

1999 No. 688 (L. 5)

SUPREME COURT OF ENGLAND AND WALES

The Non-Contentious Probate Fees Order 1999

<i>Made</i> - - - -	<i>8th March 1999</i>
<i>Laid before Parliament</i>	<i>11th March 1999</i>
<i>Coming into force</i>	<i>26th April 1999</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 130 of the Supreme Court Act 1981(a), with the concurrence of the Lord Chief Justice, the Master of the Rolls, the President of the Family Division, the Vice-Chancellor and the Treasury under section 130(2) of the Supreme Court Act 1981, makes the following Order:

Citation and commencement

1. This Order may be cited as the Non-Contentious Probate Fees Order 1999 and shall come into force on 26th April 1999.

Interpretation

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

- (a) a fee referred to by number means the fee so numbered in Schedule 1 to this Order;
- (b) “assessed value” means the value of the net real and personal estate (excluding settled land if any) passing under the grant as shown—
 - (i) in the Inland Revenue affidavit (for a death occurring before 13th March 1975), or
 - (ii) in the Inland Revenue account (for a death occurring on or after 13th March 1975), or
 - (iii) in a case in which, in accordance with arrangements made between the President of the Family Division and the Commissioners of Inland Revenue, or regulations made under section 256(1)(a) of the Inheritance Tax Act 1984(b) and from time to time in force, no such affidavit or account is required to be delivered, in the oath which is sworn to lead to the grant,

and in the case of an application to reseal a grant means the value, as so shown, passing under the grant upon its being resealed;

- (c) “authorised place of deposit” means any place in which, by virtue of a direction given under section 124 of the Supreme Court Act 1981 original wills and other documents under the control of the High Court (either in the principal registry or in any district registry) are deposited and preserved;
- (d) “grant” means a grant of probate or letters of administration;
- (e) “district registry” includes the probate registry of Wales, any district probate registry and any subregistry attached to it;
- (f) “the principal registry” means the Principal Registry of the Family Division and any sub-registry attached to it.

(a) 1981 c. 54.

(b) 1984 c. 51. The original short title of this Act, the Capital Transfer Tax Act 1984, was amended by section 100 of the Finance Act 1986 (c. 41).

Fees to be taken

3. The fees set out in column 2 of Schedule 1 to this Order shall be taken in the principal registry and in each district registry in respect of the items described in column 1 in accordance with and subject to any directions specified in column 1.

Exclusion of certain death gratuities

4. In determining the value of any personal estate for the purposes of this Order there shall be excluded the value of a death gratuity payable under section 17(2) of the Judicial Pensions Act 1981(a) or section 4(3) of the Judicial Pensions and Retirement Act 1993(b), or payable to the personal representatives of a deceased civil servant by virtue of a scheme made under section 1 of the Superannuation Act 1972(c).

Exemptions, reductions and remissions

5.—(1) Where it appears to the Lord Chancellor that the payment of any fee prescribed by this Order would, owing to the exceptional circumstances of the particular case, involve undue hardship, he may reduce or remit the fee in that case.

(2) Where by any convention entered into by Her Majesty with any foreign power it is provided that no fee shall be required to be paid in respect of any proceedings, the fees specified in this Order shall not be taken in respect of those proceedings.

(3) Where any application for a grant is withdrawn before the issue of a grant, a registrar may reduce or remit a fee.

(4) Fee 7 shall not be taken where a search is made for research or similar purposes by permission of the President of the Family Division for a document over 100 years old filed in the principal registry or a district registry or another authorised place of deposit.

Revocations

6. The Orders specified in Schedule 2 shall be revoked, except as to any fee or other sum due or payable under those Orders before the commencement of this Order.

Dated 5th March 1999

Irvine of Lairg, C.

We concur,

*Bingham of Cornhill, C. J.,
Woolf, M. R.,
Stephen Brown, P.,
Richard Scott, V.-C*

Dated 2nd March 1999

We concur,

*Clive J. C. Betts
Bob Ainsworth
Two of the Lords Commissioners
of Her Majesty's Treasury*

Dated 8th March 1999

(a) 1981 c. 20.

(b) 1993 c. 8.

(c) 1972 c. 11; amended by section 8(1) and (2) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) and paragraph 6 of Schedule 8 to the Pension Schemes Act 1993 (c. 48).

Schedule 1
Fees to be taken

<i>Column 1</i> Number and description of fee	<i>Column 2</i> Amount of fee
<p>1. Application for a grant On an application for a grant (or for resealing a grant) other than on an application to which fee 3 applies, where the value of the estate exceeds £5,000</p>	£50
<p>2. Personal application fee Where the application under fee 1 is made by a personal applicant (not being an application to which fee 3 applies) fee 2 is payable in addition to fee 1, where the value of the estate exceeds £5,000</p>	£80
<p>3. Special applications For a duplicate or second or subsequent grant (including one following a revoked grant) in respect of the same deceased person, other than a grant preceded only by a grant limited to settled land, to trust property, or to part of the estate</p>	£15
<p>4. Caveats For the entry or the extension of a caveat</p>	£15
<p>5. Search On an application for a standing search to be carried out in an estate, for each period of six months including the issue of a copy grant and will, if any (irrespective of the number of pages)</p>	£5
<p>6. Deposit of wills On depositing a will for safe custody in the principal registry or a district registry</p>	£15
<p>7. Inspection On inspection of any will or other document retained by the registry (in the presence of an officer of the registry)</p>	£15
<p>8. Copy documents On a request for a copy of any document whether or not provided as a certified copy:</p>	
(a) for the first copy	£5
(b) for every subsequent copy of the same document if supplied at the same time	£1
(c) where copies of any document are made available on a computer disk or in other electronic form, for each such copy	£3
(d) where a search of the index is required, in addition to fee 8(a), (b) or (c) as appropriate, for each period of 4 years searched after the first 4 years	£3
<p>9. Oaths Except on a personal application for a grant for administering an oath,</p>	
9.1 for each deponent to each affidavit	£5
9.2 for marking each exhibit	£2
<p>10. Determination of costs For determining costs</p>	The same fees as are payable from time to time for determining costs under the Supreme Court Fees Order 1999(a) (the relevant fees are set out in fee 3 in Schedule 1 to that Order)
<p>11. Settling documents For perusing and settling citations, advertisements, oaths, affidavits, or other documents, for each document settled</p>	£10

(a) S.I. 1999/687.

Schedule 2

ORDERS REVOKED

<i>Title</i>	<i>S.I. number</i>
The Non-Contentious Probate Fees Order 1981	S.I. 1981/861
The Non-Contentious Probate Fees (Amendment) Order 1981	S.I. 1981/1103
The Non-Contentious Probate Fees (Amendment) Order 1986	S.I. 1986/705
The Non-Contentious Probate Fees (Amendment) (No. 2) Order 1986	S.I. 1986/2185
The Non-Contentious Probate Fees (Amendment) Order 1987	S.I. 1987/1176
The Non-Contentious Probate Fees (Amendment) Order 1989	S.I. 1989/1140

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes the Non-Contentious Probate Fees Order 1981 and replaces it by specifying new fees for non-contentious probate matters in the principal registry and district registries. A flat fee has been prescribed for the fee payable on application for a grant (*fees 1 and 2*) in place of scale fees payable under the 1981 Order. Most of the other fees have been increased.

The table of comparison below shows the comparison between the old fees and the new fees. The table also shows where new fees have been introduced.

Table of comparison

<i>Number and summary of new fee (for full description see Schedule 1)</i>	<i>Amount of new fee (for full details see Schedule 1)</i>	<i>Amount of old fee</i>	<i>Number of old fee</i>
1. Application for a grant On an application for a grant (estate over £5,000)	£50	No fee up to £10,000 then £40 rising in bands to £300 on estates up to £200,000. For estates over £200,000 add £50 per £100,000.	1(a) 1(b)
2. Personal application fee On personal application for a grant (additional to fee 1)	£80	Scale, e.g. estates over £5,000 ... £1 per £1,000	2(a) 2(b)
3. Special applications For a duplicate of second or subsequent grant	£15	£2	3(d)(e)
4. Caveats For the entry or the extension of a caveat	£15	£4	4
5. Searches Standing search per 6 months	£5	£2	5
6. Deposit of wills On depositing a will for safe custody	£15	£1	6

<i>Number and summary of new fee (for full description see Schedule 1)</i>	<i>Amount of new fee (for full details see Schedule 1)</i>	<i>Amount of old fee</i>	<i>Number of old fee</i>
7. Inspection On inspection of any will or other document	£15	25p	7
8. Copies of documents			
(a) for the first copy	£5	25p-£6	8(a)(b)(c); 9(a)(b)(c); 9(d)(e)
(b) subsequent copy, same document at same time	£1	25p-£6	
(c) electronic copy of document	£3	New fee	New fee
(d) where a search of the index is required, in addition to fee 8(a), (b) or (c) as appropriate, for each period of 4 years searched after the first 4	£3	New fee	New fee
9. Oaths			
9.1 Oath fee, except on personal application	£5	£2	10(a)
9.2 for marking each exhibit	£2	50p	10(b)
10. Determination of Costs For determining costs	Fee 3 in Supreme Court Fees Order 1999	Fee as in action	11
11. Settling documents	£10	£5	12

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