

**2003 No. 690**

**TRUSTEES, ENGLAND AND WALES**

**Public Trustee (Fees) (Amendment) Order 2003**

*Made* - - - - - *5th March 2003*

*Coming into force* - - - - - *1st April 2003*

The Lord Chancellor, in exercise of the powers conferred upon him by section 9 of the Public Trustee Act 1906(a), as extended by section 1 of the Public Trustee (Fees) Act 1957(b), makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Public Trustee (Fees) (Amendment) Order 2003 and shall come into force on 1st April 2003.

(2) In this Order an article referred to by number alone means the article so numbered in the Public Trustee (Fees) Order 1999(c).

**Amendments to the Public Trustee (Fees) Order 1999**

2. In article 7(2) for paragraph (b) substitute—

“(b) remit the whole or part of any fee where, and to the extent that, it appears to him equitable to do so having regard to—

- (i) the nature and character of the estate, trust or other matter;
- (ii) the work conducted in respect of which the fee is charged; and
- (iii) the impact of the fee upon a beneficiary or beneficiaries.”

3. In article 11(2)—

(a) for the words from “in respect of the first £50,000” to the words “shall not be less than £550.” substitute—

“in respect of the first £50,000	7.7 per cent
in respect of any excess over £50,000 up to £75,000	6 per cent
in respect of any excess over £75,000 up to £100,000	3 per cent
in respect of any excess over £100,000 upwards	2 per cent
but so that the fee payable shall not be less than £770.”; and	

(b) in paragraph (b) of the proviso, for “£100” substitute “£150”.

4. In article 17(4) for the words from “in respect of the first £30,000” to the words “shall not be less than £30” substitute—

“in respect of the first £30,000	2.25 per cent
in respect of any excess over £30,000 up to £150,000	1.75 per cent
in respect of any excess over £150,000 up to £375,000	1.25 per cent

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(a) 1906 c. 55. Section 9 was amended by section 2(1) of the Public Trustee (Liability and Fees) Act 2002 (c. 35).  
 (b) 1957 c. 12. Section 1 was amended by section 2(3) of the Public Trustee (Liability and Fees) Act 2002.  
 (c) S.I. 1999/855 amended by S.I. 2002/2232.

in respect of any excess over £375,000 up to £2,500,000	0.75 per cent
in respect of any excess over £2,500,000	0.25 per cent
but so that the fee payable shall not be less than £60.”.	

5. In article 18 for “3.5 per cent” substitute “5 per cent”.

6.—(1) In article 19 for the words from “A withdrawal fee shall be payable” to “except where” substitute—

“A withdrawal fee shall be payable—

(a) upon the Public Trustee ceasing to act—

(i) as trustee or manager of any scheme or funds under Part VII of this Order; or

(ii) in any estate or trust,

whether upon retirement or otherwise; or

(b) upon the withdrawal or distribution of any part of the estate or the trust property, or, as the case may be, of the capital of a scheme or fund under Part VII of this Order,

except where”.

(2) In sub-paragraph (iv) of article 19, after “trust property” insert “or, as the case may be, capital of a scheme or fund under Part VII of this Order”.

7. In article 20—

(a) in paragraph (2) for the words from “The relative percentage” to the words “withdrawal or distribution” substitute—

“(2) The relative percentage shall be—

(a) 2 times the effective rate of administration or management fee charged on that property on the assessment date immediately prior to withdrawal or distribution, where the Public Trustee ceases to act as trustee or manager of any scheme or fund under Part VII of this Order, or in any estate or trust, upon retirement; and

(b) 4 times the effective rate of administration or management fee charged on that property on the assessment date immediately prior to withdrawal or distribution, in any other case”; and

(b) in paragraph (3) for “1 2/13 per cent” substitute “3.75 per cent where the Public Trustee ceases to act upon retirement and 1.875 per cent in any other case”.

(c) after paragraph (3) insert—

“(4) Where some or all of a fee has been remitted, the references in this article to administration or management fee charged shall mean such fee as would have been charged but for the remission.”.

8. In article 24(1) for “3.5 per cent” substitute “5 per cent”.

9. In article 29—

(a) in paragraph (a) for “£20” substitute “£40”; and

(b) in paragraph (b) for “£10” substitute “£20”.

10. In article 30—

(a) in paragraph (2) after “and” insert “, subject to paragraph (3),”; and

(b) after paragraph (2) insert—

“(3) In the event that agreement is not reached in accordance with paragraph (2), the management fee shall be 1.58 times the annual fee last charged or, if not actually charged, chargeable, before 1st April 2003.”.

### **Transitional provision**

11.—(1) Article 2 of this Order has effect in relation to a withdrawal fee payable upon the Public Trustee ceasing to act in any scheme or fund under Part VII of the Public Trustee (Fees) Order 1999, or in any estate or trust, upon retirement, where the fee was payable on or after 1st April 2001.

(2) Subject to paragraph (1), this Order has effect only in relation to fees payable on or after 1st April 2003, and in relation to fees payable before that date the Public Trustee (Fees) Order 1999 shall have effect as if this Order had not been made.

Signed by authority of the Lord Chancellor

Dated 5th March 2003

*Rosie Winterton*  
Parliamentary Secretary  
Lord Chancellor's Department

## EXPLANATORY NOTE

(This note is not part of the Order)

This Order further amends the Public Trustee (Fees) Order 1999 (S.I. 1999/855) (“the Order”) which was previously amended by the Public Trustee (Fees) (Amendment) Order 2002 (S.I. 2002/2232).

The Order comes into force on 1st April 2003, in relation to fees payable on or after that date, with one exception. The exception is for the amendments relating to remission of withdrawal fees upon retirement to apply to any such fees payable on or after 1st April 2001.

The table below sets out where fees have been increased. In addition—

- (a) Article 2 extends the power of the Public Trustee to consider remission of fees so that the whole or any part of a fee may be remitted where the Public Trustee considers it equitable to do so having regard to—
  - the nature and character of the estate, trust or other matter;
  - the work conducted in respect of which the fee is charged; and
  - the impact of the fee upon a beneficiary or beneficiaries.
- (b) Articles 6 and 7 deal with the “withdrawal fee”. Article 6 relates to the circumstances when a withdrawal fee is payable by institutional funds. It confirms that, as with estates and trusts, this is payable upon partial or full withdrawal of the capital of the scheme, as well as upon the Public Trustee ceasing to act in the matter. Article 7 amends the method of calculating the withdrawal fee so that the fee will be twice the annual administration fee where the Public Trustee is retiring or four times this fee in any other case, subject to a maximum fee of 7.5 per cent of the fund’s value.
- (c) Article 9 amends the method of calculating the management fee payable in Part VII of the Order so that where the Public Trustee and the trustees cannot agree the management fee to be paid, it shall be set by the Public Trustee but such a fee shall not exceed 1.58 times the fee applicable immediately before 1st April 2003.

<i>Description of Fee</i>	<i>Current Fee</i>	<i>New Fee</i>
<b>Article 11(2): Executorship Fee</b>		
(a) in respect of the first £50,000	5.5%	7.7%
in respect of any excess over £50,000 up to £75,000	4%	6%
in respect of any excess over £75,000 up to £100,000	2%	3%
in respect of any excess over £100,000 upwards	1%	2%
but so the fee payable shall be no less than	£550	£770
(b) where the Public Trustee is acting as personal representative of deceased statutory owner or tenant for life	£100	£150
<b>Article 17(4): Amount of administration fee</b>		
in respect of the first £30,000	1.38%	2.25%
in respect of any excess over £30,000 up to £150,000	1.15%	1.75%
in respect of any excess over £150,000 up to £375,000	0.75%	1.25%
in respect of any excess over £375,000 up to £2,500,000	0.5%	0.75%
in respect of excess over £2,500,000	0.2%	0.25%
but so that the fee payable shall be no less than	£30	£60
<b>Article 18: administration fee for annuities</b>	3.5%	5%
<b>Article 24(1): income collection fee</b>	3.5%	5%
<b>Article 29</b>		
(a) Fee for entering details of documents on the register	£20	£40
(b) Fee for causing a search of the register to be made	£10	£20

£1.75

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