

2007 No. 377

SUPREME COURT

**The Supreme Court (Non-Contentious Probate) Fees
(Amendment) Order (Northern Ireland) 2007**

Made - - - - - *30th August 2007*

Coming into operation - *24th September 2007*

The Lord Chancellor, in exercise of the powers conferred on him by section 116(1), (1A) and (4) of the Judicature (Northern Ireland) Act 1978(a), after consultation with the Lord Chief Justice and with the concurrence of the Treasury, hereby makes the following Order:—

Citation, commencement and interpretation

1. This Order may be cited as the Supreme Court (Non-Contentious Probate) Fees (Amendment) Order (Northern Ireland) 2007 and shall come into operation on 24th September 2007.

2. In this Order—

- (a) “the principal Order” means the Supreme Court (Non-Contentious Probate) Fees Order (Northern Ireland) 1996(b); and
- (b) a fee referred to by number means the fee so numbered in the Schedule to the principal Order.

Amendments to the principal Order

3. After Article 2(2) of the principal Order insert the following:—

“(3) “credit card” means a card which—

- (a) may be used on its own to pay for goods or services or to withdraw cash, and
- (b) enables the holder to make purchases and to draw cash up to a prearranged limit;

(4) “debit card” means a card which may be used as a means of payment under arrangements which do not provide for the extension of credit to the cardholder, but provide for amounts paid by means of the card to be debited to a specified account in his name (or in his name jointly with one or more others); and

(5) “payment instrument” means a cheque or payable order.”.

4. For paragraph (1) of Article 6 of the principal Order there shall be substituted the following new paragraph—

“(1) The fees prescribed by this Order shall be taken—

- (a) in cash;

(a) 1978 c. 23 as amended by the Courts Act 2003 (c. 39)

(b) S.R. 1996 No. 104 as amended by S.R. 1997 No. 176, S.R. 1998 No. 407, and S.R. 2004 No. 342

- (b) by credit card payment;
- (c) by debit card payment; or
- (d) by payment instrument.”.

5. After Article 8 of the principal Order insert the following new Articles—

“Exemptions and refunds

9.—(1) No fee shall be payable under this Order by a party who, at the time when a fee would otherwise become payable—

- (a) is in receipt of any qualifying benefit, and
- (b) is not in receipt of legal aid under Part II of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a) for the purposes of the proceedings.

(2) The following are qualifying benefits for the purposes of paragraph (1)(a) above—

- (a) income support under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b);
- (b) income-based jobseeker’s allowance under the Jobseekers (Northern Ireland) Order 1995(c);
- (c) guarantee credit under the State Pension Credit Act (Northern Ireland) 2002(d);
- (d) working tax credit, provided that—

- (i) child tax credit is being paid to the party or otherwise following a claim for child tax credit made jointly by the members of a married couple or an unmarried couple (as defined respectively in section 3(5) and (6) of the Tax Credits Act 2002(e)) which includes the party; or

- (ii) there is a disability element or severe disability element (or both) to the tax credit received by the party;

and that the gross annual income taken into account for the calculation of the working tax credit is £16,017 or less.

10.—(1) Subject to paragraph (2), where a fee has been paid at a time—

- (a) when, under Article 9, it was not payable, the fee shall be refunded;
- (b) where the Lord Chancellor, if he had been aware of all the circumstances, would have reduced the fee, the amount by which the fee would have been reduced shall be refunded; and
- (c) where the Lord Chancellor, if he had been aware of all the circumstances, would have remitted the fee under Article 4(6), the fee shall be refunded.

(2) No refund shall be made under paragraph (1) unless the party who paid the fee applies within 6 months of paying the fee.

(3) The Lord Chancellor may extend the period of 6 months referred to in paragraph (2) if he considers that there is good reason for an application being made after the end of the period of 6 months.”.

6. For the Schedule to the principal Order there shall be substituted the new Schedule set out in the Schedule to this Order.

(a) S.I. 1981/228 (N.I. 8)
 (b) 1992 c. 7
 (c) S.I. 1995/2705 (N.I. 15)
 (d) 2002 c. 14
 (e) 2002 c. 21

Signed by the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

Dated 16th August 2007

We concur

Steve McCabe
Claire Ward
Two of the Lords Commissioners
of Her Majesty's Treasury

Dated 30th August 2007

SCHEDULE

Article 6

“SCHEDULE 1

Article 4

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
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:—		The requisition
(a) if the assessed value does not exceed £10,000	No fee	
(b) if the assessed value exceeds £10,000	200.00	
Personal application fee		
2. In addition to (1) on an application for a grant by a personal applicant where the value of the estate exceeds £10,000	50.00	The requisition
Special applications		
3. On an application for:—		
(a) a grant in respect of an estate exempt from inheritance tax by virtue of section 154 of the Inheritance Tax Act 1984 (exemption for members of the armed forces, etc.);	150.00	
(b) a grant limited to trust property;	150.00	
(c) a duplicate grant;	150.00	
(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	150.00	The requisition

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
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, or preparing any memorandum under the Inheritance (Provisions for Family and Dependents) (Northern Ireland) Order 1979.	50.00	The requisition
Caveats		
5. (a) for the entry of a caveat	75.00	The filed copy
(b) for an extension or warning to a caveat	50.00	
Deposit of wills		
6. On depositing a will for safe custody in the Probate and Matrimonial Office or any branch office	30.00	The requisition
Searches		
7. (a) For a search for a grant on behalf of the party applying (whether in person or by letter)	20.00	The requisition
(b) Additional payment where the search is carried out by an officer of the court	10.00	The requisition
Inspection		
8. On inspection of office records, an original will or any other document, including a copy of a will	30.00	The requisition
Copies of documents		
9. (a) on a copy document (5 sheets or less) not otherwise provided for	5.00	The requisition
(b) on any additional copy per page	0.50	
(c) 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	75.00	

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
10. On an audio recording produced on compact disc in respect of any court proceedings— For each hour or part thereof	25.00	
Oaths and guarantees		
11. Save in a personal application for a grant:—		
(a) for administering an oath, for each deponent to each affidavit	30.00	
(b) for superintending an attesting execution of a guarantee for each surety	50.00	The requisition
Production of document, etc.		
12. On an application for the production of records or documents to be given in evidence:—		
On attendance of an officer to produce records (in addition to the officer's expenses) for each hour or part thereof	14.00	
Settling documents		
13. For perusing and settling citations, for each document settled	115.00	The requisition
Applications to the Master		
14. On any application to the Master not otherwise provided for	115.00	The requisition
Miscellaneous		
15. On sealing a writ of subpoena per person	30.00	The requisition"

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Supreme Court (Non-Contentious Probate) Fees Order (Northern Ireland) 1996 so as to:—

- (a) introduce the following new fees in Schedule 1:—
 - where a search is carried out by an officer of the court (Fee No.7(b));
 - on an audio recording produced on compact disc in respect of any court proceedings (Fee No.10);
 - on sealing a writ of subpoena per person (Fee No.15);
- (b) increase a number of fees in non-contentious probate proceedings;
- (c) allow fees to be taken by a range of payment methods, including credit or debit card; and
- (d) provide for exemptions from fees payable in the circumstances as outlined in Article 5 and refunds where appropriate.

A Regulatory Impact Assessment of the costs and benefits of this Order (and other Orders relating to court fees) was placed in the libraries of both Houses of Parliament and is available on the Northern Ireland Court Service's web-site at www.courtsni.gov.uk.