

1986 No. 232

SUPREME COURT

Supreme Court Fees (Amendment) Order (Northern Ireland) 1986

Made 14th July 1986
Coming into operation 31st July 1986

The Lord Chancellor, after consultation with the Lord Chief Justice and with the concurrence of the Treasury, in exercise of the powers conferred on him by section 116(1) of the Judicature (Northern Ireland) Act 1978(a) and sections 2 and 3 of the Public Offices Fees Act 1879(b), hereby makes the following Order:—

1. This Order may be cited as the Supreme Court Fees (Amendment) Order (Northern Ireland) 1986 and shall come into operation on 31st July 1986.

2. In this Order, unless the context otherwise requires—

- (a) “the principal Order” means the Supreme Court Fees Order (Northern Ireland) 1984(c);
- (b) a fee referred to by number means the fee so numbered in the Schedule to the principal Order.

3. In Section 1 of the Schedule to the principal Order, for the figure £55·00 (which describes the fee payable on various originating processes in the High Court) wherever it appears, there shall be substituted the figure £60·00.

4. In Section 5 of the Schedule to the principal Order, for the figure of £15·00 (which describes the fee payable in respect of Item 33), there shall be substituted the figure of £35·00.

5.—(1) In the Schedule to the principal Order, there shall be added to the list of Sections the words “Section 7 Fees payable in the Office of Care and Protection: Patients’ Affairs”.

(2) In the Schedule to the principal Order there shall be inserted, as Section 7, the new Section set out in the Schedule hereto.

Dated 14th July 1986

Hailsham of St. Marylebone, C.

We concur,

Tim Sainsbury
A. G. Hamilton

Two of the Lords Commissioners
of Her Majesty’s Treasury

Dated 15th July 1986

(a) 1978 c. 23

(b) 1879 c. 58

(c) S.R. 1984 No. 14 as amended by S.R. 1984 No. 419

SCHEDULE

Section 7

FEES PAYABLE IN THE OFFICE OF CARE AND PROTECTION:
PATIENTS' AFFAIRS

Column 1	Column 2	Column 3
<i>Item</i>	<i>Fee £</i>	<i>Document to be stamped</i>
<p><i>Commencement fee</i></p> <p>36.—(1) On a first application for the appointment of a controller or other originating process, except where it appears that the patient's clear annual income is less than £1,000.</p> <p>(2) On commencement pursuant to a request by a personal applicant, in addition to Fee (1) above, for every £100 or fraction of £100 above £1,000 of the income which the patient's estate might be expected to yield if duly administered by the court.</p>	<p>£50·00</p> <p>£4·00 but not exceeding a total of £50·00</p>	<p>The requisition</p>
<p><i>Annual administration fee</i></p> <p>37. On a certificate issued by the Office.</p>	<p>in accordance with Table 1</p>	<p>The certificate</p>
<p><i>Transaction fee</i></p> <p>38.—(1) On any order (or, as the case may be, on any approval given by the court under an order) made by the court in the exercise of powers conferred by—</p> <p>(i) Article 99(1)—</p> <p>(b) (sale, exchange, etc. of property)</p> <p>(c) (acquisition of property)</p> <p>(d) (settlement or gift of property)</p> <p>(h) (carrying out of contract) or</p> <p>(k) (exercise of powers as guardian of trustee) of the Mental Health (Northern Ireland) Order 1985 ("the Order");</p> <p>(ii) Article 102 of the Order (vesting of stock in curator appointed outside Northern Ireland);</p> <p>(iii) section 35(9) of the Trustee Act (Northern Ireland) 1958 (appointment of new trustee);</p>	<p>£50·00 or, in a "special case", ¼% of the pecuniary con- sideration as defined in Note 4 if greater than £50</p>	<p>The requisition</p>

Column 1	Column 2	Column 3
<i>Item</i>	<i>Fee £</i>	<i>Document to be stamped</i>
<p>(iv) section 57(3) of the Trustee Act (Northern Ireland) 1958 (variation of trusts for benefit of patient), provided that no fee under this item shall be taken if the property is worth less than £50·00 and no such fee shall exceed £500·00.</p> <p>(2) On the making by the court of any order or authority under Article 99(1)(e) of the Order (execution of will).</p> <p><i>Control fees</i></p> <p>39. On the appointment of an officer of the court as controller, except where it appears that the patient's clear annual income is less than £1,000.</p> <p>40. On passing an account.</p>	<p>£100·00</p> <p>£150·00</p> <p>In accordance with Table 2</p>	<p>The requisition</p> <p>The requisition</p>

TABLE 1 (Fee No. 37)

<i>Clear Annual Income</i>			<i>Fee</i>
<i>Income Band</i>	<i>Exceeding</i>	<i>Not exceeding</i>	
(i)		£ 1,000	None
(ii)	£ 1,000	£ 2,000	£ 75
(iii)	£ 2,000	£ 3,000	£150
(iv)	£ 3,000	£ 5,000	£225
(v)	£ 5,000	£ 7,000	£375
(vi)	£ 7,000	£10,000	£600
(vii)	£10,000	£15,000	£850
(viii)	£15,000		£850 plus 5% of income exceeding £15,000

<i>Clear Annual Income</i>			<i>Fee</i>
<i>Income Band</i>	<i>Exceeding</i>	<i>Not exceeding</i>	
(i)		£ 1,000	None
(ii)	£ 1,000	£ 2,000	£ 200
(iii)	£ 2,000	£ 3,000	£ 400
(iv)	£ 3,000	£ 5,000	£ 600
(v)	£ 5,000	£ 7,000	£1,000
(vi)	£ 7,000	£10,000	£1,475
(vii)	£10,000	£15,000	£2,100
(viii)	£15,000		£2,100 plus 5% of income exceeding £15,000

NOTES

1. In relation to fees numbers 37 and 40, and their corresponding Tables, where income exceeds the lower limit of a band by less than the difference between the fees for that band and the next lower band, the fee charged shall be the fee for the lower band plus the amount by which the income exceeds the upper limit of the band. For example, in calculating fee No. 37 on a clear annual income of (£2,050 (which exceeds the lower limit (£2,000) on Band (iii) by less than the difference (£75) between the fee (£150) on Band (iii) by less than the difference (£75) between the fee (£150) on Band (iii) and the fee (£75) on Band (ii)), the fee payable is—

£75	(the fee on Band (ii))
+£50	(the amount by which the income exceeds £2,000)
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£125	
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2. In relation to fee number 37—

- (1) The annual administration fee shall be payable in respect of the clear annual income at the disposal of the patient from the date of issue of the first application for the appointment of a controller or other originating process until the termination of the proceedings.
- (2) In any case in which it appears to the court that the amount certified has been wrongly assessed, the court may direct that the fee is to be adjusted upon the passing of the controller's accounts or at such other time as appears to the court to be convenient.
- (3) No administration fee may be taken where the proceedings are terminated before any order is made.
- (4) The clear annual income at the patient's disposal, for the purposes of this fee does not include income which occurred and became payable to him more than six months prior to the date of the first application for the appointment of a controller or other originating process but which was received after that date.

3. Fees numbered 37 and 38 are not payable where an officer of the court is acting as controller for the patient.

4. In relation to fee number 38—

- (1) “special case” means an order made by the court—
 - (a) under paragraphs (b), (c), (d) and (h) of Article 99(1) of the Order;
 - (b) relating to the sale or purchase by the patient in exercise of his powers as a tenant for life under the Settled Land Acts 1882 to 1890;
 - (c) under section 57(3) of the Trustee Act (Northern Ireland) 1958.
- (2) In a special case, the standard fee payable shall be increased where there is readily ascertainable pecuniary consideration in the nature of capital arising to or provided by the patient (otherwise than by way of loan to, or repayment of a loan by the patient, no account being taken of the possible capitalisation of the value of rents or interest or other income payments.
- (3) Where a transaction is to be approved under an order mentioned in fee number 38, the fee shall be taken on the approval of the transaction and the Office shall issue a certificate stating the amount payable.
- (4) Except when the court otherwise directs, no fee shall be payable under fee number 38 upon the sale or purchase of personal chattels or any investment for the time being authorised by law for the investment of trust property or in securities quoted on any stock exchange in the United Kingdom.

5. In relation to fee number 39—

- (1) The clear annual income at the patient's disposal for the purpose of this fee does not include income which occurred and became payable to him more than six months prior to the date when the court's jurisdiction was first exercised in relation to him.
- (2) No annual fee shall be taken where the proceedings are terminated less than four weeks from the date of issue of the first application for the appointment of a controller.

6. In relation to fees numbered 36(2), 37, 39 and 40, no fee shall be payable on any income by way of a war pension or war injuries (civilian) pension in respect of—

- (a) service in the armed forces of the Crown to which section 2 of the War Pensions Act 1920 applies; or
- (b) service in the armed forces of the Crown after 2nd September 1939; or
- (c) service before the 15th August 1945 to which the Pensions (Polish Forces) Scheme 1964 applies; or
- (d) detention, capture, war injury or war risk injury within the meaning of any scheme (other than that mentioned in paragraph (c) above made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, or under that Act as amended and applied by the Pensions (Mercantile Marine) Act 1942; or
- (e) war service injury within the meaning of the Personal Injuries (Civilians) Scheme 1983 as amended in the case of a civil defence volunteer to whom that Scheme applied.

(This note is not part of the Order.)

This Order amends the Supreme Court Fees Order (Northern Ireland) 1984 so as to:

- (a) increase the fee payable on sealing a writ of summons and other forms of originating process from £55·00 to £60·00;
- (b) increase the fee payable on an application by originating summons for wardship or adoption from £15·00 to £35·00;
- (c) insert a new Section 7, prescribing the fees payable in the Office of Care and Protection in relation to the affairs of patients. The new Section takes account of the provisions of the Mental Health (Northern Ireland) Order 1986.