
STATUTORY INSTRUMENTS

2011 No. 1734

The Court Funds Rules 2011

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(1), 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.

(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.

(1) 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.

(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 banker's 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⁽²⁾, 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:

- (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

(2) 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.

(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(3), 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.

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.