

1969 No. 513

TRUSTEES

The Public Trustee (Fees) Order 1969

Made - - - - - 1st April 1969

Coming into Operation 21st April 1969

The Treasury, in pursuance of the provisions of section 9 of the Public Trustee Act 1906(a), as amended by section 1 of the Public Trustee (Fees) Act 1957(b) and modified by section 2(1) of the Administration of Justice Act 1965(c), and with the sanction of the Lord Chancellor, hereby makes the following Order:—

PRELIMINARY

Citation, Commencement and Revocation

1.—(1) This Order may be cited as the Public Trustee (Fees) Order 1969 and shall come into operation on 21st April 1969.

(2) The Public Trustee (Fees) Order 1957(d), as amended(e), is hereby revoked.

Interpretation

2.—(1) The Interpretation Act 1889(f), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) In this Order, unless the context otherwise requires:—

“The Act” means the Public Trustee Act 1906;

“The Act of 1957” means the Public Trustee (Fees) Act 1957;

“Acceptance Fee valuation date” of any trust property means the date on which it is valued in accordance with paragraph 12 of this Order;

“Common investment scheme” means a scheme made under section 1 of the Administration of Justice Act 1965;

“Fund” means a fund established under a scheme; and “accounting date” means, in relation to a fund, a date appointed as such by a scheme;

“Financial year” means the year ending 31st March;

“Gross capital value” means the value of the trust property (excluding any annuity or other terminable payment purchased by any person in the name of, transferred to, or covenanted to be paid to, the Public Trustee for the benefit of some other person) and without deduction for debts, incumbrances, funeral expenses or estate duty;

“Statutory owner” and “tenant for life” have the same meaning as in the Settled Land Act 1925(g);

(a) 1906 c. 55. (b) 1957 c. 12. (c) 1965 c. 2. (d) S.I. 1957/485 (1957 II, p. 2578).
 (e) S.I. 1959/961, 1960/630, 1962/562, 1963/523, 1965/1743, 1967/284 (1959 II, p. 2704; 1960 III, p. 3310; 1962 I, p. 536; 1963 I, p. 584; 1965 III, p. 4932; 1967 I, p. 1009).
 (f) 1889 c. 63. (g) 1925 c. 18.

“Trust” includes an executorship or administratorship, and also includes the administration of an estate in pursuance of section 3 of the Act, and any reference to the acceptance of a trust or to trust property shall be construed accordingly ;

“Will” includes any testamentary disposition.

PART I

GENERAL

Classification of Fees

3. The following Fees shall be charged in respect of the duties of the Public Trustee other than his duties under Common investment schemes—

- (a) an Acceptance Fee ;
- (b) an Administration Fee ;
- (c) a Withdrawal Fee ;
- (d) Fees for special services.

Incidence

4. Such Fees shall be paid out of capital, except the following which shall be paid out of income—

- (a) fees which the Public Trustee directs to be paid out of income by virtue of section 1(3) of the Act of 1957 ;
- (b) the Administration Fee in cases to which paragraph 16 (Annuities) applies ;
- (c) the Insurance Fee to which paragraph 19 applies ;
- (d) the Registration and Enquiry Fees to which paragraph 21 applies, where they relate to a person entitled to income ;
- (e) the fee in respect of income tax and surtax work payable in accordance with paragraph 22 ; and
- (f) the Income Collection Fee to which paragraph 25 applies.

Calculation

5. In ascertaining the amount payable in respect of any fee the Public Trustee—

- (a) shall take the value of any trust property to be the price which he estimates that that property would fetch in the open market ; and
- (b) may treat the value of any trust property as being that multiple of £10 which is nearest to his estimate of the exact value.

Time of Payment

6. The Public Trustee may, if it appears just and reasonable in any case, agree to the postponement of any payment due in respect of any fee.

Commutation

7. Liability to pay all or any sums which may become due in respect of any fee or any part of those sums may be commuted by the Public Trustee in consideration of a payment which seems to him to represent the capital value of that liability after taking into account—

- (a) interest accruing thereon at the rate of 4 per cent. annually ; and
- (b) any circumstances likely to affect that liability but for the commutation.

Power to remit fees and settle disputes

8.—(1) The Public Trustee may remit so much as appears equitable of a fee payable in relation to any trust where the whole or any part of the trust property is subject to another trust in which he is acting.

(2) With the approval of the Treasury, the Public Trustee may—

(a) compromise any dispute about his right to a fee or about the amount due ; and

(b) remit so much as appears equitable of a fee payable in relation to any trust where—

(i) his duties have been or are likely to be exceptionally simple ; or

(ii) the trust is otherwise of an exceptional character.

PART II
ACCEPTANCE FEE

When Payable

9. An Acceptance Fee shall be payable, in accordance with the provisions of this Part of this Order, upon acceptance by the Public Trustee of any trust other than one consisting entirely of an annuity or other terminable payment purchased by any person in the name of, transferred to or covenanted to be paid to the Public Trustee for the benefit of some other person.

Property subsequently coming into Trust

10. If additional property becomes subject to a trust which is administered by the Public Trustee and is not an accumulation of the income of the property already subject to the trust, an Acceptance Fee shall be payable in respect of the gross capital value of the additional property on its Acceptance Fee valuation date of such amount as would have been payable in respect of that value if—

(a) that value had formed part of the value of the property comprised in the trust at the date of acceptance of the trust ; and

(b) this Order had been in force at that date.

Postponement of payment

11.—(1) When an Acceptance Fee becomes payable in accordance with either of the preceding paragraphs in respect of any trust property, part or all of which is not in possession or is not readily realisable, the Public Trustee may charge an additional fee of £1.

(2) Where the Public Trustee charges an additional fee in accordance with this paragraph—

(a) he shall exclude the value of the property which is not in possession or is not readily realisable from the value of the trust property for the purpose of ascertaining the amount of the Acceptance Fee then payable ; and

(b) shall, when the property so excluded falls into possession or is realised, as the case may be, charge an Acceptance Fee of such amount as would have been payable in respect thereof if—

(i) the gross capital value of the excluded property at the date when it falls into possession or is realised had been treated as part of the value of the trust property at the date of acceptance of the trust ; and

(ii) this Order had been then in force.

Amount of Fee

12. The Acceptance Fee shall be calculated, in accordance with the provisions of this paragraph, as a percentage of the gross capital value of the trust property on the date of acceptance or on any other date, being no more than 6 months before or after that date, as seems to the Public Trustee to be convenient—

(a) where the Public Trustee is acting:—

- (i) as executor or administrator,
- (ii) as executor or administrator and as trustee,
- (iii) as original trustee of a will,
- (iv) as substituted or additional trustee,
- (v) as administrator of a small estate under section 3 of the Act,
- (vi) as trustee of land held in undivided shares and vested in him upon trust for sale pursuant to Part IV of the First Schedule to the Law of Property Act 1925(a),
- (vii) as trustee of an open space of land held in undivided shares and vested in him pursuant to Part V of the First Schedule to the Law of Property Act 1925 ; or
- (viii) as trustee of a trust created by an estate owner for the purpose of overreaching an equitable interest or power, appointed pursuant to section 2 (2) of the Law of Property Act 1925, or to section 21 of the Settled Land Act 1925 :—

In respect of the first £25,000	1 per cent.
In respect of any excess over £25,000 up to £50,000	4/5 per cent.
In respect of any excess over £50,000 up to £75,000	2/5 per cent.
In respect of any excess over £75,000 up to £100,000	1/5 per cent.
In respect of any excess over £100,000	1/10 per cent.
Minimum fee	£15

Provided that—

(aa) where the sale of land vested in the Public Trustee pursuant to Part IV of the First Schedule to the Law of Property Act 1925, is completed within one year of the date of acceptance of the trust and the proceeds are distributable absolutely, he shall remit so much of the fee as he thinks equitable, so however, that not less than £1 remains payable ;

(bb) where the Public Trustee is acting as personal representative of a deceased tenant for life or of a statutory owner of a settlement under the Settled Land Act 1925, and is not acting otherwise in the trust, a fee of £15 only shall be payable.

(b) where the Public Trustee is acting—

- (i) as original trustee of a trust created *inter vivos* (other than a declaration of trust in favour of one beneficiary only) ; or

(ii) as trustee of a superannuation scheme:—

In respect of the first £25,000	½ per cent.
In respect of any excess over £25,000 up to £50,000	2/5 per cent.
In respect of any excess over £50,000 up to £75,000	1/5 per cent.
In respect of any excess over £75,000 up to £100,000	1/10 per cent.
In respect of any excess over £100,000	1/20 per cent.
Minimum fee	£15

(c) where the Public Trustee is acting—

(i) under a declaration of trust in favour of one beneficiary only,

(ii) as original, substituted or additional trustee of property to which an infant is absolutely entitled under a will or on an intestacy:—

In respect of the first £25,000	¼ per cent.
In respect of any excess over £25,000	1/10 per cent.
Minimum fee	£5

Provided that no Acceptance Fee shall be charged in respect of property to which this sub-paragraph applies, if that property is already subject to a trust in which the Public Trustee is acting.

(d) where the Public Trustee is acting exclusively as custodian trustee, the fee shall be one half of the fee which would have been payable under this paragraph if he had then been appointed managing trustee of the same trust, save that not less than the appropriate minimum fee shall be charged in any case.

PART III

ADMINISTRATION FEE

When payable

13. An Administration Fee shall be payable, in accordance with the provisions of this part of this Order, at the commencement of each financial year, and—

- (a) shall be payable in full notwithstanding that the Public Trustee ceases to act in any trust or part of a trust in the course of the financial year ;
- (b) shall not be payable in respect of the period between the date of the acceptance of any trust or part of a trust, as the case may be, and the commencement of the next financial year.

Amount of Fee

14.—(1) The Administration Fee shall be calculated as a percentage of that multiple of £100 which is nearest to the net capital value of a trust as certified by the Public Trustee after it has been estimated in accordance with the provisions of this paragraph.

(2) The net capital value of a trust shall be $A + B - C$ where—

A is the aggregate value on the appropriate valuation date of all the property subject to the trust other than interests not in possession and annuities or other terminable payments to which paragraph 16 of this part of this Order applies ;

B is the value (ascertained in accordance with the terms of the next following sub-paragraph) of any additional property which has become or becomes subject to the trust during the relevant period ;

C is such sum as the Public Trustee considers to be a reasonable deduction in respect of any property of the trust distributed or disbursed by him during the relevant period ;

the "appropriate valuation date" means whichever of the following dates next precedes the date on which the fee is payable—

(i) initially, 1st October 1968 in the case of any trust in which he was then acting, or in the case of any other trust, its Acceptance Fee valuation date ; and

(ii) subsequently, 1st October 1971 and each succeeding third anniversary thereof ; and

the "relevant period" means the period between the appropriate valuation date and the date on which the fee is payable.

(3) Where additional property becomes subject to a trust or where an interest already subject to a trust falls into possession—

(i) the initial valuation thereof shall be made by reference to the values prevailing on its Acceptance Fee valuation date ; and

(ii) the subsequent valuation thereof shall be made by reference to values prevailing on the next appropriate valuation date in accordance with the foregoing sub-paragraph.

(4) In valuing any property in accordance with this paragraph, no deduction shall be made for any debt specifically charged upon it.

15. For each financial year the Administration Fee shall be charged at the rate of $\frac{1}{4}$ per cent. of the net capital value of each trust :

Provided that, where the Public Trustee is acting exclusively—

(a) as custodian trustee, the rate shall be $\frac{3}{40}$ per cent. ;

(b) as trustee of a Settlement under the Settled Land Act 1925, the rate shall be $\frac{3}{40}$ per cent. in respect of any part of the trust property which at the appropriate valuation date is represented by land, and $\frac{1}{4}$ per cent. in respect of any part of the trust property which at the appropriate valuation date is represented by capital moneys arising under the said Act ;

(c) as trustee of a Superannuation Scheme, the rate shall be $\frac{1}{4}$ per cent. ;

(d) as trustee under a Declaration of Trust for one beneficiary only, the rate shall be $\frac{1}{4}$ per cent.

Annuities

16. Where trust property includes an annuity or other terminable payment, purchased by any person in the name of, transferred to or covenanted to be paid to the Public Trustee for the benefit of some other person, the Administration Fee in respect of that annuity or payment shall be charged at the rate of 2 per cent. of the gross income without deduction of income tax or other outgoings, and no other fee shall be payable in respect thereof under this part of this Order.

PART IV
WITHDRAWAL FEE

When payable

17. A Withdrawal Fee shall be payable upon the Public Trustee ceasing to act in any trust, whether upon retirement or otherwise, or upon the withdrawal or distribution therefrom of any part of the trust property, except where—

- (a) trust property held under a declaration of trust in favour of one beneficiary only is withdrawn for the purpose of transfer to a new trust accepted by the Public Trustee ;
- (b) trust property is withdrawn for the purpose of paying any fees prescribed by this Order.

Amount of Fee

18.—(1) The Withdrawal Fee shall be calculated, in accordance with the provisions of this paragraph, as a percentage of the value of the property withdrawn.

(2) Subject to sub-paragraph (3) hereof, the Withdrawal Fee shall be charged :—

- (a) where the property is withdrawn before the expiration of 3 complete financial years following that in which the trust was accepted by the Public Trustee, at the rate of 1 per cent. ;
 - (b) where the property is withdrawn after the expiration of 3 complete financial years following that in which the trust was accepted by the Public Trustee, at the rate of 1½ per cent.
- (3) Where the Public Trustee is acting in any case to which paragraph 12 (c) applies the Withdrawal Fee shall be charged at the rate of ½ per cent.

PART V
FEES FOR SPECIAL SERVICES

Insurance Fee

19. Upon effecting or renewing any policy of insurance a fee shall be payable equal to the amount of any commission allowed thereon.

Stockbroker's Commission Fee

20. Upon any dealing in securities a fee shall be payable equal to the amount of any commission refunded by a broker.

Registration and Enquiry Fees

21.—(1) Where the Public Trustee, in compliance with a request, gives information for the purpose of any dealing with a beneficial interest, a fee of £3 shall be payable by the person to whom he gives information in respect of each dealing.

(2) Where the Public Trustee receives notice of any dealing with a beneficial interest in any trust in which he is acting or of the exercise or release of any power relating to any such trust, and he registers the same, a fee of £2 shall be payable by the person who gives such notice.

(3) Where the Public Trustee produces for inspection by a person, other than one who is beneficially interested in a trust or is a co-trustee of a trust, any deeds or documents relating to that trust, a fee of £2 shall be payable.

Fee for tax work

22. The following fees shall be payable for work undertaken by the Public Trustee :—

- (a) upon the recovery by the Public Trustee, whether by way of repayment or set-off, of any United Kingdom income tax or any foreign tax of a similar character, such fee as may previously have been agreed with the beneficiary or beneficiaries for whose benefit the recovery is made or, in the absence of such an agreement, a fee of £1 or such fee not exceeding 10 per cent. of the tax recovered as the Public Trustee may determine ;
- (b) for supplying or preparing returns, statements or computations in respect of :—
- (i) income tax or surtax where the Public Trustee recovers no income tax or surtax ; or
- (ii) Capital Gains Tax work,
a fee of such an amount not exceeding £25 as the Public Trustee may determine in each particular case.

Investment Fee

23. Upon a sale or purchase of any stocks, funds, shares, securities or land or upon an advance on mortgage a fee shall be payable at the rate of $\frac{1}{2}$ per cent. of the amount realised or invested :

Provided that where the Public Trustee is acting under the direction of a tenant-for-life or statutory owner of settled land, or where the Public Trustee is custodian trustee only, the fee shall be charged at one-half of the rate prescribed in this paragraph.

Audit Fee

24. Upon the performance by the Public Trustee of all his duties under section 13 of the Public Trustee Act 1906 a fee of £25 shall be payable.

Income Collection Fee

25.—(1) Subject to the provisions of this paragraph, an Income Collection Fee shall be payable annually, at such time or times as the Public Trustee may direct, in respect of the gross annual income of any trust which is received by him on or after 21st April 1969.

(2) The fee so payable shall be charged at the following rates—

- (a) in respect of the first £2,500 of such income $1\frac{1}{2}$ per cent.
- (b) in respect of any such income over £2,500 up to
£5,000 $\frac{1}{2}$ per cent.
- (c) in respect of any such income over £5,000 nil.

(3) Where in any trust there are two or more distinct funds, each of them shall be treated, for the purpose of calculating the Income Collection Fee, as a separate trust:

Provided that, if the whole of the income of such funds is payable to the same person, the fee payable under this paragraph shall not exceed the amount that would be payable if that income were derived from a single fund.

(4) Where the Public Trustee is acting exclusively as—

(a) a custodian trustee,

(b) a trustee of a superannuation scheme, or

(c) a trustee acting under a declaration of trust for one beneficiary only,

the Income Collection Fee shall be payable at one-half of the rate prescribed by sub-paragraph (2) of this paragraph.

(5) No fee shall be payable under this paragraph in respect of an annuity or terminable payment to which paragraph 16 applies.

(6) The Public Trustee may remit so much as appears equitable of the amount payable under this paragraph where—

(a) his duties have been or are likely to be exceptionally simple; or

(b) the circumstances are otherwise exceptional.

PART VI

FEES IN RESPECT OF COMMON INVESTMENT SCHEMES

Management fee

26.—(1) A management fee (calculated in accordance with sub-paragraph (3) of this paragraph) shall be payable in respect of each fund and shall be charged on the income of the fund to which it relates.

(2) The management fee shall be payable in respect of each half-year during which the fund is in existence and shall become due on the accounting date terminating such half-year:

Provided that, for the purpose of calculating the fee payable under this paragraph, the period beginning with the establishment of the fund and ending with the first accounting date shall, irrespective of its length, be treated as a half-year.

(3) The management fee shall vary in accordance with the capital value of the fund on the relevant accounting date and shall be calculated as follows:—

(i) where such value does not exceed £2,000,000, at a rate of $\frac{1}{4}$ per cent. thereof;

(ii) where such value exceeds £2,000,000 but does not exceed £3,000,000, at a flat rate of £2,500;

(iii) where such value exceeds £3,000,000, at a rate equal to the aggregate of £2,500 and $\frac{1}{12}$ per cent. of such excess.

Stockbroker's commission fee

27. Upon any dealing in securities comprised in a fund, a fee shall be payable equal to the amount of any commission refunded by a broker.

Dated 1st April 1969.

Joseph Harper,

J. McCann,

Two of the Lords Commissioners
of Her Majesty's Treasury.

Dated 1st April 1969.

Gardiner, C.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates the Public Trustee (Fees) Orders with amendments. The principal amendments are:—

- (a) The Public Trustee is given power to adopt a valuation made for another purpose when valuing property subsequently coming into a trust administered by him in order to determine the Acceptance Fee payable in respect of such property (paragraph 10).
- (b) The rates at which fees are payable are expressed in fractions instead of shillings and pence in advance of decimalisation (paragraphs 12, 15, 18 and 23).
- (c) The Administration Fee is to be fixed in accordance with the formula prescribed in paragraph 14 and the Public Trustee is given power to adopt a valuation made for another purpose in determining it (paragraph 14).
- (d) New fees are introduced for tax work. The fee where income tax or any similar foreign tax is recovered is to be fixed by prior agreement or, in default thereof, at £1 or such fee not exceeding 10 per cent. of the tax recovered as the Public Trustee may determine. The fee for preparing returns, statements or computations in respect of income tax or surtax where no tax is recovered or in respect of capital gains tax work is to be such sum not exceeding £25 as the Public Trustee may determine (paragraph 22).