
S T A T U T O R Y I N S T R U M E N T S

1981 No. 861 (L.4)

**SUPREME COURT OF JUDICATURE,
ENGLAND AND WALES**

The Non-Contentious Probate Fees Order 1981

Made - - - - - 12th June 1981

Coming into Operation 3rd August 1981

The Lord Chancellor, the Judges of the Supreme Court, and the Treasury, in exercise of the powers and authorities vested in them respectively by section 213 of the Supreme Court of Judicature (Consolidation) Act 1925(a) and sections 2 and 3 of the Public Offices Fees Act 1879(b), do hereby make, advise, consent to and concur in the following Order:—

Citation and commencement

1. This Order may be cited as the Non-Contentious Probate Fees Order 1981 and shall come into operation on 3rd August 1981.

Interpretation

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

“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 94(1)(a) of the Finance Act 1980(c) 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 said value, as so shown, passing under the grant upon its being resealed;

“authorised place of deposit” means any place in which, by virtue of a direction given under section 170 of the Supreme Court of Judicature (Consolidation) Act 1925(d) 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;

“grant” means a grant of probate or letters of administration;

(a) 1925 c. 49; section 213(2) was amended by the Administration of Justice Act 1928 (c. 26), sections 19, 20, Schedule 1, Part I and Schedule 2.

(b) 1879 c. 58; section 2 was amended by the Statute Law Repeals Act 1894 (c. 56).

(c) 1980 c. 48.

(d) Section 170 was substituted by the Administration of Justice Act 1928, section 11; and amended by the Public Records Act 1958 (c. 51), section 8(2); and the Administration of Justice Act 1970 (c. 31), section 1(6) and Schedule 2, paragraph 12.

“district registry” includes the probate registry of Wales, any district probate registry and any sub-registry attached thereto;

“the principal registry” means the Principal Registry of the Family Division and any sub-registry attached thereto.

(2) A fee referred to by number means the fee so numbered in the Schedule to this Order.

Taking of fees

3.—(1) The fees set out in column 2 of the Schedule to this Order shall be taken in the principal registry and in each district registry in respect of the items set out opposite thereto in column 1.

(2) The fees prescribed by this Order shall be taken in cash.

Exclusion of certain death gratuities

4. In determining the value of any personal estate for the purpose 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 payable to the personal representatives of a deceased civil servant by virtue of a scheme made under section 1 of the Superannuation Act 1972(b).

Reduction, remission and exemption

5.—(1) Where it appears to the Lord Chancellor that the payment of any fee specified in the Schedule would, owing to the exceptional circumstances of the particular case, involve undue hardship, the Lord Chancellor 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 the grant, a registrar may reduce or remit a fee.

(4) Where, on application for a grant by a personal applicant, the papers leading to the grant are prepared by the applicant himself, a registrar may remit up to one-half of the fee prescribed by fee No. 2.

(5) Fee No. 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.

Revocation of orders

6. The Supreme Court (Non-Contentious Probate) Fees Order 1975(c), The Supreme Court (Non-Contentious Probate) Fees (Amendment) Order 1976(d), The Supreme Court (Non-Contentious Probate) Fees (Amendment) Order

(a) 1981 c. 20.

(d) S.I. 1976/1363.

(b) 1972 c. 11.

(c) S.I. 1975/1344.

1978(a), and The Supreme Court (Non-Contentious Probate) Fees (Amendment) Order 1980(b) are hereby revoked.

Dated 21st May 1981.

Hailsham of St. Marylebone, C.

Dated 1st June 1981.

*Lane, C.J.
Denning, M.R.
John Arnold, P.*

Dated 12th June 1981.

*John Wakeham,
J. A. Douglas-Hamilton,
Two of the Lords Commissioners
of Her Majesty's Treasury.*

SCHEDULE

rule 3(1)

| Column 1 | Column 2 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| Item | Fee £ |
| <i>Application for grant: general</i> | |
| 1. On an application for a grant (or for resealing a grant) other than an application to which fee No. 3 applies:— | |
| (a) if the assessed value | |
| does not exceed £10,000 | No fee |
| exceeds £10,000 but does not exceed £25,000 .. | 40.00 |
| exceeds £25,000 but does not exceed £100,000 .. | 2.50 per £1,000 or part thereof |
| (b) if the assessed value exceeds £100,000 | 250.00 |
| and, for every additional £100,000 or part thereof, a further fee of | 50.00 |
| <i>Personal application fee</i> | |
| 2. On application for a grant by a personal applicant (or for resealing such a grant if the application is prepared in the registry) save where fee No. 3(a) is payable, in addition to any other fee:— | |
| (a) if the assessed value | |
| does not exceed £500 | 1.00 |
| exceeds £500 but does not exceed £1,000 | 2.00 |
| exceeds £1,000 but does not exceed £5,000 .. | 5.00 |
| (b) if the assessed value exceeds £5,000, for each £1,000 or part thereof | 1.00 |
| <i>Special applications</i> | |
| 3. On an application for:— | |
| (a) a grant in respect of an estate exempt from estate duty by virtue of section 71 of the Finance Act 1952(a) or from capital transfer tax by virtue of paragraph 1 of Schedule 7 to the Finance Act 1975(b) (exemption for members of the armed forces, etc.); | |
| (b) a grant limited to settled land; | |
| (c) a grant limited to trust property; | |
| (d) a duplicate grant; | |
| (e) any 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 a part of the estate | 2.00 |
| <i>Caveats</i> | |
| 4. For the entry or the extension of a caveat | 4.00 |

(a) 1952 c. 33; section 71 was repealed (with savings) by the Finance Act 1975 (c. 7), sections 50, 52(2), (3), 59 and Schedule 13 Part I.

(b) 1975 c. 7.

SCHEDULE (*continued*)

| Column 1 | Column 2 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Item | Fee £ |
| <i>Search</i> | |
| 5. On an application for a standing search to be carried out in an estate, for each search period of six months .. | 2.00 |
| <i>Deposit of wills</i> | |
| 6. On depositing a will for safe custody in the principal registry or a district registry | 1.00 |
| <i>Inspection</i> | |
| 7. On inspection of an original will or any other document including a copy of a will | 0.25 |
| <i>Copies of documents</i> | |
| 8.—(a) For a copy of all or part of any document, whether or not issued as an office copy, for each page | 0.25 |
| (b) For a sealed and certified copy of any document .. and for each page after the first, a further fee of .. | 1.00 1.00 |
| (c) For an exemplification of a copy signed by a registrar and countersigned by the President of the Family Division, including the fees for preparing the necessary documents | 5.00 |
| <i>Postal application</i> | |
| 9. For handling a postal application in the principal registry for a copy of a will or grant, in respect of each estate | 1.00 |
| <i>Oaths and guarantees</i> | |
| 10. Save on a personal application for a grant— | |
| (a) for administering an oath, for each deponent to each affidavit | 2.00 |
| (b) for marking each exhibit | 0.50 |
| (c) for superintending and attesting execution of a guarantee, for each surety | 1.00 |
| <i>Taxation of costs</i> | |
| 11. For taxing a bill of costs in the principal registry inclusive of the registrar's certificate | The same fees as are payable in an action. |
| <i>Settling documents</i> | |
| 12. For perusing and settling citations, advertisements, oaths, affidavits or other documents, for each document settled | 5.00 |

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order replaces the Supreme Court (Non-Contentious Probate) Fees Order 1975 as amended. By fee No. 1 in the Schedule the exemption from fees for small estates is raised from £2,000 in value to £10,000 in value, and a fixed fee of £40 is substituted for the *ad valorem* charge in respect of estates valued between £10,000 and £25,000. There is no change in fee No. 1 in respect of estates above £25,000 or in any of the other fees except that, instead of the former fee of £2, fee No. 1 will now be taken in respect of property in England and Wales on an application to reseal a grant under the Colonial Probates Act 1892. The Order applies to fees becoming due or payable on or after 3rd August 1981.

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