

## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Non-Contentious Probate (Fees) Order 2018 introduces a new regime of fees for non-contentious probate matters in the Principal Registry and district registries. It replaces the Non-Contentious Probate Fees Order 2004 (S.I. 2004/3120) ('the 2004 Order').

Under this Order, the fee payable for an application for a grant of probate or letters of representation or resealing of a grant is now to be determined by reference to a scale based on the assessed value of the estate. No fee is payable for such an application where the assessed value of the estate does not exceed £50,000. This scale replaces the flat fee of £155 (or £215 for a personal applicant) which was formerly payable in respect of estates valued in excess of £5,000. Article 3 provides the definition of "the assessed value of the estate". Schedule 1 sets out the relevant scales and fees for such an application. It also prescribes the fees payable for other non-contentious probate matters, although those amounts have not been changed by this Order.

Articles 5 to 9 largely consolidate existing legislative provisions regarding refunds and remissions that were made in, or in relation to, the 2004 Order. Article 9 makes provision for the registrar to provide a partial refund in circumstances where an applicant withdraws their application before a grant is issued.

The Order removes fees for non-contentious probate matters from the general fee remissions scheme for court and tribunals ('Help with Fees') previously contained in Schedule 1A to the 2004 Order. Article 10 retains a power for the Lord Chancellor to remit fees in exceptional circumstances.

Article 11 and Schedule 2 to this Order revoke the 2004 Order save that, in accordance with Article 12, the 2004 Order continues to have effect in place of this Order in respect of applications described in column 1 of Schedule 1 to this Order received by the Principal Registry or a district registry before the coming into force of this Order.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available at <https://legislation.gov.uk>.