1979 No. 105

JUDICATURE, NORTHERN IRELAND

COURT FUNDS RULES (NORTHERN IRELAND) 1979

Made	3*rd April* 1979
Laid before Parliament	5*th April* 1979
Coming into operation	18*th April* 1979

The Lord Chancellor, in exercise of the powers conferred on him by section 82(1) of the Judicature (Northern Ireland) Act, 1978(a) and with the concurrence of the Treasury, hereby makes the following rules:—

PRELIMINARY

Citation and commencement

1. These rules may be cited as the Court Funds Rules (Northern Ireland) 1979 and shall come into operation on 18th April, 1979.

Interpretation

2.—(1) Unless the context otherwise requires, expressions to which meanings are assigned by the Rules of the Supreme Court and the County Court Rules have the same meaning in these rules and

"the Act" means the Judicature (Northern Ireland) Act 1978;

"appropriate officer" means such officer as may be designated for the purpose in accordance with arrangements made by the Lord Chancellor;

"the Bank" shall mean (as the context requires):—

(*a*) the Governor and company of the Bank of Ireland at their principal office in Belfast; or

(*b*) such other bank or banks as the Lord Chancellor may, with the concurrence of the Treasury, designate under section 79 of the Act;

"Capital Fund" means the common investment fund of that name established by the Common Investments Funds Scheme 1965(**b**);

"to carry over" means to transfer a fund in court or any part thereof from one account to another in the books of the Court Funds Office;

"common investment fund" means a fund established by a scheme made under section 1 of the Administration of Justice Act, 1965(**c**);

"County Court Rules" means rules made under section 146 of the County Courts Act (Northern Ireland) 1959(**d**);

"court" means the Supreme Court or County Court as the case may be;

"Court Funds Office account" means the cash account in respect of Supreme Court funds maintained by the Accountant General at the Bank;

(a) 1978 c. 23
(b) S.I. 1965/1467 (1965 II, p. 4303)
(c) 1965 c. 2
(d) 1959 c. 25 (N.I.)

"duty" means capital transfer tax or, where relevant, estate or succession duty;

"foreign currency" has the meaning assigned to it by section 1(3) of the Exchange Control Act 1947(e);

"fund" or "fund in court" means any money, securities or other investments (including foreign currency assets) standing or to be placed to the accounts of the Accountant General, and includes money placed on deposit and any effects;

"interest" means interest accruing on funds and includes dividends;

"ledger credit" means the title of an account in the books of the Court Funds Office or the County Court Office to which any funds are credited or are to be credited;

"lodge in court" means pay or transfer into court or deposit in court;

"Master" means a master or registrar of the Supreme Court mentioned in the first column of Schedule 3 to the Act other than the Master (Taxing Office) and, in relation to the County Court, a circuit registrar;

"Office" means Court Funds Office or County Court Office as the case may be;

"order" or "order of the court" means an order of the High Court, Court of Appeal or County Court and includes an order of a Master;

"prescribed" means fixed by an order under section 116(1) of the Act;

"Rules" means the Rules of the Supreme Court for the time being having effect;

"securities" includes units and investments effected by placing money on deposit;

"taxing officer" means an officer in the County Court for the time being having authority to tax costs;

"unit" means one of the shares into which a common investment fund is treated as being divided.

(2) Unless the context otherwise requires, a rule, Part or Appendix referred to by number means the rule, Part or Appendix so numbered in these rules; a form referred to by number means the form so numbered in Appendix 1, or a form substantially to the like effect.

(3) Unless the context otherwise requires, any reference in these rules to any rule or enactment shall be construed as a reference to that rule or enactment as amended, extended or applied by any other rule or enactment.

Court Funds Office

3. The office of the Accountant General in the Royal Courts of Justice, Belfast, shall be re-named the Court Funds Office.

Discharge of Accountant General's functions

4.—(1) The functions of the Accountant General under these rules may be discharged, subject to such conditions as he may direct, by any deputy appointed by him to deal with Supreme Court or County Court funds.

(2) Any direction issued by the Accountant General for the purpose of giving effect to these rules shall be authenticated on his behalf by such officers as the Treasury may from time to time prescribe or approve.

(e) 1947 c. 14

Power to authorise use of additional forms

5. Nothing in these rules shall prejudice the power of the Accountant General to authorise and require the use of such forms as he may consider appropriate for any purpose for which no appropriate form is prescribed in Appendix 1.

County Court Accounts

6.—(1) The Accountant General shall maintain at the Bank for the County Court in each Division:

(i) a Civil Bill Account into which the funds mentioned in rule 18(1)(ii) shall be lodged;

(ii) a Criminal Injuries Account into which the funds mentioned in rule 18(1)(iii) shall be lodged;

(iii) a Security for Costs Account into which the funds mentioned in rule 22(iii) shall be lodged.

(2) All moneys paid into court which are not to be credited to the Civil Bill Account, the Criminal Injuries Account or the Security for Costs Account, shall be lodged to the credit of the Accountant General in the Bank of Ireland at its principal office in Belfast in an account to be known as the County Court Account.

PART I

AUTHORITIES FOR LODGMENT, PAYMENT OUT, TRANSFER, ETC.

Lodgment Schedule

7. Where lodgment of funds in court is directed by an order or authorised by a master, the authority to the Accountant General for such lodgment shall be the Lodgment Schedule.

Payment Schedule

8. Where an order directs the manner in which any fund in court is to be dealt with by the Accountant General, a Payment Schedule shall be lodged with him:

Provided that, where an order directs the payment out or transfer of money lodged in the County Court to the credit of the Civil Bill Account, the Criminal Injuries Account or the Security for Costs Account, such payment shall be made by the Accountant General in accordance with the order.

Preparation of Schedules

9. In any proceedings where an order is made directing the lodgment of funds or a dealing with funds in court, the appropriate officer shall prepare and sign the Lodgment or Payment Schedule and when it has been sealed, he shall forward it to the Accountant General.

Amendment of Schedules

10. Where it is necessary to amend a Schedule for the purpose of correcting a clerical mistake or an error arising from an accidental slip or omission, the appropriate officer shall—

(i) amend the Schedule and authenticate the amendment by his signature; or

(ii) issue a notice of amendment sealed and authenticated in the same manner as the Schedule.

Certificate of a Master (Taxing Office) or Taxing Officer

11.—(1) Where a Payment Schedule directs that a sum shall be ascertained by the certificate of a Master and afterwards dealt with by the Accountant General or directs that costs shall be taxed and paid out of funds in court, there shall be stated in the certificate of the Master (Taxing Office) or Taxing Officer, as appropriate—

(i) the amount so ascertained or the amount of the taxed costs (including the fees of taxation), as the case may be;

(ii) the name and address of the person to whom payment is to be made, and the certificate shall be sent to the Accountant General.

(2) Unless described as an interim certificate, a certificate issued by a Taxing Officer following a taxation shall be deemed to include all the costs directed to be taxed and paid out of funds in court.

Certificate of execution of documents

12. Where an order provides that funds in court shall be dealt with subject to the execution of a document, a statement to that effect shall be included in the Payment Schedule and, upon being statisfied as to the proper execution of the document, the appropriate officer shall send to the Accountant General a certificate as to its execution.

Authority for dealing with funds in court

13.—(1) Except where these rules otherwise provide and subject to paragraph (2), funds in court shall be dealt with by the Accountant General only in accordance with a Payment Schedule.

(2) Where directions are signed by a Master instructing the Accountant General—

(*a*) to deal with funds;

(*b*) to pay annual sums;

(*c*) to apply interest or to carry over a fund;

(*d*) to renew bonds or mortgages;

(*e*) to effect a conversion or exchange of securities by sale and re-investment or otherwise;

(*f*) to invest money or place money on deposit;

(*g*) to replace or deposit money withdrawn under rule 35(iii), or

(*h*) to invest interest on funds carried over to an account of unclaimed balances under rule 55

such directions shall be sufficient authority to the Accountant General to deal with the funds accordingly.

Particulars required for calculation of interest

14.—(1) Where interest is by an order directed to be paid on any sum in court, the Payment Schedule shall state—

(i) the rate per cent at which interest is payable;

(ii) the date from which and (if known) the date to which interest is to be calculated; and

(iii) the amount of such interest, if ascertainable when the Payment Schedule is drawn up.

(2) If the amount of interest payable cannot be stated in the Payment Schedule, then, unless the Schedule directs that the amount shall be ascertained by a certificate of a master, the party having carriage of the order shall agree in writing with the Accountant General a date (not being more than 14 working days after the date of the agreement) for payment of the interest and the amount thereof.

(3) Whenever interest is required to be calculated for a period which is, or includes, a period of less than a year, the interest shall be calculated on a daily basis.

Periodical payments

15. Where a Payment Schedule directs that periodical payments (not being interest payable as it accrues due) are to be made by the Accountant General, the Schedule may state the dates on which the payments are to be made and whether the payments are to be made with or without deduction of income tax.

Funds on which duty is payable

16.—(1) Where an order directs a dealing with a fund in court which is liable to the payment of duty but the order does not provide for such payment, the Payment Schedule shall state that the dealing is subject to duty; and, if a Payment Schedule directs the carry over of any part of a fund in respect of which duty may be chargeable, the words "subject to duty" shall appear in the Schedule relating to the account to which the fund is to be carried over.

(2) On receiving notice from the proper officer of the Inland Revenue that the fund standing to a particular ledger credit is liable to the payment of duty, the Accountant General shall note the ledger credit accordingly.

(3) Where the Accountant General is directed to dispose of a fund which is liable to duty, the party having carriage of the order shall obtain from the Inland Revenue and furnish to the Accountant General—

(i) a demand for the duty to be paid and a clearance certificate in the appropriate form, or

(ii) a certificate that all duty has been paid, or

(iii) a certificate that no duty is payable:

Provided that in the case of payment of duty by instalments the production of a receipt for duty shall suffice.

Foreign currencies

17. Where—

(i) a lodgment in court is made in a foreign currency, or

(ii) the court directs that interest on a security lodged in court is to be credited in a foreign currency,

then, unless the consent of the Treasury or the Bank has been obtained, the Accountant General shall not retain that currency and, where such consent is not given, he shall comply with the requirements of section 2 of the Exchange Control Act 1947 in respect of it.