

1981 No. 1589 (L.13)

SUPREME COURT OF ENGLAND AND WALES

The Supreme Court Funds (Amendment) Rules 1981

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| <i>Made</i> - - - - | 4th November 1981 |
| <i>Laid before Parliament</i> | 9th November 1981 |
| <i>Coming into Operation—</i> | |
| <i>Rule 3</i> - - - - | 1st January 1982 |
| <i>Remainder</i> - - - | 1st December 1981 |

The Lord Chancellor, in exercise of the powers conferred on him by section 7(1) of the Administration of Justice Act 1965(a) and with the concurrence of the Treasury, hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Supreme Court Funds (Amendment) Rules 1981 and shall come into operation—

(a) in respect of the whole instrument except rule 3, on 1st December 1981;

(b) in respect of rule 3, on 1st January 1982.

(2) In these Rules a rule referred to by number means the rule so numbered in the Supreme Court Funds Rules 1975(b).

2. Rule 2(2) shall be amended as follows:—

(1) After the words “the Bank of England” the words “or such other bank as may be designated by the Lord Chancellor under Section 3 of the Administration of Justice Act 1965;” shall be added.

(2) The definition of “brokerage” shall be omitted.

(3) In place of the definition of “foreign currency” there shall be inserted the following definition:—

“foreign currency” means any currency other than sterling.’

(4) After the definition of “Master of the Court of Protection” there shall be inserted the following definition:—

“National Savings stock” means stock registered on the National Savings Stock Register.’

3. Rule 6 shall be renumbered “6.—(1)” and the following paragraph shall be added—

“(2) Where, by virtue of an order made under section 174A of the County Courts Act 1959(c), any money in court is directed to be transferred to the High Court, the authority to the Accountant General shall be a sealed copy of the order.”

4. In rule 12(2), there shall be substituted for the figures “£1500” and “£250” the figures “£5000” and “£1000” respectively.

(a) 1965 c. 2.

(b) S.I. 1975/1803; the relevant amending instruments are S.I. 1976/2235, 1978/751.

(c) 1959 c. 22.

5. Rule 16 (foreign currencies) shall be revoked.

6. In rule 17 the words “under rule 22” and “issued in accordance with rule 4” shall be omitted.

7. Rules 18, 19 and 20 shall be amended by substituting for the words “directions”, “issued” and “issue a direction” wherever they appear the words “approval”, “given” and “give approval” respectively.

8. In rule 20, proviso (c) shall be omitted and the following substituted:

“(c) in matters proceeding in the Admiralty Registry, Form 2 shall be sealed in the Admiralty Registry”.

9. For the existing rule 21 there shall be substituted the following rule:—

“Lodgment of foreign currency

21.—(1) Foreign currency may not be lodged in court unless—

(a) it is lodged under Order 22, rule 1, in satisfaction of a claim for a debt or liquidated demand, and is in the currency in which the claim is made; or

(b) the court so directs or permits.

(2) Foreign currency lodged in accordance with paragraph (1) above shall be paid into court in the manner authorised by the Accountant General”.

10. For the existing rule 22 there shall be substituted the following rule:

“Lodgment of money in court

22.—(1) Money to be lodged in court in accordance with rules 18 to 20, and money representing the proceeds of sale or redemption of National Savings stock, shall be paid into the Court Funds Office, either directly or in accordance with paragraph (4), and shall thereupon be paid into the Bank for the credit of the Accountant General’s account as soon as practicable thereafter.

(2) Lodgments of money to which paragraph (1) does not apply shall be made directly with the Bank for the credit of the Accountant General’s account.

(3) Where money is to be paid into the Court Funds Office under paragraph (1), cheques or other instruments shall be made payable to the Accountant General.

(4) Where money is lodged at a District Registry it shall be forwarded forthwith to the Court Funds Office, together with a request in Form 2 giving the full circumstances under which the lodgment has been made.

(5) The effective date of lodgment shall be—

(i) in the case of cash or a banker’s draft drawn on the Head Office of a London Clearing Bank the date of its receipt in the Court Funds Office or, where paragraph (4) applies, in the District Registry;

(ii) in the case of a cheque or other instrument not covered by the preceding sub-paragraph, the date of its receipt in accordance with the preceding sub-paragraph or such later date as the Accountant General may determine, having regard to the need for the cheque or other instrument to be cleared;

(iii) in the case of a lodgment to which paragraph (2) applies, the date certified by the Bank as that on which the money was placed to an account for the credit of the Accountant General.

(6) In matters of urgency, and on receipt of a request in writing from the person seeking to make a lodgment, the Accountant General may, in his discretion, arrange for clearance of a cheque or other instrument to be expedited."

11. Rule 27 shall be amended by substituting, for paragraph (3), the following paragraph:—

"(3) Where, before appropriation, interest has accrued on the money lodged as a condition of liberty to defend the interest may be included in the appropriation, and paragraphs (1) and (2) shall apply to the interest in the same way as they apply to the money lodged."

12.—(1) Rule 29(1) shall be amended by inserting, after sub-paragraph (i), the following sub-paragraph:—

"(ii) in National Savings stock, where it is less than £50 ;"

and by re-numbering the existing sub-paragraph (ii) as (iii).

(2) Rule 29(2) shall be amended by substituting, for the sum "£500", the words "£50, or £500 as may be appropriate."

13. Rules 31 and 34 shall be amended by omitting the words "the day on which the money is credited in the books of the office" and substituting in each case the words "the effective date of lodgment of the money."

14.—(1) Rule 33(1) shall be amended by inserting, at the beginning, the words "Subject to paragraph (3),", and by inserting, after the words "not less than one month" in sub-paragraph (ii) of the proviso, the words "(including any period on deposit in a county court preceding the transfer of the fund to the High Court)".

(2) Rule 33 shall be amended by adding the following paragraph at the end:—

"(3) Where a fund is transferred from a county court to the High Court and the fund includes money on deposit on which interest has begun to accrue in the county court, the accrual of interest under this rule shall begin on the first day of the month in which the fund is transferred (that is, the day on which the fund ceases to carry interest in the county court)."

15. Rule 35 shall be amended as follows:—

(1) Paragraph (1) shall be amended by omitting the words "Interest at 12½ per cent." and substituting the words "Subject to paragraph (3), interest at 15 per cent."

(2) After paragraph (2) there shall be inserted the following paragraph:—

"(3) Where a fund is transferred from a county court to the High Court and the fund includes money invested in a short-term investment account on which interest has begun to accrue in the county court, the accrual of interest under this rule shall begin on the first day of the month in which the fund is transferred (that is, the day on which the fund ceases to carry interest in the county court)."

16. For the existing rule 37 there shall be substituted the following rule:—

“ Dealings with foreign currencies

37.—(1) Where foreign currency is lodged in court—

(a) rules 28 to 36 shall not apply, but ;

(b) the court may direct that it shall be placed to an interest bearing account in that currency or any other currency ;

(c) interest (if any) shall accrue from the date of the order or the date of placing to the account, whichever is the later ;

and the Accountant General shall deal with the interest as the court may direct.

(2) Any charges incurred by placing foreign currency to an account shall be deducted from the currency so placed or the accrued interest, as may be appropriate.

(3) Where income from a security in court is received in a foreign currency, the court may give such directions in relation to the income as it thinks fit, and in the absence of such directions it shall be converted into sterling and invested in accordance with rules 28 to 36 ”.

17. After rule 38 there shall be inserted the following rule:—

“ Time for making payment

38A—(1) Subject to rule 39 (payments out of money by post) and rule 44 (payment out to the defendant without order), the time for making a payment out of court shall be as follows:—

(i) where payment is dependent upon the sale of securities, the realisation of units or the receipt of a supplementary authority, it shall be made on the working day next following the day of crediting the proceeds of sale or, as the case may be, the day on which the supplementary authority is received by the Court Funds Office ;

(ii) in any other case, payment shall be made on the working day next following the day on which the Payment Schedule or the request for payment is received by the Court Funds Office.

(2) Notwithstanding paragraph (1), the Accountant General may, in his discretion, make a payment on the day on which the Schedule, request, proceeds or authority is or are received by the Court Funds Office.

(3) Periodical payments shall be effected on the dates specified by the relevant Payment Schedule.”

18. Rule 43 shall be amended as follows:—

(1) Paragraph (1) shall be amended by omitting the words “ and rule 60(1) ” and by inserting, after the word “ receipt ”, the words “ by the Court Funds Office.”

(2) Paragraph (2) (vi) shall be omitted.

(3) After paragraph (2) there shall be inserted the following paragraph:—

“ (3) In the case of proceedings in a District Registry, the plaintiff shall, at the time of sending a request in Form 10 or Form 11 as the case may be to the Court Funds Office, send a copy of it to the District Registry in which the case is proceeding.”

(4) The existing paragraph (3) shall be re-numbered (4).

19. For the existing rule 44 there shall be substituted the following rule:—

“Payment out to defendant without order

44. Where money lodged or appropriated by the defendant in satisfaction of the whole of the plaintiff’s claim has been accepted and paid to the plaintiff in accordance with rule 43, the Accountant General shall forthwith, and without any request or order, pay any balance remaining in court in respect of that claim, whether principal, interest or both, to the defendant.”

20. Rule 46 shall be amended as follows:—

(1) Paragraph (1) shall be amended by inserting, at the beginning, the words “Subject to paragraph (2)”.

(2) For the existing paragraph (2) there shall be substituted the following paragraph:—

“(2) The directions of the Accountant General shall not be required for the transfer of National Savings stock, on sale or otherwise.”

21. Rule 47 shall be amended as follows:—

(1) Sub-paragraph (i) and (ii) shall be amended by substituting, for the words “brokerage and value added tax” the words “all applicable charges”.

(2) For the existing proviso there shall be substituted the following proviso:—

“Provided that, if the Schedule directing a purchase or sale also directs that charges are not to be deducted from the fund in court, the transaction shall not be completed until such charges have been paid either to the broker to the Supreme Court or to the Accountant General, as the case may be.”

22. Rule 50(2) shall be amended by substituting, for the words “the registrar” down to “interest”, the words “that county court, remit to the chief clerk thereof the money lodged in court together with all interest which may have accrued thereon”.

23. Rule 56A shall be amended as follows:—

(1) Paragraph (4) shall be amended by omitting the word “and” which appears in the existing paragraph between the words “lodgment” and “transmit”.

(2) Paragraph (5)(a) shall be amended by omitting the closing bracket between the words “interest” and “the” and inserting it between the word “known” and the comma which precedes the word “order”.

(3) Rule 56A shall be re-numbered as 57.

24. Part IX of the Rules shall be amended by substituting for the existing rules 57 to 60 the following rule:—

“Application to District Registries

58. Unless the context otherwise requires, and subject to the provisions of rules 22 and 43, these Rules shall apply to funds lodged in a District Registry”.

25. Rules 61(1) and 62(1) shall each be amended by omitting the words “and on payment of the prescribed fee”.

26. Rule 61 shall be amended by omitting the numeral “(1)” and the whole of paragraph (2).

27. The following paragraph shall be added to rule 62—

“ (3) The Accountant General shall supply an annual statement of any fund in court for the benefit of a person under a disability to that person or to his representative.

Provided that this paragraph shall not apply to a person in respect of whom an order has been made under Part VIII of the Mental Health Act 1959(a).”

28. The Schedule to these Rules, which effects minor amendments to the Forms prescribed in the Appendix to the Supreme Court Funds Rules 1975, shall have effect.

Date 23rd October 1981.

Hailsham of St. Marylebone, C.

We concur,

J. A. Cope,
John Selwyn Gummer,
Two of the Lord Commissioners
of Her Majesty's Treasury.

Date 4th November 1981.

Rule 28

SCHEDULE

1. Form 2 shall be amended by omitting the words “The said defendant [is] [is not] acting by order or on behalf of a person resident outside the scheduled territories as defined by the Exchange Control Act 1947”.
 2. Form 3 shall be revoked.
 3. Form 10 shall be amended by omitting paragraph (iii) of the declaration and paragraph (3) of the Notes.
 4. Form 11 shall be amended by substituting for the existing declaration the following declaration:—

“I declare that notice of payment into court was received on 19 , and notice of acceptance was served on 19 .”
 5. Form 12 shall be revoked.
 6. Form 13 shall be amended by omitting the sentence starting “I certify that”, by omitting the second of the three Notes to the Form and by re-numbering the third of the Notes as (2).
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EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Supreme Court Funds Rules 1975 in a number of respects. In particular they—

- (a) make provision as to the investment of funds in National Savings stock;
- (b) make changes consequential on the repeal of the Exchange Control Act 1947 (c. 14);
- (c) enable foreign currency to be lodged with the leave of the court in satisfaction of an unliquidated claim;
- (d) provide that, where a defendant appropriates money lodged in court as a condition of leave to defend in satisfaction of the plaintiff's claim, the appropriation may include the interest accrued on the money;
- (e) regulate the investment of foreign currency lodged in court;
- (f) require the Accountant General to provide an annual statement of a fund in court to a person under a disability, other than a patient within the jurisdiction of the Court of Protection.
- (g) increase the rate of interest allowed on money placed to a short term investment account from 12½ per cent. to 15 per cent.

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