1981 No. 364

SUPREME COURT

Supreme Court (Non-Contentious Probate) Fees Order (Northern Ireland) 1981

Made . . . . . *5th November 1981*

Coming into operation . . . . *1st December 1981*

The Lord Chancellor, in exercise of the powers conferred on him by section 116 of the Judicature (Northern Ireland) Act 1978(**a**) and sections 2 and 3 of the Public Offices Fees Act 1879(**b**), after consultation with the Lord Chief Justice and with the concurrence of the Treasury, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Supreme Court (Non-Contentious Probate) Fees Order (Northern Ireland) 1981 and shall come into operation on 1st December 1981.

Interpretation

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

"assessed value" means the value of the net real and personal estate 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 Lord Chancellor 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;

"grant" means a grant of probate or letters of administration;

"master" means the Master (Probate and Matrimonial), the Registrar (Probate and Matrimonial) or a circuit registrar.

(2) Except where otherwise stated, 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 Probate and Matrimonial Office and any branch office in respect of the items set out opposite thereto in column 1, subject to and in accordance with the directions contained in that Schedule.

(2) In the Probate and Matrimonial Office the fees prescribed in this Order shall be taken by impressed stamps and in any branch office the fees shall be taken in cash.

(**a**) 1978 c. 23
(**b**) 1879 c. 58
(**c**) 1980 c. 48

Exclusion of certain death gratuities

4. In determining the value of any 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 these proceedings.

(3) The fees specified in this Order shall be remitted where such fees if taken would be payable out of money provided by Parliament.

Provided that this sub-paragraph shall not apply to cases in which such fees are included in costs incurred by the Crown upon any proceedings which other parties may be required to pay.

(4) Where any application for a grant is withdrawn before the issue of the grant, the master may reduce or remit a fee.

(5) Where, in the estate of a person who died domiciled in Northern Ireland a grant has been obtained in England or a confirmation in Scotland, court fees shall not be payable in Northern Ireland in respect of the property passing under such grant or confirmation.

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

Revocation of Order

6. The Supreme Court (Non-Contentious Probate) Fees Order (Northern Ireland) 1979(**c**) is hereby revoked.

Dated 2nd November 1981.

Hailsham of St. Marylebone, C

We concur

J. A. Cope
John Selwyn-Gummer
Two of the Lords Commissioners
of Her Majesty's Treasury

Dated 5th November 1981.

(**a**) 1981 c. 20
(**b**) 1972 c. 11
(**c**) S.R. 1979 No. 161

SCHEDULE

Column 1 *Item*	Column 2 *Fee* £
Application for grant: general	
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
Personal application fee	
2. On application for a grant by a personal applicant (or for resealing such a grant if the application is prepared in the Probate and Matrimonial Office), 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
Special applications	
3. On an application for:—	
(*a*) a grant in respect of an estate exempt from estate duty under 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 trust property;	
(*c*) a duplicate grant;	
(*d*) 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 trust property or to a part of the estate ...	2.00
Alteration in grants, etc.	
4. For making any notation on or amendment to the grant and record after issue, or impounding or revoking a grant, appointing a guardian or an administrator in cases of mental or physical incapacity or releasing an impounded grant inclusive of filing any document, making any order, or preparing any memorandum under the Inheritance (Provision For Family and Dependants) (Northern Ireland) Order 1979(**c**) ...	2.00

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

(**b**) 1975 c. 7

(**c**) S.I. 1979/924 (N.I. 8)

Column 1 *Item*	Column 2 *Fee* £
Caveats	
5. For the entry or the extension of a caveat or for a warning to a caveat ...	4.00
Deposits of wills	
6. On depositing a will for safe custody in the Probate and Matrimonial Office or any branch office ...	1.00
Searches	
7. For a search for a grant on behalf of the party applying (whether in person or by letter):—	
for every year or part of a year ...	0.25
Inspection	
8. On inspection of an original will or any other document, including a copy of a will ...	0.25
Copies of documents	
9.(*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 certified copy of any document	0.50
and for each page after the first, a further fee of ...	0.50
(*c*) For a sealed and certified copy of any document	1.00
and for each page after the first, a further fee of ...	1.00
(*d*) For an exemplification of a copy signed by the master and countersigned by the Lord Chief Justice, including the fees for preparing the necessary documents ...	5.00
Postal application for copy of will or grant	
10. For handling a postal application for a copy of a will or grant, in respect of each estate ...	1.00
Oaths and guarantees	
11. Save in 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
Production of documents, etc.	
12. On an application for the production of records or documents to be given in evidence:—	
(*a*) where the records or documents are sent by post, for each document ...	1.00
(*b*) where an officer is required to produce the records or documents in court ...	2.00
(i) for every hour or part thereof that he is necessarily absent from his office ...	5.00
(ii) his reasonable expenses of attendance	

Column 1	Column 2
Item	*Fee*
	£
Provided that the officer may require—	
(1) a deposit of money on account of any further fees and a deposit of money on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, receipt of which shall be marked on the application;	
(2) an undertaking in writing to pay any further fees and expenses which may become payable beyond the amounts so paid and deposited.	
Settling documents	
13. For perusing and settling citations, advertisements, oaths, affidavits or other documents, for each document settled	5.00
Postal application for a grant	
14. For receiving an application for a grant through the post and for correspondence with reference thereto:—	
(*a*) where no fee is chargeable on application for the grant ...	2.00
(*b*) in other cases ...	4.00

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order replaces the Supreme Court (Non-Contentious Probate) Fees (Northern Ireland) Order 1979. 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. Instead of the former fee of £2, fee No. 1 will now be taken in respect of property in Northern Ireland on an application to reseal a grant under the Colonial Probates Act 1892. The Order increases the fees for copies of documents, postal applications, production of documents, for administering an oath and for marking an exhibit, while dispensing with fees on charitable bequests and master's orders. The Order applies to fees becoming due or payable on or after 1st December 1981.