

1970 No. 1869 (L. 37)

SUPREME COURT OF JUDICATURE, ENGLAND

FEES AND STAMPS

The Supreme Court (Non-Contentious Probate) Fees
Order 1970

Made - - - - 11th December 1970
Coming into Operation 11th January 1971

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, according as the provisions of the said enactments respectively authorise and require them, make, advise, consent to and concur in the following Order:—

1.—(1) This Order may be cited as the Supreme Court (Non-Contentious Probate) Fees Order 1970 and shall come into operation on 11th January 1971.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(3) The Supreme Court (Non-Contentious Probate) Fees Order 1958(d), as amended, (e), is hereby revoked.

2.—(1) In this Order—

“The principal registry” means the principal probate registry and any sub-registry attached thereto;

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

“The Judicature Act 1925” means the Supreme Court of Judicature (Consolidation) Act 1925;

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

“Authorised place of deposit” means any place in which, by virtue of a direction given under section 170 of the Judicature Act 1925, 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.

(2) In this Order, the expression “A4” followed by the letters “ISO” means the size of paper so referred to in the specifications of the International Standards Organisation.

(3) Except where otherwise stated, a fee referred to by number means the fee so numbered in the schedule to this Order.

(a) 1925 c. 49. (b) 1879 c. 58. (c) 1889 c. 63. (d) S.I. 1958/161 (1958 II, p. 2267).
(e) S.I. 1959/887, 2263, 1961/2186, 1967/1028 (1959 II, pp. 2528, 2530; 1961 III, p. 3896; 1967 II, p. 3118).

3. The fees set out in column 2 of the schedule to this Order shall be taken in the principal registry and in district registries in respect of the items set out opposite thereto in column 1.

4.—(1) The fees prescribed in this Order shall be taken in cash.

(2) Fee No. 24 shall be taken at such times as the Treasury may direct.

5.—(1) In determining the value of any personal estate for the purpose of this Order there shall be excluded the value of:—

(a) a post-war credit; and

(b) a death gratuity payable under section 2(2) of the Administration of Justice (Pensions) Act 1950(a) or under section 4(1) or 15(1) of the Superannuation Act 1965(b).

(2) In this paragraph, the expression “post-war credit” means an amount of tax to which there is a claim under section 7 of the Finance Act 1941(c), whether the amount has been ascertained and recorded or not.

6.—(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) 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, a registrar may reduce or remit a fee.

(5) 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.

Dated 11th December 1970.

Hailsham of St. Marylebone, C.

Parker of Waddington, C.J.

Denning, M.R.

J. E. S. Simon, P.

Dated 11th December 1970.

David Howell,

Bernard Weatherill,

Two of the Lords Commissioners
of Her Majesty's Treasury.

SCHEDULE

Note: In this Schedule, the amounts of fees are shown in £ s. d. in column 2A and their decimal equivalents are shown in column 2B.

Column 1 Item	Column 2 Fee	
	A £ s. d.	B £
<i>Application for Grants</i>		
1. On an application for a grant other than an application to which Fee No. 3, 4 or 5 applies:—		
If the value of the net real and personal estate passing under the grant is sworn in the Inland Revenue affidavit to be		
Not more than £		
500	No fee	No fee
3,000	3 0 0	3·00
5,000	5 0 0	5·00
10,000	10 0 0	10·00
15,000	15 0 0	15·00
20,000	20 0 0	20·00
25,000	25 0 0	25·00
30,000	30 0 0	30·00
35,000	35 0 0	35·00
40,000	40 0 0	40·00
45,000	45 0 0	45·00
50,000	50 0 0	50·00
55,000	55 0 0	55·00
60,000	60 0 0	60·00
65,000	65 0 0	65·00
70,000	70 0 0	70·00
75,000	75 0 0	75·00
80,000	80 0 0	80·00
85,000	85 0 0	85·00
90,000	90 0 0	90·00
95,000	95 0 0	95·00
100,000	100 0 0	100·00
And for every additional £100,000 or any part thereof, a further and additional fee of	20 0 0	20·00
2. On an 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, 4(a) or 6 is payable, in addition to any other fee:—		
(a) If the value of the net real and personal estate passing under the grant is sworn in the Inland Revenue affidavit to be—		
Not more than £		
500	1 0 0	1·00
1,000	2 0 0	2·00
5,000	4 0 0	4·00
(b) If the value of the net real and personal estate passing under the grant is sworn to be more than £5,000, but not more than £20,000, for each £1,000 or fractional part of £1,000	1 0 0	1·00
(c) If the value of the net real and personal estate passing under the grant is sworn to be more than £20,000, for each £1,000 or fractional part of £1,000 above that value, a further and additional fee of	10 0	0·50

Column 1 Item	Column 2 Fee	
	A	B
3. Where the death occurred before 10th April 1946, on application for a grant where the estate as defined by section 33 of the Customs and Inland Revenue Act 1881(a), as extended by section 16 of the Finance Act 1894(b), does not exceed £500	£ s. d. 15 0	£ 0·75
4. Where neither Fee No. 3 nor 6 of this Schedule applies, on application for:— (a) a grant in respect of an estate exempt from duty under section 71 of the Finance Act 1952(c) (which gives exemption from estate duty for members of the armed forces, <i>etc.</i>); (b) a grant limited to settled land; (c) a grant limited to trust property; (d) a duplicate grant; (e) resealing a Scottish confirmation, a Northern Irish grant or a grant under the Colonial Probates Act 1892(d); or (f) 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	1 0 0	1·00
5. On application for a grant including settled land ...	Such fee as would have been payable under Fee No. 1 had the settled land not been included.	Such fee as would have been payable under Fee No. 1 had the settled land not been included.
6. On application for resealing a Scottish confirmation or a Northern Irish grant lodged at the principal registry and of the class described in section 168(3) or section 169(2), respectively, of the Judicature Act 1925	2 6	0·12½
<i>Alterations in Grants, etc.</i>		
7. For making any notation on or amendment to the grant and record after issue, or impounding or revoking a grant, or releasing an impounded grant (inclusive of filing any document, making any order, or preparing any memorandum under the Inheritance (Family Provision) Act 1938(e))	1 0 0	1·00
<i>Caveats</i>		
8. For the entry of a caveat or for a warning to a caveat	10 0	0·50

(a) 1881 c. 12. (b) 1894 c. 30. (c) 1952 c. 33. (d) 1892 c. 6. (e) 1938 c. 45.

Column 1 Item	Column 2 Fee	
	A	B
	£ s. d.	£
<i>Deposit of Wills</i>		
9. On depositing a will for safe custody in the principal or a district registry (including the filing of any related documents)	1 0 0	1·00
<i>Searches and Inspections</i>		
10. For a search for a grant on behalf of the party applying (whether in person or by letter):—		
(a) where the records to be searched cover a period of not more than three years	No fee	No fee
(b) for each additional year of the period covered by the records to be searched	1 0	0·05
11. On inspection—		
(a) of an original will	4 0	0·20
(b) of any other document, including a copy of a will	2 0	0·10
<i>Note:</i>		
(i) <i>This fee includes the search fee except where Fee No. 10 is payable.</i>		
(ii) <i>This fee shall not be taken where a search is made for research or similar purposes for a document filed in the principal registry or a district registry or other authorised place of deposit, and made under a permit issued by the authority of the President of the Probate, Divorce and Admiralty Division.</i>		
<i>Copies of documents</i>		
12. For a photographic copy of all or part of any document, whether or not issued as an office copy, for each photographic sheet—		
(a) of A.4 ISO, foolscap or smaller size	2 0	0·10
(b) of larger size	4 0	0·20
13. For a typewritten copy of any document per page—		
(a) of A.4 ISO, foolscap or smaller size	4 0	0·20
(b) of larger size	6 0	0·30
and for each page of any additional carbon copy bespoke, half of the fee above.		
14. For collating a photographic copy with the original document, including the registrar's certificate in verification thereof, per page	2 0	0·10
15. For collating a copy other than a photographic copy with the original document, including the registrar's certificate in verification thereof, per page—		
(a) of A.4 ISO, foolscap or smaller size	4 0	0·20
(b) of larger size	6 0	0·30
16. For an exemplification, in addition to the fees for typing and collating, or preparing by photography, the necessary documents (inclusive of certification and sealing)	1 0 0	1·00

Column 1 Item	Column 2 Fee	
	A	B
17. For sending by post a copy of any document—	£ s. d.	£
(a) to an address within the Inland Postage limits ...	1 0	0·05
(b) to any other address	The nearest multiple of 1s. above postage.	The nearest multiple of 5p above postage.
<i>Miscellaneous</i>		
18. For the certificate or minute of a judge or registrar	5 0	0·25
19. For impressing the seal of the court of any document	5 0	0·25
20. Save in a personal application for a grant—		
(a) for administering an oath, for each deponent to each affidavit	5 0	0·25
(b) for marking each exhibit	2 0	0·10
(c) for superintending and attesting execution of a bond, for each obligor	5 0	0·25
21. Save in a personal application for a grant, for preparing any affidavit, bond, or other document for a party in person	5 0	0·25
22. Upon an application for the production of records or documents in any court of law or elsewhere:—		
Where an officer is required to attend, whether on subpoena or not, his reasonable expenses, and, in addition, for each day or part of a day when he is necessarily absent from his office	2 0 0	2·00
<i>The officer may require a deposit on account of any further fees and a deposit on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, and the officer taking such deposit shall thereupon make a memorandum thereof on the application.</i>		
<i>The officer may also require an undertaking in writing to pay any further fees and expenses which may become payable beyond the amounts so paid and deposited.</i>		
23. For producing a will to be photographed in the probate registry in which the will has been proved or in which it is deposited	1 0 0	1·00
24. For notification by the principal registry to a charitable institution of a bequest in its favour, and forwarding extract	10 0	0·50
25. 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.	The same fees as are payable in an action.

Column 1 Item	Column 2 Fee	
	A	B
26. For a summons or a motion	£ s. d. The same fees as are payable in an action.	£ The same fees as are payable in an action.
27. For a registrar's order other than on summons (inclusive of filing any document in support of application) save in a matter in which Fee No. 3 is payable	10 0	0·50
28. For filing any document, other than— (a) a document lodged on application for a grant or resealing or included in Fee No. 7, 9 or 27, or (b) an affidavit filed to enable a registrar to give a fiat refusing probate	5 0	0·25
29. For perusing and settling citations, advertisements, oaths, affidavits or other documents:— For any one document settled	1 0 0	1·00
For each additional document settled	10 0	0·50

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order replaces the Supreme Court (Non-Contentious Probate) Fees Order 1958 and abolishes the use of impressed fee stamps in the Principal Probate Registry. It increases the fee payable on an application for a grant of probate or letters of administration except in the case of very small estates, where the fee is abolished (Fee No. 1). It also increases the additional fee which is payable in the case of personal applications (Fee No. 2) but abolishes the surcharge now payable on applications received by post. The Order makes a number of minor amendments, particularly in the fees charged for searches and inspections and for making and collating copies of documents. The fees for entry of a caveat and for a registrar's order are increased, but the fees for withdrawal of a caveat and for a registrar's fiat refusing probate are abolished. The amounts of all fees are expressed in £ s. d. and in decimal equivalents.

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