



Administration of Justice Act 1982

1982 CHAPTER 53

PART VI

FUNDS IN COURT

38 Management and investment of funds in court.

- (1) Subject to rules made under subsection (7) below, all sums of money, securities and effects paid and deposited in, or under the custody of—
 - (a) the High Court;
 - (b) a county court; or
 - (c) such other courts and tribunals as the Lord Chancellor may by rules made under that subsection prescribe,shall be vested in the Accountant General.
- (2) 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.
- (3) Money and securities held by the Accountant General shall vest in his successor in office without any assignment or transfer.
- (4) A sum of money paid and deposited in court may, . . . ^{F1}, be invested and reinvested by the Accountant General in any manner authorised by rules made under subsection (7) below.
- (5) ^{F2}
- (6) The Accountant General may, in such cases as the Lord Chancellor may by rules made under subsection (7) below prescribe, apply to the court for an order for directions as to the manner in which a particular fund in court is to be dealt with.
- (7) The Lord Chancellor, with the concurrence of the Treasury, may make provision as to the payment of interest on funds in court and may make rules as to the administration and management of funds in court including the deposit, payment, delivery and

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transfer in, into and out of any court of funds in court and regulating the evidence of such deposit, payment, delivery or transfer.

- (8) Rules made under subsection (7) above may—
- (a) provide for the discharge of the functions of the Accountant General under the rules by a person or persons appointed by him;
 - (b) provide for the transfer of money in court to and from the Commissioners;
 - (c) provide for money paid and deposited in a county court to be vested in, and accounted for by, a person other than the Accountant General;
 - (d) prescribe cases in which interest is to be paid on funds in court;
 - (e) prescribe cases in which funds in court are to be invested;
 - (f) make provision for the transfer of funds in court from one court to another; and
 - (g) prescribe cases in which moneys payable under a judgment or order shall be paid into court.
- (9) Any such rules may make different provision for different cases.

Subordinate Legislation Made

P1 S. 38: power previously exercised by [S.I. 1987/821](#), 1988/817 and 1990/518

P2 S. 38(7) power exercised by [S.I.1991/1227](#)

Extent Information

E1 S. 38 : Pt. VI (ss. 38-48) applies to Scotland only to the extent specified in s. 48

Textual Amendments

F1 Words repealed by [Public Trustee and Administration of Funds Act 1986 \(c. 57, SIF 57\)](#), s. 4

F2 S. 38(5) repealed by [Public Trustee and Administration of Funds Act 1986 \(c. 57, SIF 57\)](#), s. 4

39 Investment of money transferred to National Debt Commissioners.

- (1) The Commissioners may invest, in such manner as may be prescribed by regulations made by the Treasury, money transferred to them in pursuance of rules made under section 38(7) above or section 82(1) of the ^{M1}Judicature (Northern Ireland) Act 1978 and the interest or dividends accruing on investments made under this subsection.
- (2) If in any accounting year the aggregate of the sums of money received by the Commissioners by way of interest and dividends on investments made by them under subsection (1) above, after deduction of—
 - (a) any sum required by the Treasury to be set aside to provide for depreciation in the value of investments so made; and
 - (b) such sum as the Lord Chancellor may with the concurrence of the Treasury direct to be paid to him in respect of the cost to him in that year of administering funds in court, [^{F3}and
 - (c) an amount equal to the expenses incurred by the Commissioners in that year in making investments under subsection (1) above and disposing of investments so made]

exceeds the aggregate of the sums due to be paid or credited in respect of that year by way of interest on funds in court, the excess shall be paid into the Consolidated Fund.

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- (3) If in any accounting year the aggregate of the sums of money received as mentioned in subsection (2) above, after deduction of the sum or sums falling to be deducted under [F⁴paragraphs (a) to (c)] of that subsection, is less than the aggregate of the sums due as mentioned in that subsection, the deficiency shall be made good out of the Consolidated Fund.
- (4) The Commissioners shall pay to the Lord Chancellor any sum deducted by them under subsection (2)(b) above; and any sum received by the Lord Chancellor under this subsection shall be paid into the Consolidated Fund.
- [F⁵(4A) Any sum deducted by the Commissioners under subsection (2)(c) above shall be applied as an appropriation in aid of moneys provided by Parliament for the expenses of the National Debt Commissioners; and, so far as not so applied, shall be paid into the Consolidated Fund.]
- (5) If at any time the Commissioners are unable to pay—
- (a) to the Accountant General a sum due from them to him under rules made under section 38(7) above; or
 - (b) to the Accountant General of the [F⁶Court of Judicature] of Northern Ireland a sum due from them to him under rules made under section 82(1) of the M²Judicature (Northern Ireland) Act 1978,
- the Treasury shall provide them with it out of the Consolidated Fund.

Textual Amendments

- F3** Word “and” and s. 39(2)(c) inserted by [Public Trustee and Administration of Funds Act 1986 \(c. 57, SIF 57\), s. 5\(1\)](#)
- F4** Words substituted by virtue of [Public Trustee and Administration of Funds Act 1986 \(c. 57, SIF 57\), s. 5\(2\)](#)
- F5** [S. 39\(4A\)](#) inserted by [Public Trustee and Administration of Funds Act 1986 \(c. 57, SIF 57\), s. 5\(3\)](#)
- F6** Words in [s. 39\(5\)\(b\)](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59\(5\), 148\(1\), Sch. 11 para. 27\(2\); S.I. 2009/1604, art. 2\(d\)](#)

Marginal Citations

- M1** 1978 c. 23.
- M2** 1978 c. 23.

40 Statutory deposits.

- (1) Where money or securities are deposited with the Accountant General under any enactment or subordinate legislation, whether passed or made before or after the commencement of this Part of this Act, they shall for the purposes of this Part of this Act be treated as if they were funds in court except in so far as—
- (a) the enactment; or
 - (b) the subordinate legislation; or
 - (c) rules made under section 38(7) above,
- provide to the contrary.
- (2) In subsection (1) above “subordinate legislation” means Orders in Council, orders, rules, regulations and other instruments made or to be made under any Act.

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41 **Transfer of funds in court to Official Custodian for Charities and [F7 appropriate authority].**

- (1) Any funds for the time being vested in the Accountant General and held by him in trust for any charity or in trust for any ecclesiastical corporation in the Church of England may, if the Accountant General on an application made in that behalf to him by the [F8 Charity Commission] or the [F7 appropriate authority] thinks fit so to direct, be transferred to the Official Custodian for Charities or the [F7 appropriate authority], as the case may be.
- (2) Any funds transferred by virtue of a direction given under subsection (1) above shall be vested in and held by the Official Custodian for Charities or the [F7 appropriate authority] respectively in trust for the charity or ecclesiastical corporation upon the trusts upon which the funds were held before the transfer.
- (3) In this section “ecclesiastical corporation” means a capitular body within the meaning of the ^{M3}Cathedrals Measure 1963 or the incumbent of a benefice [F9] and “appropriate authority” means, in the case of funds held in trust for a cathedral, the corporate body of that cathedral established under section 9(1)(a) of the Cathedrals Measure 1999 and in the case of funds held in trust for a benefice the Diocesan Board of Finance for the diocese in which that benefice is situated].

Textual Amendments

- F7** Words in s. 41 substituted (Provinces of Canterbury and York) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), ss. 14, 16(2), **Sch. 5 para. 25(a)**; Instrument dated 11.9.2006 made by the [Archbishops of Canterbury and York](#)
- F8** Words in s. 41(1) substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), ss. 75(1), 79(2), **Sch. 8 para. 67**; S.I. 2007/309, **art. 2**, Sch.
- F9** Words in s. 41(3) added (Provinces of Canterbury and York) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), ss. 14, 16(2), **Sch. 5 para. 25(b)**; Instrument dated 11.9.2006 made by the [Archbishops of Canterbury and York](#)

Modifications etc. (not altering text)

- C1** S. 41(3) amended (30.6.1999) by 1999 No. 1, ss. **36(2)(6)**, 38(2)(3) (with ss. 33, 34, 37, 38(2)(3)(5)(6))

Marginal Citations

- M3** 1963 No. 2.

42 **Common investment schemes.**

- (1) The Lord Chancellor may continue to make schemes (“common investment schemes”) establishing common investment funds for the purpose of investing funds in court and money held by any person who in accordance with subsection (5)(b) below may hold shares in common investment funds.
- (2) A common investment scheme shall provide for the fund thereby established to be under the management and control of an investment manager appointed by the Lord Chancellor.
- (3) A common investment scheme shall make provision for the investment by its investment manager in accordance with the provisions of this section of funds in court transferred to the fund under rules made by virtue of section 38(7) above and

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of any sums of money transferred to the fund by persons who in accordance with subsection (5)(b) below may hold shares in the fund.

- (4) A common investment scheme shall make provision—
 - (a) for treating the fund established by it as being divided into shares; and
 - (b) for treating a sum invested in the fund as being represented by a number of shares determined by reference to that sum and the value of the fund at the time the investment was made.
- (5) Shares in a common investment fund—
 - (a) shall be allotted to and held by the Accountant General and
 - (b) may be allotted to and held by the Accountant General of the [^{F10}Court of Judicature] of Northern Ireland and any other person authorised by the Lord Chancellor.
- (6) Where a person is authorised under subsection (5) above to hold shares in a common investment fund—
 - [^{F11}(a) he may invest trust money in shares in the fund without obtaining and considering advice on whether to make such an investment; and]
 - (b) he may invest trust money in a common investment fund of which he is the investment manager.
- (7) Moneys comprised in the fund established by a common investment scheme may, subject to the provisions of the scheme, be invested by the investment manager of the fund in any way in which he thinks fit, whether or not authorised by the general law in relation to trust funds.
- (8) ^{F12}
- (9) The investment manager of a fund established by a common investment scheme shall not be required or entitled to take account of any trusts or equities affecting any share in the fund whether or not he is also a trustee of any such trust.
- (10) The investment manager of a fund established by a common investment scheme shall be remunerated at such rates and in such manner as the Lord Chancellor shall with the concurrence of the Treasury determine.
- (11) The salary or remuneration of an investment manager and his officers and such other expenses of executing his office or otherwise carrying this Part of this Act into effect as may be sanctioned by the Treasury shall be paid out of moneys provided by Parliament.
- (12) There shall be charged in respect of the running of a common investment scheme such fees, whether by way of percentage or otherwise, as the Lord Chancellor shall with the concurrence of the Treasury fix and such fees shall be collected and accounted for by such persons, and in such manner, and shall be paid to such account, as the Treasury direct.
- (13) There shall be retained or paid out of a fund established by a common investment scheme any expenses which could be so retained or paid out of trust property if the investment manager of the fund were a trustee and such expenses shall be retained or paid in the same way as and in addition to fees charged in respect of the running of the scheme.
- (14) Fees and expenses recovered under this section shall be paid into the Consolidated Fund.

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- (15) Money and securities held by an investment manager of a fund established by a common investment scheme shall vest in his successor in office without any assignment or transfer.
- (16) The power conferred by subsection (1) above to make a common investment scheme shall include the power to vary or revoke such a scheme.

Extent Information

E2 S. 42: Pt. VI (ss. 38-48) applies to Scotland only to the extent specified in s. 48

Subordinate Legislation Made

P3 S. 42(1) power exercised by S.I. 1991/1209

Textual Amendments

F10 Words in s. 42(5)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), **Sch. 11 para. 27(2)**; S.I. 2009/1604, **art. 2(d)**

F11 S. 42(6)(a) substituted (1.2.2001) by 2000 c. 29, s. 42(2), **Sch. 2 Pt. II para. 44** (with s. 35); S.I. 2001/49, **art. 2**

F12 S. 42(8) repealed by Financial Services Act 1986 (c. 60, SIF 69), s. 212(3), **Sch. 17 Pt. I**

43 Provision for making good defaults.

If the Lord Chancellor, whether on a recommendation made to him by any person interested or not, certifies—

- (a) that the Accountant General; or
- (b) that the manager of a common investment fund,

has been guilty of any default with respect to any money, securities and effects for which he is responsible under this Part of this Act, such sum as may be certified by the Lord Chancellor to be necessary for making good the default shall be paid out of moneys provided by Parliament or, if and so far as it is not so paid, shall be charged on and issued out of the Consolidated Fund.

44 Power to repeal and modify ss. 42 and 43.

- (1) Her Majesty may by Order in Council—
- (a) repeal subsections (8), (10), (12), (14) and (15) of section 42 above and section 43 above; or
 - (b) make such modifications to those enactments as Her Majesty considers appropriate.
- (2) Any Order in Council made under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

45 Accounts.

- (1) Accounts shall be prepared and shall at such times as the Treasury shall direct be sent to the Comptroller and Auditor General—
- (a) in respect of his transactions under section 38 above, by the Accountant General;

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- (b) in respect of their transactions under section 39 above, by the Commissioners; and
 - (c) in respect of transactions in a fund established by a common investment scheme, by the investment manager.
- (2) The accounts shall be in such form and shall be prepared in respect of such periods as the Treasury may direct.
- (3) The Comptroller and Auditor General shall examine, certify and report on accounts sent to him under subsection (1) above and lay copies of them and his report on them before each House of Parliament.

46 Supplemental.

- (1) Any power conferred by this Part of this Act to make a scheme or rules or regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The following amendments shall have effect—
- (a) the words “ invested under section 38 of the Administration of Justice Act 1982 ” shall be substituted for the words “dealt with under section 6 of the Administration of Justice Act 1965” in each case where they occur in the following enactments—
 - (i) section 46 of the ^{M4}Chelsea and Kilmainham Hospitals Act 1826;
 - (ii) section 12 of the ^{M5}Ecclesiastical Houses of Residence Act 1842;
 - (iii) sections 70, 78 and 86 of the ^{M6}Land Clauses Consolidation Act 1845; and
 - (iv) ^{F13}
 - (b) the words “ section 42 of the Administration of Justice Act 1982 ” shall be substituted for the words “section 1 of the Administration of Justice Act 1965”—
 - ^{F14}(i) in section 11(k) of the ^{M7}Light Railways Act 1896; and]
 - (ii) in section 20(1) of the ^{M8}Insurance Companies Act 1958;
 - (c) ^{F13}
 - ^{F14}(d) in Schedule 1 to the ^{M9}Administration of Justice Act 1965, in the entry relating to the ^{M10}Tramways Act 1870—
 - (i) the words “ of the Supreme Court ” shall be inserted after the words “Accountant General” in the first and second place where they occur; and
 - (ii) the words “ under section 42 of the Administration of Justice Act 1982 ” shall be added after the words “common investment schemes”;
 - (e) ^{F15}
 - ^{F16}(f)
 - (g) ^{F13}

Textual Amendments

F13 S. 46(2)(a)(iv)(c)(g) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 1 Group 4}

F14 S. 46(2)(b)(i)(d) repealed (E.W.) (1.1.1993) by Transport and Works Act 1992 (c. 42), s. 68, Sch. 4 Pt.I; S.I. 1992/2784, art. 2, Sch. 2 Pt.III.

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F15 S. 46(2)(e) repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), ss. 843, 844(4), [Sch. 31](#)

F16 S. 46(2)(f) repealed (in relation to tax for the year 1992-1993 and subsequent years subject as mentioned in [s. 289](#) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), s. 290, [Sch. 12](#) (with ss. 60, 101(1), 201(3), [Sch. 11 paras. 20, 22, 26\(2\), 27](#)).

Modifications etc. (not altering text)

C2 The text of ss. 3, 46(2), 55, 62, [Sch. 3 Pt. II](#), [Sch. 5](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M4 [1826 c. 16](#).
M5 [1842 c. 26](#).
M6 [1845 c. 18](#).
M7 [1896 c. 48](#).
M8 [1958 c. 72](#).
M9 [1965 c. 2](#).
M10 [1870 c. 78](#).

47 Interpretation.

In this Part—

“Accountant General” means [^{F17}in relation to England and Wales, the Accountant General of the Senior Courts and, in relation to Northern Ireland, the Accountant General of the Court of Judicature];

“the Commissioners” means the National Debt Commissioners;

“a common investment scheme” means a scheme made under section 42 above;

“funds” or “funds in court” means—

- (a) any money, securities or other investments (including foreign currency and assets) standing or to be placed to the account—
 - (i) of the Accountant General by virtue of section 38(1) above; or
 - (ii) of any other person by virtue of rules made under subsection (7) of that section;
- (b) any effects deposited with the Accountant General by virtue of section 38(1) above;

but does not include any statutory deposit referred to in section 40 above.

Textual Amendments

F17 Words in [s. 47](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59(5), 148(1), [Sch. 11 para. 27\(3\)](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

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PROSPECTIVE

48 Application of Part VI to Scotland.

This Part of this Act shall apply to Scotland only in relation to money or securities deposited with the Accountant General in the circumstances referred to in section 40 above; and in the application to Scotland of the power to make rules under section 38(7) above as to the payment or transfer out of court of money or securities treated, by virtue of section 40 above, as if, for the purposes of this Part of this Act, they were funds in court, for the reference to the Lord Chancellor there shall be substituted a reference to the Secretary of State.

VALID FROM 12/04/2010

[^{F18}48A Application of Part VI to Northern Ireland

- (1) In its application to Northern Ireland this Part of this Act shall have effect subject to the following modifications.
- (2) For any reference to the Lord Chancellor substitute a reference to the Department of Justice in Northern Ireland.
- (3) For any reference to the Treasury substitute a reference to the Department of Finance and Personnel in Northern Ireland.
- (4) For any reference to the Consolidated Fund (except the reference in section 39(4A)) substitute a reference to the Consolidated Fund of Northern Ireland.
- (5) For any reference to moneys provided by Parliament (except the reference in section 39(4A)) substitute a reference to moneys provided by the Northern Ireland Assembly.
- (6) For the reference in section 45(1) to the Comptroller and Auditor General substitute a reference to the Comptroller and Auditor General for Northern Ireland.
- (7) For section 42(5) substitute—
 - “(5) Shares in a common investment fund—
 - (a) shall be allotted to and held by the Accountant General of the Court of Judicature of Northern Ireland, and
 - (b) may be allotted to and held by any other person authorised by the Department of Justice in Northern Ireland.”
- (8) For section 45(3) substitute—
 - “(3) The Comptroller and Auditor General for Northern Ireland shall examine, certify and report on accounts sent to him under subsection (1) above and lay copies of them and his report on them before the Northern Ireland Assembly.
 - (3A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a copy of accounts

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or a report as it applies in relation to the laying of a statutory document under an enactment.”]

Textual Amendments

- F18** S. 48A inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 34** (with arts. 28-31, Sch. 18 para. 34(2))

Status:

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