

NOTARIES' ACCOUNTS (DEPOSIT INTEREST) RULES 1989

as amended by the Notaries (Access to Justice Act) (Consequential Provisions)

Rules 1999 Citation and Commencement

1. These Rules may be cited as the Notaries' Accounts (Deposit Interest) Rules 1989 and shall come into operation on the First day of April 1990.

Interpretation

2. In these Rules the expression a separate designated account" shall mean a deposit account at a bank or building society in the name of the notary or his firm in the title of which the word "client" appears and which is designated by reference to the identity of the client or matter concerned; the expressions "bank" and "building society" shall have the meanings assigned to them by the Notaries' Accounts Rules 1989.

Obligation to account for interest

3. Subject to Rule 6, when a notary holds money for a client, the notary shall account to the client for interest in the following circumstances:

(a) Separate designated account Where the money is held in a separate designated account, the notary shall account for the interest earned on it.

(b) Undesignated accounts

Where the money is not held in a separate designated account, the following provisions shall apply:

(i) Sums held for specified periods. The notary shall account to the client for interest at a rate calculated in accordance with Rule 4, if the money is held for as long as or longer than the number of weeks set out in the left hand column of the Table below

and the minimum balance held during that period equals or exceeds the corresponding figure in the right hand column of the Table.

TABLE

No. of weeks	Minimum Balance
8	£500
4	£1,000
2	£5,000
1	£10,000

(ii) Sums held for less than one week. The notary shall account to the client for interest at a rate calculated in accordance with Rule 4 if he holds a sum of money exceeding £10,000 for less than one week and it is fair and reasonable to do so having regard to all the circumstances.

(iii) Variable balances. Where money continuously held for a client varies significantly in amount over the period during which it is held, then having regard to any sum payable under sub-paragraph (i) the notary shall account to the client for such interest (or additional interest) at a rate calculated in accordance with Rule 4 as is fair and reasonable having regard to the varying amounts of money and the length of time for which these are held.

(iv) Money held intermittently. Where a notary during the course of acting for a client holds sums of money for the client intermittently, the notary shall account to the client for interest at a rate calculated in accordance with Rule 4, if it is fair and reasonable to do so having regard to all the circumstances including the aggregate of the sums held and the periods for which they are held, notwithstanding that no individual sum would have attracted interest under paragraph (i).

(c) Transfers between designated and undesignated accounts

Where the money is held successively in designated and undesignated accounts, but as a result of the previous paragraphs, interest or a sum equivalent thereto is not payable on the money for the whole time it was held, then the notary shall account to the client for such interest (or fair and reasonable; for this purpose regard shall be had to the additional interest) at a rate calculated in accordance with Rule 4 as is provisions of paragraph (b) as if for the whole time the money was held, it was not held in a separate designated account.

Rate of Interest

4. (1) The rate of interest to be applied for the purposes of Rules 3(b) and (c) shall be the rate of interest which would have been earned by the money, or its gross equivalent if the rate would have been net of tax, if the money had been kept in a separate designated account earning interest at a rate not less than that from time to time posted publicly by the relevant bank or building society for small deposits subject to the minimum period of notice of withdrawals.

(2) for the purpose of paragraph (1), the relevant bank or building society shall mean:

(a) the bank or building society where the money is held, or

(b) where the money, or part of it, is held in successive and concurrent client accounts maintained at different banks or building societies, whichever of those banks or building societies was offering the highest rate for small deposits subject to the minimum period of notice of withdrawals on the day when interest payable under Rules 3(b) and (c) commenced to accrue, or

(c) where, contrary to the provisions of the Notaries' Accounts Rules 1989, the money is not held in a client account, any bank or building society nominated by the client.

Certification by The Notaries' Society or The Society of Public Notaries of London

5. Without prejudice to any other remedy which may be available to him, any client of a notary who feels aggrieved that interest or a sum equivalent thereto has not been paid to him under these Rules shall be entitled to apply to The Society of Public Notaries of London, when he is the client of a notary who is a member of that Society, or to The Notaries' Society in any other case for a certificate as to whether or not interest ought to have been earned for him and, if so, the amount of such interest, and upon the issue of such a certificate the sum certified to be due shall be payable by the notary to the client.

Exception

6. Nothing in these Rules shall:

- (a) affect any arrangement in writing, whenever made, between a notary and his client as to the application of the client's money or interest thereon; or
- (b) apply to money received by a notary being money subject to a trust of which the notary is a trustee.