrued interest which, under rule 46(3), falls to be dealt with in accordance with this rule shall be carried over to an account in the Pay Office books entitled " Interest on money appropriated in satisfaction of a claim "."

15. The following rule shall be substituted for rule 70 : —

"70.—(1) Subject to any relevant directions and to paragraph (2) of this rule, money, including interest, directed or required by these Rules to be invested shall be invested as soon as it is available.

(2) No sum of money or interest of less than £50 shall be invested, but a sum of less than £50 but not less than £10 which would otherwise fall to be invested shall be placed on deposit and shall be withdrawn from deposit and invested when, together with the interest credited thereon and any further sums of money or interest so falling, it amounts to £50 or more.

(**a**) 24 & 25 Geo. 5. c. 41. (**b**) 10 & 11 Geo. 6. c. 14.

(3) Money or interest credited to an account raised under rule 40(1) shall (subject to rule 75(2)) be invested without any order or request by being placed to a short-term investment account:

Provided that, in the case of accounts raised before 1st October 1965, nothing in this rule shall require existing investments to be changed.

(4) Money or interest credited to an account raised under rule 40(2) may, without an order and upon the request in writing of the person making the lodgment (or his solicitor), endorsed on the lodgment schedule to the affidavit, be invested in any of the ways specified in section 6(1)(*a*) of the Administration of Justice Act 1965:

Provided that nothing in this paragraph of this rule shall authorise the investment of money in a common investment fund designated for the purposes of section 94(4) of the Finance Act 1965(**a**) which would, in the opinion of the Accountant-General, be in breach of the terms of any arrangement made, in pursuance of that section, between the Public Trustee and the Commissioners of Inland Revenue.

(5) When in pursuance of these rules or any order interest on securities in court is required to be accumulated or placed on deposit, and an order or subsequent order is made dealing with part of, or part of the cash representing, such interest, the residue shall, unless the order or subsequent order otherwise directs, continue to be accumulated or placed on deposit.

(6) Unless an order otherwise directs, the investment of money may be effected by one or more transactions until the total investment directed by the order has been completed.

(7) On receipt of a request signed by a solicitor acting on behalf of any person claiming to be entitled to or interested in securities in court that the interest accruing on any specified securities be not invested, the Accountant-General may cease to invest any further interest accruing on those securities or to place it on deposit until he has received an order requiring him to do so.

(8) On receipt of a request signed by a solicitor acting on behalf of a person interested, and countersigned by a Master or Registrar, which contains a notification that principal money directed to be invested is about to be otherwise dealt with by an order, the Accountant-General may stay the investment of the money pending the receipt of an order dealing therewith.

(9) No accumulation of interest shall be made after a fund has been transferred to one of the accounts of unclaimed balances referred to in rule 97."

16. The following rule shall be substituted for rule 72:—

"*Purchase and sale of units*

72.—(1) This rule shall apply where, in pursuance of a direction (or, where appropriate, a request) funds are required to be invested in a common investment fund, or investments made in pursuance of such a direction or request are required to be realised.

(2) Purchases and sales of units shall be effected on one of the valuation days appointed for the fund in question by the Public Trustee in pursuance of powers conferred on him by a scheme made under section 1 of the Administration of Justice Act 1965.

(a) 1965 c. 25.

(3) The Accountant-General shall keep in the Pay Office books an account for each common investment fund in which there shall be recorded the numbers of units purchased and sold, and the amounts payable or due in respect thereof.

(4) As soon as possible after each valuation day, the Accountant-General shall debit and credit the relevant suitors' accounts in respect of the transactions effected on that day, balance each common investment fund account and

(*a*) send to the Public Trustee a statement showing the total number of units in each fund purchased or sold on that day, together with the total amounts payable or due in respect thereof, and

(*b*) pay to the Public Trustee the excess, if any, of the total amount so payable over the total amount so due."

17. The following rules shall be substituted for rules 73 to 80:—

"73. Subject to any relevant direction and to the next following rule, all money, including interest, credited to an account in court shall be placed on deposit on the day on which the order or other authority is received in the Pay Office, or the day on which the money is credited in the Pay Office books, whichever is the later.

74. Money, including interest, shall not be placed on deposit in the following cases:—

(*a*) when the amount available is less than £10:

(*b*) when lodged under Order 22 rule 1 (or appropriated under Order 22 rule 8) of the Rules of the Supreme Court in satisfaction of a claim, unless directed by an order to be placed on deposit;

(*c*) except as provided by rules 70(2) and 75(2), when and so far as there is an order or other authority dealing with the money otherwise than by directing it to be placed on deposit;

(*d*) when a fund has been transferred from a District Registry under rule 96;

(*e*) when a fund has been transferred to one of the accounts of unclaimed balances referred to in rule 97;

(*f*) if it stood to the credit of a fund in court before 1st October 1965, without a request that it be placed on deposit.

75.—(1) When money, including interest, in court is to be placed to a short-term investment account, it shall (subject to any relevant direction and to the next following paragraph of this rule) be so placed on the day on which the order or other authority is received in the Pay Office, or the day on which the money or interest is credited in the Pay Office books, whichever is the later.

(2) No sum of money or interest of less than £50 shall be placed to a short-term investment account, but a sum of less than £50 but not less than £10 which would otherwise fall to be so placed shall be placed on deposit, and shall be withdrawn from deposit and placed to a short-term investment account when, together with the interest credited thereon and any further sums of money or interest so falling, it amounts to £50 or more.

76.—(1) Interest on money placed on deposit or to a short-term investment account shall accrue every calendar month and shall begin on the first day of the month next following that in which the money is so placed, and shall cease from the last day of the month next preceding the day of withdrawal:

Provided that where money placed on deposit is transferred to a short-term investment account it shall earn deposit interest up to the end of the month in which the transfer takes place.

(2) A sum of money of not less than £500 which remains on deposit for not less than one month but is withdrawn before any interest has accrued thereon under the last foregoing paragraph, shall be credited on withdrawal with one month's interest.

77.—(1) Interest shall accrue on every complete pound on deposit at 2½ per cent. per annum.

(2) Interest which has accrued during the half-years ending on the last day of March and the last day of September in each year on money then placed on deposit shall, on or before the fifteenth day of the months respectively following, be placed to the ledger credit to which such money was standing at the end of the half-year in question, and shall, for the purpose of rule 73, be treated as having been credited on the day on which it accrued.

78.—(1) Interest shall accrue on every complete pound placed to a short-term investment account at 5 per cent. per annum.

(2) Interest which has accrued during the half-years ending respectively on the last day of February and the last day of August in each year on money then placed to a short-term investment account shall, on or before the fifteenth day of the months respectively following, be placed to the ledger credit to which such money was standing at the end of the half-year in question, and shall, for the purposes of rules 73 and 75, be treated as having been credited on the day on which it accrued.

79. Money shall be withdrawn from deposit or from a short-term investment account in the following cases:—

(*a*) when and to such an amount as the money together with the interest credited thereon at the time of withdrawal is required for the purposes of an order or of these Rules: provided that such interest shall not be taken in aid if required to be otherwise dealt with;

(*b*) when the amount is reduced below £10;

(*c*) upon a request signed by a solicitor acting on behalf of a person interested, and countersigned by a Master or Registrar, containing a notification that the money is required for the purpose of being dealt with by an order;

(*d*) when carried over to one of the accounts for unclaimed balances under rule 97.

80. When money is withdrawn from deposit or from a short-term investment account, the interest which has accrued thereon and has not been credited shall be placed to the credit to which the money is then standing."

18. In rules 81, 82, 84 and 85, for the words "Government securities", in each place where they occur, there shall be substituted the words "designated securities".

19. The following rule shall be substituted for rule 88:—

"88. The Accountant-General shall in each year, as soon as possible after the last days of March and September in the case of money on deposit, and the last days of February and August in the case of money placed to a short-term

investment account, certify to the National Debt Commissioners the amount of interest which has accrued and been credited during the preceding half-year, and the Commissioners shall, as soon as may be, place such amounts to the credit of the account kept by them of money placed in their hands by the Accountant-General."

20. The following rule shall be substituted for rule 96:—

"96.—(1) Unclaimed money in a District Registry (except in a proceeding in the Chancery Division in the District Registry of Liverpool or Manchester) shall be transferred by the District Registrar to the Accountant-General on, or as soon as may be after, 15th March in each year.

(2) A transfer of money under the last foregoing paragraph of this rule shall be made by cheque and shall be accompanied by a request in Form 80.

(3) For the purposes of this rule, money shall be treated as unclaimed if it stands to the credit of a fund which has not been dealt with for a period of fifteen years immediately preceding 1st March in any year:

Provided that money shall not be treated as unclaimed for the purposes of this rule if it appears to the District Registrar that the fund in question is due to or claimable by a person on attaining an age which he has not yet reached and, if the District Registrar so determines, need not be so treated if he has received notice of an application by or on behalf of a person claiming to be entitled to the fund."

21. In rule 97(1), after the words "on deposit" there shall be inserted the words "or to a short-term investment account".

22. The following rule shall be substituted for rule 106:—

"106.—(1) These Rules shall apply to:—

(*a*) funds lodged (whether before or after these Rules came into operation) in a cause or matter proceeding in London or in the Chancery Division in the District Registry of Liverpool or Manchester;

(*b*) other funds lodged before 1st October 1943 in any cause or matter proceeding in the District Registry of Liverpool, or before 1st October 1965 in any cause or matter proceeding in the District Registry of Manchester, and to any further lodgments in the same cause or matter; and

(*c*) funds transferred from District Registries under rule 34 or 96,

but, save as aforesaid and save in so far as these Rules otherwise provide, these Rules shall not (subject to the next following paragraph) apply to funds lodged in a cause or matter proceeding in a District Registry.

(2) The provisions of these Rules—

(*a*) prescribing the circumstances in which money is to be placed on deposit;

(*b*) prescribing the minimum amounts that may be so placed, or placed to a short-term investment account, or invested;

(*c*) governing the payment out of court of money lodged in satisfaction of a claim

shall apply to money lodged in a District Registry with the substitution, for references to the Accountant-General, of references to the District Registrar and the omission, in relation to the payment out of court of money lodged in satisfaction of a claim, of references to the production of the original receipt or notice of payment in:

Provided that nothing in this paragraph of this rule shall affect the operation of the last foregoing paragraph in relation to funds lodged in the District Registry of Liverpool or Manchester."

Dated 11th August 1965.

Gardiner, C.

We concur

George Lawson,
Ifor Davies,
Two of the Lords Commissioners of Her Majesty's Treasury.

Dated 14th August 1965.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules make amendments to the Supreme Court Funds Rules 1927, most of which are consequential on the coming into force on 1st October 1965 of Part I of the Administration of Justice Act 1965. Rule 3A provides for the discharge of the Accountant-General's functions by deputy; rule 29 prescribes the procedure for lodging funds in court both in London and in District Registries. The amendment to rule 44 is consequential on recent modifications in the Rules of the Supreme Court governing the payment of money into court in satisfaction of a claim. Rule 70 provides for the investment of funds in court; the smallest amount that may be invested is £50 and provision is also made for the placing of smaller sums on deposit and their investment when they amount to £50, and for the investment of money paid into court under the Trustee Act 1925. Rule 72 prescribes the duties of the Accountant-General in relation to investments made in a common investment fund established under section 1 of the Administration of Justice Act 1965.

Under rule 74 the minimum amount that may be placed on deposit is £10; rule 74 also prescribes the circumstances in which money paid into court is not to be placed on deposit. Rule 75 provides for the placing of money to a short-term investment account; the minimum amount that may be so placed is £50. Rule 76 provides for the monthly accrual of deposit and short-term investment interest. Rules 77 and 78 prescribe the rates of deposit and short-term investment interest (2½ per cent. and 5 per cent. respectively) and provide for such interest being credited half-yearly; and rule 79 provides for the withdrawal of money from deposit or a short-term investment account.

Rule 96 makes new provision for the transfer of unclaimed money from District Registries to the Pay Office and rule 106 provides for the application of the Rules to proceedings in London and in District Registries. In addition, the Rules make a number of minor amendments consequential on the revision of the Rules of the Supreme Court and on the combination of the office of the Manchester District Registry with that of the Manchester County Court.

The Rules come into force on 1st October 1965.