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STATUTORY INSTRUMENTS

2023 No. 1356

SENIOR COURTS OF ENGLAND AND WALES

COUNTY COURT, ENGLAND AND WALES

FAMILY COURT, ENGLAND AND WALES

The Court Funds (Amendment No. 2) Rules 2023

<i>Made</i>	- - - -	<i>12th December 2023</i>
<i>Laid before Parliament</i>		<i>14th December 2023</i>
<i>Coming into force</i>	- -	<i>1st February 2024</i>

The Lord Chancellor, in exercise of the powers conferred by section 38(7) to (9) of the Administration of Justice Act 1982(a), and with the concurrence of the Treasury, makes the following Rules.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Court Funds (Amendment No. 2) Rules 2023 and come into force on 1st February 2024.

(2) In these Rules, a reference to a rule by number alone means the rule so numbered in the Court Funds Rules 2011(b).

Amendment of the Court Funds Rules 2011

2.—(1) The Court Funds Rules 2011 are amended as follows.

(2) In rule 6A(3), for sub-paragraph (d) substitute—

“(d) where rule 6(5) applies—

- (i) an electronic sealed copy of a deposit schedule; and
- (ii) an electronic copy of the witness statement or affidavit filed in accordance with CPR rule 37.4;”.

(3) After rule 41 insert—

(a) 1982 c. 53. Section 38(8) was amended by the Crime and Courts Act 2013 (c. 22), section 17(5), Schedule 9, paragraph 52, and by the Finance (No. 2) Act 2023 (c. 30), section 350.

(b) S.I. 2011/1734, as amended by S.I. 2013/534, Schedule, paragraph 9, S.I. 2014/879, article 133, and S.I. 2023/987.

“Transfer of unclaimed funds to the Consolidated Fund

41A.—(1) Subject to paragraphs (4) and (5), the Accountant General shall pay into the Consolidated Fund any fund which has been vested in the Accountant General under section 38(1) of the Administration of Justice Act 1982(a) for more than 30 years immediately preceding the date of payment, if the conditions in paragraph (2) are fulfilled in relation to that fund.

(2) The conditions are that—

- (a) the fund is presently held in an account of unclaimed funds;
- (b) the fund has not been dealt with for at least 30 years immediately preceding the date of payment other than—
 - (i) being transferred to the account of unclaimed funds;
 - (ii) being credited with accrued interest or dividends;
 - (iii) by a compulsory dealing in securities; or
 - (iv) by a person contacting the Court Funds Office claiming to be entitled to the fund or to state that such a claim has been submitted, or a court contacting the Court Funds Office to state that such a claim is being considered, provided that no such claim was ultimately submitted or such a claim was submitted but was unsuccessful;
- (c) there is no unresolved claim or communication in relation to the fund as referred to in sub-paragraph (b)(iv); and
- (d) the Accountant General is satisfied that all reasonable steps were taken during the period referred to in sub-paragraph (b) to trace the person entitled to the fund, and that 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, the period referred to in paragraph (2)(b) shall not begin until the child’s 18th birthday.

(4) The Accountant General shall not pay any fund into the Consolidated Fund under paragraph (1) if the Accountant General considers there to be good reason why that fund should not be so paid.

(5) Paragraph (1) does not apply to any fund deposited under rule 39(2).”.

Transitional provision

3. The Accountant General shall not make any payment into the Consolidated Fund under rule 41A before the end of 4 months beginning with the day on which these Rules come into force.

Alex Chalk
Lord Chancellor
Ministry of Justice

12th December 2023

We concur,

Stuart Anderson
Amanda Solloway
Two of the Lords Commissioners of His Majesty’s Treasury

7th December 2023

(a) 1982 c. 53. Section 38(1) was amended by the Crime and Courts Act 2013 (c. 22), Schedule 9, paragraph 52, and by S.I. 2014/605, articles 1 and 17.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Court Funds Rules 2011 (S.I. 2011/1734) (“the 2011 Rules”). The 2011 Rules relate to funds in court that are vested in the Accountant General under section 38 of the Administration of Justice Act 1982 (c. 53). The 2011 Rules govern the administration and management of funds in court by the Accountant General. These Rules amend the 2011 Rules for two purposes, the first pursuant to provision made by section 350 of the Finance (No. 2) Act 2023 (c. 30), and the second to make a correction in rule 6A.

Section 350 of the Finance (No. 2) Act 2023 amends section 38(8) of the Administration of Justice Act 1982 to enable Court Funds Rules to make provision for the payment into the Consolidated Fund of funds which have been vested in the Accountant General (under section 38(1)) for at least 30 years, provided that any conditions prescribed by the Rules over and above the 30-year requirement have been met. These Rules insert a new rule 41A into the 2011 Rules which provides for the payment into the Consolidated Fund of funds which have been vested in the Accountant General for more than 30 years and sets out additional conditions which must be fulfilled for that payment to be made.

The correction in rule 6A is to replace sub-paragraph (d) in paragraph (3) with a new sub-paragraph the wording of which more closely reflects the wording of rule 6(5) to which the sub-paragraph refers.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

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