EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules amend the Public Trustee Rules, 1912, so as to enable the Gas Council and Area Gas Boards to act as custodian trustees of pension schemes and pension funds for the benefit of their employees or of employees of bodies to whose liabilities they have succeeded.

1957 No. 485

The Public Trustee (Fees) Order, 1957

Made - - - - 22*nd March*, 1957
Coming into Operation 1*st April*, 1957

ARRANGEMENT OF PARAGRAPHS

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We, the undersigned, being two of the Lords Commissioners of Her Majesty's 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 with the sanction of the Lord Chancellor, do hereby make the following Order:—

Preliminary

Citation, Commencement and Revocation

1.—(1) This Order may be cited as the Public Trustee (Fees) Order, 1957, and shall come into operation on the 1st day of April, 1957.

(2) The Public Trustee (Fees) Orders, 1948(**c**) and 1953(**d**), are hereby revoked.

Interpretation

2.—(1) The Interpretation Act, 1889(**e**), 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;

"Financial year" means the year ending the 31st March;

"Gross capital value" means the value of the trust property 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(**f**);

(**a**) 6 Edw. 7. c. 55. (**b**) 5 & 6 Eliz. 2. c. 12. (**c**) S.R. & O. 1947/2720 (Rev. XXIII, p. 322 : 1947 I, p. 2193). (**d**) S.I. 1953/1875 (1953 II, p. 2306). (**e**) 52 & 53 Vict. c. 63. (**f**) 15 & 16 Geo. 5. 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:—

(*a*) an Acceptance Fee ;

(*b*) an Administration Fee ;

(*c*) a Withdrawal Fee ;

(*d*) Fees for special services.

Incidence

4. 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 Enquiry Fee to which paragraph 21 applies ; and

(*e*) the fee in respect of tax work payable in accordance with paragraph 22.

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. The Public Trustee may, with the approval of the Treasury—

(*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) the whole or any part of the trust property is subject to another trust in which he is acting ;

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

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

PART II

The 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 at the date on which it becomes subject to the trust, 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 ; 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 shall 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 property which is not in possession or is not readily realisable from 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 had been treated as part of the value of the trust property at the date of acceptance, 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 two 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 £100
In respect of any excess over £25,000 up to £50,000	15s. per £100
In respect of any excess over £50,000 up to £75,000	5s. per £100
In respect of any excess over £75,000	2s. 6d. per £100
Minimum fee	£15

Provided that—

(A) 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;

(B) 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	10s. per £100
In respect of any excess over £25,000 up to £50,000	7s. 6d. per £100
In respect of any excess over £50,000 up to £75,000	2s. 6d. per £100
In respect of any excess over £75,000	1s. 3d. per £100
Minimum fee	£15

(*c*) where the Public Trustee is acting—

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

(a) 15 & 16 Geo. 5. c. 20.

(ii) as trustee of an infant's property vested in him pursuant to section 42 of the Administration of Estates Act, 1925(a), or

(iii) as substituted or additional trustee of a legacy to which, under the terms of a trust, a person will become entitled at a stated age:—

In respect of the first £25,000	5s. per £100
In respect of any excess over £25,000 up to £50,000	2s. 6d. per £100
In respect of any excess over £50,000	1s. per £100
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

The 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, in accordance with the provisions of this paragraph, as a percentage of the net capital value of a trust as certified by the Public Trustee.

(2) The net capital value of a trust shall be estimated by the Public Trustee after allowing for—

(*a*) the exclusion of interests not in possession, and

(*b*) the deduction of funeral and testamentary expenses and all debts other than those specifically charged upon any property.

(3) The Public Trustee shall make this estimate by reference to values prevailing on the following dates:—

(*a*) initially—

(i) in the case of any trust in which he is acting when this Order comes into force, the 1st October, 1956; or

(ii) in the case of any other trust, the last day of the financial year in which it is accepted by the Public Trustee; and

(a) 15 & 16 Geo. 5. c. 23.

(*b*) subsequently, each succeeding fifth anniversary of the 1st October, 1956.

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

(*a*) the initial valuation thereof shall be made by reference to values prevailing on the last day of the financial year in which that property was accepted by the Public Trustee ; and

(*b*) any subsequent valuation thereof shall be made by reference to values prevailing on the date appropriate, in accordance with the foregoing sub-paragraph, to the remainder of the trust property.

Annual rate

15. For each financial year from the coming into force of this Order the Administration Fee shall be charged at the rate of 3s. 6d. per £100 of the net capital value of each trust :

Provided that, where the Public Trustee is acting exclusively—

(*a*) as trustee of a settlement under the Settled Land Act, 1925, or as custodian trustee, the fee shall be charged at one quarter of the annual rate ;

(*b*) as trustee of a superannuation scheme, the fee shall be charged at one half of the annual rate.

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

The 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. The Withdrawal Fee shall be charged at the rate of one per cent. of the gross capital value of the property withdrawn :

Provided that, in cases to which paragraph 12 (*c*) of this Order applies, the fee shall be charged at one-half 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.

Stockbrokers' Commission Fee

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

Enquiry Fee

21. Where the Public Trustee, in compliance with a request, gives information for the purpose of any dealing with a beneficial interest, a fee of £2 shall be payable in respect of each dealing.

Fee for tax work

22. The following fees shall be payable for work undertaken by the Public Trustee in respect of a beneficiary's liability for tax:—

(*a*) where a sum is recovered by way of repayment or set off, 10 per cent. of the amount repaid or set off, but so that not less than 10s. shall be payable;

(*b*) in any other case, £20:

Provided that the Public Trustee may remit so much as appears equitable of a fee payable under this paragraph where—

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

(ii) the circumstances are otherwise exceptional.

Dated the 22nd day of March, 1957.

Martin Redmayne,
Edward Wakefield,
Lords Commissioners of Her Majesty's Treasury.

Kilmuir, C.
Lord Chancellor.

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order introduces a new and simpler system of charging fees in the Public Trustee Office. The main innovations are:—

(1) The incidence of fees as between capital and income is dealt with in Paragraph 4;

(2) Reduced fees will be payable for the administration of Superannuation Schemes (Paragraphs 12 (*b*) (ii) and 15, proviso (*b*));

(3) A comprehensive Administration Fee is to be charged at the rate of 3s. 6d. per £100 (Paragraph 15); and

(4) The Withdrawal Fee is reduced to one per cent. (Paragraph 18).