

**2011 No. 1734**

**SENIOR COURTS OF ENGLAND AND WALES**  
**COUNTY COURTS, ENGLAND AND WALES**

**The Court Funds Rules 2011**

<i>Made</i> - - - -	<i>13th July 2011</i>
<i>Laid before Parliament</i>	<i>18th July 2011</i>
<i>Coming into force</i> - -	<i>3rd October 2011</i>

The Lord Chancellor, in exercise of the powers conferred by section 38(7) of the Administration of Justice Act 1982(a), and with the concurrence of the Treasury, makes the following Rules.

**PART 1**

**Preliminary, interpretation and general provisions**

**Citation, commencement, revocation and transition**

1.—(1) These Rules may be cited as the Court Funds Rules 2011 and shall come into force on 3rd October 2011.

(2) The Rules specified in the schedule to these Rules are revoked, except that they continue to apply to such extent as may be necessary for giving effect to any order, direction or request made before 3rd October 2011.

**Application of the Rules**

2. These Rules apply to funds deposited or to be deposited in court:

- (a) under an enactment; or
- (b) in respect of proceedings in:
  - (i) a county court;
  - (ii) the High Court;
  - (iii) the Civil Division of the Court of Appeal; or
  - (iv) the Court of Protection.

## Interpretation

3.—(1) Expressions used in these Rules that are also used in the Civil Procedure Rules 1998(a) shall have the same meaning as they have in those Rules.

(2) In these Rules:

“Accountant General” means the Accountant General of the Senior Courts or a person appointed under rule 5;

“Authenticated” means authenticated with a stamp issued by the Accountant General;

“Child” means a person under 18;

“Common investment fund” means a fund established by a scheme made under section 42 of the Administration of Justice Act 1982;

“Court” means any court listed in rule 2(b);

“CPR” means the Civil Procedure Rules 1998;

“Deposit schedule” means a schedule to an order directing that a fund be deposited in court;

“Deputy” means a person who makes decisions on behalf of a person who lacks capacity and who has been:

(a) appointed by a court under section 16(2)(b) of the Mental Capacity Act 2005(b); or

(b) deemed to be so appointed by virtue of paragraph 1 of schedule 5 to that Act;

“Foreign currency” means currency other than sterling;

“Fund” means money (including foreign currency), securities or effects;

“Fund in court” means a fund deposited in court in accordance with Part 2 of these Rules;

“Investment manager” means a person appointed by a deputy to make decisions as to the investment of a fund in court on behalf of a person who lacks capacity;

“Order” means an order or direction made under the seal of a court;

“Payment schedule” means a schedule to an order directing a payment from, or a dealing with, a fund in court;

“Person who lacks capacity” means a person who:

(a) immediately before 1st October 2007 was a patient within the meaning of Part VII of the Mental Health Act 1983(c); or

(b) a court has found lacks capacity within the meaning of the Mental Capacity Act 2005 in relation to a fund in court held or to be held on that person’s behalf; and

“Written request” means a request made on a form approved by the Accountant General to:

(a) deposit funds in court;

(b) deal with a fund in court; or

(c) receive payment from a fund in court.

(3) In these Rules, where two or more deputies are appointed in relation to a person who lacks capacity:

(a) the word “deputy” refers to those deputies acting jointly if and to the extent that joint action is required by the terms of their appointment; and

(b) any rule permitting the Accountant General to refuse to:

(i) follow a direction given by a deputy; or

(ii) undertake any other act at the request of a deputy,

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(a) S.I. 1998/3132.

(b) 2005 c.9.

(c) 1983 c.20.

includes a power to refuse to do so on the ground that, while the terms of appointment require the deputies to act jointly, the direction or request was not jointly made.

#### **Court Funds Office**

4. The office of the Accountant General shall continue to be known as the Court Funds Office.

#### **Discharge of Accountant General's functions**

5. The Accountant General may appoint one or more persons to do anything that may be done by the Accountant General under these Rules.

## **PART 2**

### **Deposit of funds in court**

#### **Documents accompanying deposit of funds in court**

6.—(1) The general rule is that the Accountant General shall only accept a deposit of a fund if provided with:

- (a) a deposit schedule signed and authenticated by a court; or
- (b) (i) a written request; and  
(ii) a sealed copy of the court order authorising the deposit.

(2) The general rule does not apply if a fund is deposited in court under one of the following paragraphs in this rule.

(3) Where the deposit is made under CPR rule 37.2 (which provides that there must be a payment into court where a defendant wishes to rely on a defence of tender before claim) the Accountant General shall only accept the deposit if provided with:

- (a) a written request;
- (b) a sealed copy of the claim form; and
- (c) a copy of the defence.

(4) Where the deposit is made under CPR rule 61.11(18) (which provides that the claimant may constitute a limitation fund by making a payment into court) the Accountant General shall only accept the deposit if provided with a written request sealed by a court.

(5) Where the deposit is made under the Life Assurance Companies (Payment into Court) Act 1896<sup>(a)</sup>, the Accountant General shall only accept the deposit if provided with:

- (a) a deposit schedule signed and authenticated by a court; and
- (b) a copy of the witness statement or affidavit filed in accordance with CPR rule 37.4 (which relates to payment into court under enactments).

(6) Where the deposit is made under the Trustee Act 1925<sup>(b)</sup>, the Accountant General shall only accept the deposit if provided with:

- (a) (i) a deposit schedule signed and authenticated by a court; and  
(ii) a copy of the witness statement or affidavit filed in accordance with CPR rule 37.4;  
or
- (b) (i) a written request; and  
(ii) a sealed copy of the court order authorising the deposit.

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(a) 1896 c.8.  
(b) 1925 c.19.

(7) Where the deposit is made under any other enactment that requires specific authority for a fund to be deposited in court, the Accountant General shall only accept the deposit if provided with:

- (a) a written request; and
- (b) the document authorising the deposit.

(8) Where the deposit is made by a deputy, the Accountant General shall only accept the deposit if provided with:

- (a) a written request; and
- (b) a sealed copy of the order appointing the deputy.

(9) The Accountant General shall only accept the deposit of foreign currency in court if provided with:

- (a) a deposit schedule signed and authenticated by a court authorising the deposit of that currency; or
- (b) (i) a written request; and  
(ii) a sealed copy of the court order authorising the deposit of that currency.

(10) A sealed copy of a court order is not required where the written request is made by the Admiralty Marshal.

(11) A sealed copy of a court order is not required where the written request has been sealed by the court that made the order.

### **Deposit of funds**

7.—(1) Where a fund is to be deposited in court, it shall be sent to the Court Funds Office unless:

- (a) it is deposited in accordance with rule 8; or
- (b) the Accountant General directs otherwise.

(2) Where the fund to be deposited at the Court Funds Office is money, it shall be deposited by means of a cheque or bankers' draft unless the Accountant General directs otherwise.

(3) Any cheque or banker's draft shall be made payable to the Accountant General of the Senior Courts.

### **Deposit of funds at a District Registry or county court or the Mayor's and City of London Court**

8.—(1) A fund may be deposited at a District Registry or county court or the Mayor's and City of London Court in accordance with this rule.

(2) A fund may be deposited at a District Registry or county court:

- (a) in respect of proceedings at that District Registry or county court by a litigant in person without a current account; or
- (b) where an enactment authorises a deposit at a District Registry or county court.

(3) A fund may only be deposited under paragraph (2)(a) as cash.

(4) A fund may only be deposited under paragraph (2)(b):

- (a) by means of a cheque or banker's draft made payable to the Accountant General of the Senior Courts;
- (b) as securities; or
- (c) as cash, if deposited by a person without a current account.

(5) In addition, a fund may be deposited as cash at the Mayor's and City of London Court:

- (a) in respect of proceedings at the Royal Courts of Justice, by a litigant in person without a current account; or

- (b) by a person who is required by or under an enactment to give security for costs in respect of proceedings for an election petition.

(6) The Accountant General shall only accept a deposit made under this rule if the documents required under rule 6 are provided with the deposit.

(7) The District Registry, county court or the Mayor's and City of London Court, as the case may be, shall forward the deposit to the Accountant General within one working day of receipt, together with:

- (a) any document provided to comply with rule 6; and
- (b) confirmation of the date of receipt.

### **Promissory notes**

9. A fund may not be deposited by way of a promissory note.

### **Refusal to accept a deposit**

10. The Accountant General shall refuse to accept a deposit if:

- (a) the person requesting the deposit has not complied with these Rules; or
- (b) there is any other good reason to do so.

## **PART 3**

### **Accounts and investments**

#### **Interest bearing accounts**

11.—(1) The Accountant General shall maintain two interest bearing accounts; a basic account and a special account.

(2) The Accountant General shall invest money in a basic account unless:

- (a) a court directs otherwise;
- (b) it is invested in a special account;
- (c) it is transferred to an account of unclaimed funds; or
- (d) it amounts to less than £10.

(3) Subject to rule 12(2), the Accountant General shall invest money to which a child or person who lacks capacity is entitled in a special account unless:

- (a) a court directs otherwise;
- (b) a deputy or investment manager directs otherwise;
- (c) it is transferred to an account of unclaimed funds; or
- (d) it amounts to less than £10.

(4) If the Accountant General appoints the Director of Savings under rule 5(a), from the date of the appointment paragraphs (2)(d) and (3)(d) shall cease to have effect.

#### **Transfer between accounts**

12.—(1) Paragraph (2) applies where a child or person who lacks capacity has become entitled to money held in a basic account.

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(a) Section 22 of the Financial Services Act 2010 (c.28) provides that the Director of Savings (who is appointed in accordance with section 1 of the National Savings Bank Act 1971 (c. 29)) may discharge a function of the Accountant General under the Court Funds Rules if appointed by the Accountant General under the Court Funds Rules to do so.

(2) The Accountant General shall only transfer the money to a special account if provided with a payment schedule signed and authenticated by the court directing such transfer.

(3) The transfer under paragraph (2) shall only take effect from the date on which the payment schedule is received by the Court Funds Office.

(4) Paragraph (5) applies where a person who is entitled to money in a special account:

- (a) dies;
- (b) ceases to be a child; or
- (c) ceases to be a person who lacks capacity.

(5) The Accountant General shall transfer the money to a basic account.

(6) The transfer under paragraph (5) shall take effect from the date on which the person died or ceased to be a child or a person who lacks capacity.

### **Accrual of interest**

**13.**—(1) In this rule, the effective date means:

- (a) in the case of a deposit made by cheque or banker's draft, the date on which the cheque or bankers' draft is received by the Court Funds Office;
- (b) where the Accountant General has directed under rule 7(1)(b) that the deposit is to be made at a bank<sup>(a)</sup>, the date on which the deposit is credited to the Accountant General's account;
- (c) in the case of a deposit made under rule 8, the date of its receipt in the court office; or
- (d) such other date as the Accountant General may determine.

(2) Subject to paragraph (3) and rule 16(2), interest shall accrue on a daily basis from the effective date until the day before money is withdrawn from the account.

(3) Interest shall cease to accrue from the date on which a claimant accepts an offer under CPR Part 36.

(4) Unless the Accountant General directs otherwise, accrued interest shall be credited:

- (a) to a basic account, on the last Friday in March and September;
- (b) to a special account, on the last Friday in May and November;
- (c) when money is withdrawn from an account;
- (d) when money is transferred from a basic account to a special account;
- (e) when money is transferred from a special account to a basic account; and
- (f) when an account is closed.

(5) The Accountant General shall credit accrued interest without deducting income tax.

(6) If the Accountant General appoints the Director of Savings under rule 5, from the date of the appointment:

- (a) paragraph (4)(a), (b) and (c) shall cease to have effect;
- (b) accrued interest shall be credited to a basic account on 31 March and 30 September; and
- (c) accrued interest shall be credited to a special account on 31 May and 30 November.

### **Investment**

**14.**—(1) Except where rule 15 applies, the Accountant General may only invest or reinvest a fund in court in:

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(a) Section 38(2) of the Administration of Justice Act 1982 (c.53) provides that one or more accounts shall be opened and kept in the name of the Accountant General at such bank or banks as may be designated by the Lord Chancellor with the concurrence of the Treasury.

- (a) a basic account;
- (b) a special account; or
- (c) a common investment fund.

(2) Except where rule 15 applies, the Accountant General may only invest money in a common investment fund if it:

- (a) amounts to £10,000 or more; and
- (b) is held on behalf of:
  - (i) a child who, on the date on which the investment policy is approved by a court, has 5 years or more until their 18th birthday; or
  - (ii) a person who lacks capacity who a court, deputy or investment manager has reason to believe will require the investment to be held for 5 years or more.

### **Investment in securities**

**15.**—(1) This rule applies where a fund in court was invested by the Accountant General in any of the following ways before 3rd October 2011 and remained so invested immediately before that date:

- (a) in any manner specified in Part I, paragraphs 1 to 10 and 12 of Part II and paragraphs 2, 2A and 3 of Part III of schedule 1 to the Trustee Act 1961(a), as supplemented by the provisions of Part IV of that schedule;
- (b) in investment trust ordinary shares;
- (c) in securities (other than common investment fund units) where the person entitled to the securities is subject to an order of the Court of Protection; or
- (d) in a common investment fund.

(2) The Accountant General may continue to invest or reinvest the fund in court in the ways mentioned in paragraph (1).

(3) The Accountant General may not invest or reinvest the fund in court in accordance with paragraph (2) if the cost would be disproportionate to the amount to be invested or reinvested.

### **Foreign currency**

**16.**—(1) The Accountant General shall invest or reinvest foreign currency in an interest bearing account in such currency if provided with:

- (a) a payment schedule signed and authenticated by a court directing the investment or reinvestment of the foreign currency; or
- (b) written directions in accordance with rule 17(2) directing the investment or reinvestment of the foreign currency.

(2) Interest shall accrue on money invested or reinvested under paragraph (1) from the date on which the Accountant General is provided with either the payment schedule or written directions directing the investment or reinvestment of the foreign currency.

(3) The Accountant General shall pay any charge incurred in placing foreign currency into a foreign currency account from the account in which the foreign currency is held.

(4) Unless a court, deputy or investment manager directs otherwise, the Accountant General shall convert dividend payments received in a foreign currency into sterling and invest the proceeds in accordance with this Part.

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(a) 1961 c.62.

### **Authority to direct investment**

17.—(1) Subject to paragraph (2), the Accountant General shall invest or reinvest a fund in court in accordance with a written request from a court.

(2) The Accountant General shall invest or reinvest a fund in court that is subject to an order of the Court of Protection in accordance with written directions from:

- (a) the Court of Protection;
- (b) a deputy; or
- (c) an investment manager.

(3) If a deputy appoints an investment manager, the deputy must send in writing to the Accountant General:

- (a) authority for the investment manager to give directions for the investment of a fund in court; and
- (b) contact details of the investment manager.

(4) The Accountant General may not comply with a direction given under paragraph (2)(b) if:

- (a) the deputy gave the direction without authority to do so;
- (b) the Court of Protection has made a contrary direction; or
- (c) there is any other good reason for not complying.

(5) The Accountant General may not comply with a direction given under paragraph (2)(c) if:

- (a) a deputy appointed the investment manager without authority to do so;
- (b) the deputy has not complied with paragraph (3);
- (c) the investment manager gave the direction without authority to do so;
- (d) the Court of Protection has made a contrary direction; or
- (e) there is any other good reason for not complying.

### **Timing of investment**

18. The Accountant General shall comply with any order, direction or request for investment as soon as is practicable.

### **Payment of charges when dealing with securities**

19. Unless a court directs otherwise, the Accountant General shall pay any charge incurred when dealing with securities from the fund in court of the person on whose behalf the Accountant General is dealing.

### **Conversion and allotment of securities**

20.—(1) Where nobody else is able to give directions, the Accountant General may apply to the appropriate court for directions on how to deal with a conversion or allotment of securities.

(2) Where a security in court has been converted into another security, the Accountant General shall write off the original security and replace it with the whole, or where appropriate a proportionate part, of the substituted security.

(3) Unless the court directs otherwise, the Accountant General shall deal with any substituted security and dividends, so far as is practicable, in the same manner as the original security and dividends.

(4) Where an allotment is made in respect of a security in court the Accountant General shall:

- (a) credit the whole, or a proportionate part, of the allotment to the account of the original security if the allotment is fully paid;



- (b) sell the allotment and credit the whole, or a proportionate part, of the proceeds of sale to the appropriate account or otherwise as the court may direct if the allotment is not fully paid; or
- (c) sell any non-apportionable security and credit the proceeds to the appropriate account.

### **Securities of a dissolved company**

**21.** The Accountant General shall write off the securities of any company that has been struck off the company register in the country in which the company is incorporated.

## **PART 4**

### **Payment out from a fund in court**

#### **Documents required for payment**

**22.**—(1) The general rule is that the Accountant General shall make a payment from a fund in court if provided with a payment schedule signed and authenticated by a court.

(2) The general rule does not apply if a payment is made under one of the following paragraphs in this rule.

(3) Subject to paragraphs (6) and (7), where a deputy has been appointed, the Accountant General shall only make a payment from a fund in court if provided with:

- (a) a written request from the deputy; and
- (b) a sealed copy of the court order authorising the payment.

(4) Where an enactment requires specific authority for payment, the Accountant General shall only make a payment from a fund in court if provided with:

- (a) a written request; and
- (b) any authority required to permit payment under the enactment.

(5) Where a court has ordered that a person may apply directly to the Court Funds Office for payment of a fund in court on or after reaching their majority, the Accountant General shall only make a payment from the fund in court if provided with a written request from that person.

(6) Where the Court of Protection is satisfied that a person no longer lacks capacity in relation to a fund in court to which that person is entitled, the Accountant General shall only make a payment from the fund in court if provided with:

- (a) a written request; and
- (b) a sealed copy of the court order.

(7) Where the Court of Protection has ordered a payment from a fund in court be made to a person other than the person entitled to the fund in court or a deputy, the Accountant General shall only make a payment from the fund in court if provided with:

- (a) a payment schedule signed and authenticated by the court; or
- (b) (i) a written request; and  
(ii) a sealed copy of the court order authorising the payment.

#### **Interest on payments**

**23.** Where rule 22 applies, the Accountant General shall deal with any interest in accordance with:

- (a) the payment schedule; or
- (b) the other authority for payment.

### **Payment to a representative of a deceased person**

**24.**—(1) This rule applies where a person entitled to a fund in court dies.

(2) Where a grant of representation has been obtained, the Accountant General shall pay out the fund in court to the personal representative of the deceased if provided with:

- (a) a written request; and
- (b) a sealed copy of the grant of representation.

(3) Where a grant of representation has been obtained by two or more persons, the Accountant General shall only pay out the fund in court if provided with:

- (a) the documents required under paragraph (2);
- (b) the written consent of each living person named as a personal representative in the grant of representation; and
- (c) a copy of the death certificate of any deceased person who was named as a personal representative in the grant of representation.

(4) Where the value of the estate is less than £5,000 and the person dies testate, the Accountant General shall pay out the fund in court to the person who claims to have the right to a grant of probate if provided with:

- (a) a written request;
- (b) a copy of the will of the deceased; and
- (c) a copy of the death certificate of the deceased.

(5) Where the value of the estate is less than £5,000 and two or more persons have a right to a grant of probate, the Accountant General shall only pay out the fund in court if provided with:

- (a) the documents required under paragraph (4);
- (b) the written consent of each living person who has been named as an executor in the deceased's will; and
- (c) a copy of the death certificate of any deceased person who was named as an executor in the deceased's will.

(6) Where the value of the estate is less than £5,000 and the person dies intestate, the Accountant General shall pay out the fund in court to the person who claims to have a prior right to a grant of letters of administration if provided with:

- (a) a written request;
- (b) a written declaration of kinship; and
- (c) a copy of the death certificate of the deceased.

(7) Where the value of the estate is less than £5,000 and two or more persons claim to have a prior right to a grant of letters of administration, the Accountant General shall only pay out the fund in court if provided with:

- (a) the documents required under paragraph (6);
- (b) the written consent of each person who appears to have a prior right to a grant of letters of administration; and
- (c) a written declaration of kinship of each such person.

### **Payment of funeral expenses**

**25.**—(1) This rule applies where a person who is entitled to a fund in court and subject to an order of the Court of Protection dies.

(2) The Accountant General shall make a payment from the fund in court of the deceased to a funeral director in respect of reasonable funeral expenses if provided with:

- (a) a funeral invoice; and
- (b) a written request from:

- (i) an executor of the deceased's estate; or
- (ii) the person who arranged the funeral if the deceased died intestate.

**Payment of inheritance tax**

**26.**—(1) This rule applies where a person who is entitled to a fund in court and subject to an order of the Court of Protection dies.

(2) The Accountant General shall make a payment from the fund in court of the deceased to Her Majesty's Revenue and Customs in respect of all or part of the inheritance tax due on the deceased's estate if provided with:

- (a) the completed relevant form from Her Majesty's Revenue and Customs; and
- (b) a written request from:
  - (i) an executor of the deceased's estate; or
  - (ii) a person who appears to have a prior right to a grant of letters of administration of the estate if the deceased died intestate.

**Payment in respect of CPR Part 36 (offers to settle)**

**27.**—(1) This rule applies where:

- (a) a payment is to be made to a claimant out of a fund in court under CPR Part 36; and
- (b) the permission of a court is not required for the payment.

(2) Subject to rule 28(3), where a defendant has deposited money under a court order or in support of a defence of tender before claim and a CPR Part 36 offer is subsequently accepted, the Accountant General shall make a payment from a fund in court if provided with:

- (a) a written request from the claimant; and
- (b) written confirmation from the defendant that all, or part, of the fund in court may be used to satisfy the offer (in whole or in part).

(3) Subject to rule 28(3), where a CPR Part 36 deposit has been made and the CPR Part 36 offer has been accepted, the Accountant General shall make a payment from a fund in court if provided with a written request from the claimant.

(4) The Accountant General shall pay any accrued interest remaining in court following a payment under paragraph (2) or (3) or rule 28(2) to the defendant.

(5) The Accountant General may not make any payment under this rule where more than one defendant is sued jointly and not all of the defendants have deposited money in court unless:

- (a) the claimant has also discontinued the claim against the defendants who have not deposited money in court; and
- (b) the Accountant General is provided with a copy of:
  - (i) the notice of discontinuance; and
  - (ii) the written consent to the discontinuance of each of those defendants.

**Payment where the claimant's legal representation has been funded by the Legal Services Commission**

**28.**—(1) This rule applies where:

- (a) a payment is to be made to a claimant out of a fund in court under CPR Part 36;
- (b) the claimant's legal representation has been funded by the Legal Services Commission; and

(c) regulation 18(1) of the Community Legal Services (Costs) Regulations 2000<sup>(a)</sup> applies to the fund in court.

(2) Where the claimant is legally represented, the Accountant General shall pay the amount to be paid out under rule 27(2) or (3) to the claimant's legal representative.

(3) Where the claimant is no longer legally represented, the Accountant General shall only make a payment from a fund in court if provided with a payment schedule signed and authenticated by a court.

### **Remaining balance**

29. The remaining balance of a fund in court (if any) after a payment under rule 27 or 28(2) shall be paid out in accordance with rule 22.

### **Time for making payments**

30. The Accountant General shall make any payment as soon as practicable after receipt of:

- (a) the payment schedule; or
- (b) the other authority for payment.

### **Regular payments**

31. Where a payment schedule directs that regular payments are to be made, the payment schedule shall state the dates on which the payments shall be made.

### **Method of payment**

32.—(1) In this rule:

“BACS” means the method of payment known as “Banks Automated Clearing System” by which money is transferred from one bank in the United Kingdom to another; and

“International money transfer” means a method of payment in which money is transferred from a bank in the United Kingdom to a bank outside the United Kingdom by means of an automated system.

(2) Unless the Accountant General directs otherwise, payment out from a fund in court shall be made by:

- (a) BACS;
- (b) international money transfer;
- (c) cheque; or
- (d) warrant.

(3) The Accountant General may deduct any charges incurred in paying money out of court from the fund in court from which the payment was made.

### **Dealing with a fund in court before the receipt of a payment schedule**

33.—(1) Paragraph 2 applies where the Accountant General has dealt with a fund in court after the date of a court order but before the receipt of the related payment schedule.

(2) The Accountant General shall, if reasonably practicable, deal with an asset that is not mentioned in the payment schedule in accordance with the payment schedule.

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(a) S.I. 2000/441.

### **Refusal to make a payment**

34. The Accountant General may not make a payment if:

- (a) the identity or entitlement of a person claiming to be entitled to a payment is in doubt;
- (b) the request for payment is outside the scope of a deputy's power;
- (c) the person requesting payment has not complied with these Rules; or
- (d) there is any other good reason to do so.

### **Identification of payees**

35.—(1) If the Accountant General, in accordance with rule 34(a), does not make a payment, the Accountant General may require the personal attendance of the person claiming to be entitled to the payment at a court in order to provide evidence of their identity or entitlement.

(2) The Accountant General may not pay a person who changes their name before a fund in court has been paid, unless that person provides the Accountant General with evidence of their change of name.

## **PART 5**

### **Unclaimed funds in court**

#### **Transfer to the unclaimed funds account**

36.—(1) The Accountant General may transfer an unclaimed fund in court to an account of unclaimed funds.

(2) Subject to paragraph (3), a fund in court shall be treated as unclaimed if:

- (a) it has not been dealt with for ten years other than:
  - (i) being credited with accrued interest or dividends; or
  - (ii) by a compulsory dealing in securities; or
- (b) the Accountant General is, at any time, satisfied that all reasonable steps have been taken to trace the person entitled to the fund in court and that person cannot be traced.

(3) Where a fund in court is held on behalf of a child and the child's date of birth is known, paragraph (2)(a) shall not apply until the child's 18th birthday.

#### **Disposal of unclaimed securities and effects**

37.—(1) The Accountant General may sell any unclaimed securities (including common investment fund units) or effects to be transferred under rule 36 and pay the proceeds into an account of unclaimed funds.

(2) The Accountant General shall write off any securities or effects transferred under rule 36 which have no value.

#### **Converting unclaimed foreign currency**

38. The Accountant General shall convert any foreign currency to be transferred under rule 36 into sterling and pay the proceeds into an account of unclaimed funds.

#### **Unclaimed county court money**

39.—(1) Money paid into a county court other than under rule 8 may be treated as unclaimed if it has not been dealt with for a period of one year immediately before 1st March in any year.

(2) The Accountant General shall accept a deposit of money treated by a county court as unclaimed under paragraph (1) if provided with a written request from an officer of that court.

(3) The Accountant General shall place money that has been deposited under paragraph (2) to an account of unclaimed funds.

(4) Each county court shall maintain a list of monies deposited under paragraph (2), which may be inspected at that court's office.

#### **List of unclaimed funds in court and money**

40. The Accountant General shall maintain a list of funds in court transferred under rule 36(1) and of money deposited under rule 39(2).

#### **Payment out of an unclaimed funds account**

41.—(1) The Accountant General shall make a payment out of an account of unclaimed funds if provided with a payment schedule signed and authenticated by a court.

(2) Subject to paragraph (3), money paid out of an account of unclaimed funds shall be credited with simple interest at the rate of interest payable on a basic account at the date of payment, from the date on which the money was transferred to an account of unclaimed funds.

(3) The Accountant General may not credit any interest to unclaimed money deposited under rule 39(2).

## **PART 6**

### **Miscellaneous provisions**

#### **Information about a fund in court**

42. The Accountant General shall, on receipt of a request in writing, provide information about a fund in court to:

- (a) a person who is entitled to the fund in court; or
- (b) a person who the Accountant General considers to have a valid reason for requesting the information.

#### **Statement of account**

43.—(1) Paragraph (2) applies where a child or a person who lacks capacity is entitled to a fund in court.

(2) The Accountant General shall send a statement of account to the child or person who lacks capacity:

- (a) on an annual basis; and
- (b) at such other times as the Accountant General considers appropriate.

#### **Court's obligations in respect of deposit and payment schedules**

44.—(1) Where an order has been made in respect of a fund in court, an officer of the court which made the order shall:

- (a) sign and authenticate the deposit schedule or payment schedule, as the case may be; and
- (b) send it to the Accountant General.

(2) Where the court amends a deposit schedule or payment schedule, an officer of the court which made the order shall:

- (a) sign and seal the amendment; and

- (b) send it to the Accountant General.

### Transfer between courts

45. Where proceedings in which a fund has been deposited in court are transferred to another court, the court to which the proceedings are transferred must notify the Accountant General of the transfer.

### National Debt Commissioners

46.—(1) The Accountant General shall transfer to the National Debt Commissioners:

- (a) money held in the account of the Accountant General (the “operational account”) that exceeds the amount reasonably required to satisfy current demands; and  
(b) non-portionable sums received in respect of securities.

(2) The National Debt Commissioners shall transfer to the Accountant General such amount as the Accountant General may request in writing if the balance of the operational account is less than the amount reasonably required to satisfy current demands.

(3) As soon as is practicable after half-yearly interest accruing on money invested in a basic or special account has been credited to the appropriate accounts the Accountant General shall certify to the National Debt Commissioners the amount required to credit interest on those accounts.

(4) When the Accountant General has informed the National Debt Commissioners of the amount required in paragraph (3), the National Debt Commissioners shall credit that amount to the account into which the money transferred under paragraph (1) was invested.

Signed by authority of the Lord Chancellor

11th July 2011

We concur,

13th July 2011

*J Djanogly*  
Parliamentary Under Secretary of State  
Ministry of Justice

*Angela Watkinson*  
*Michael Fabricant*  
Two of the Lords Commissioners of Her Majesty’s Treasury

## SCHEDULE

Rule 1

### Revocation Schedule

<i>Statutory Instrument revoked</i>	<i>Reference</i>	<i>Extent of Revocation</i>
The Court Funds Rules 1987	S.I. 1987/821	The whole instrument
The Court Funds (Amendment) Rules 1988	S.I. 1988/817	The whole instrument
The Court Funds (Amendment) Rules 1990	S.I. 1990/518	The whole instrument
The Court Funds (Amendment) Rules 1991	S.I. 1991/1227	The whole instrument
The Court Funds (Amendment) Rules 1997	S.I. 1997/177	The whole instrument
The Court Funds (Amendment) Rules 1999	S.I. 1999/1021	The whole instrument
The Court Funds (Amendment) Rules 2000	S.I. 2000/2918	The whole instrument
The Court Funds (Amendment) Rules 2001	S.I. 2001/703	The whole instrument
The Court Funds (Amendment) Rules 2003	S.I. 2003/375	The whole instrument
The Court Funds (Amendment No.2) Rules 2003	S.I. 2003/720	The whole instrument

The Court Funds (Amendment) Rules 2007	S.I. 2007/729	The whole instrument
The Court Funds (Amendment No.2) Rules 2007	S.I. 2007/2617	The whole instrument
The Court Funds (Amendment) Rules 2010	S.I. 2010/172	The whole instrument

### **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules govern the way in which funds are paid into, dealt with in and paid out of court.

Part 1 revokes the Court Funds Rules 1987, except that they continue to apply to such extent as may be necessary for giving effect to any order, direction or request made before 3rd October 2011. Part 1 also contains provisions for interpreting the Rules. It also prescribes the courts to which these Rules apply and contains definitions.

Part 2 sets out what documents are required to deposit funds and how funds may be deposited.

Part 3 deals with investment options for a fund in court, who makes investment decisions and when investments may be made.

Part 4 deals with payment out of a fund in court. It deals with the documents required for payment out and the circumstances in which a fund in court can be released where the person entitled to the fund in court has died.

Part 5 deals with unclaimed funds.

Part 6 contains miscellaneous provisions including how to obtain information on a fund in court and when the Accountant General is required to transfer funds to the National Debt Commissioners.

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