

2004 No. 799

TRUSTEES, ENGLAND AND WALES

The Public Trustee (Fees) (Amendment) Order 2004

Made - - - - - *28th February 2004*

Coming into force - - - *1st April 2004*

The Lord Chancellor, in exercise of the powers conferred upon him by section 9 of the Public Trustee Act 1906(a), as extended by section 1 of the Public Trustee (Fees) Act 1957(b), makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Public Trustee (Fees) (Amendment) Order 2004 and shall come into force on 1st April 2004.

(2) In this Order an article referred to by number alone means the article so numbered in the Public Trustee (Fees) Order 1999(c).

Amendment to the Public Trustee (Fees) Order 1999

2. In article 11(2)—

- (a) for “7.7 per cent”, substitute “10 per cent”;
- (b) for “6 per cent”, substitute “8 per cent”;
- (c) for “3 per cent”, substitute “4 per cent”;
- (d) for “2 per cent”, substitute “3 per cent”; and
- (e) for “£770”, substitute “£1,000”.

3. In article 17(4)—

- (a) for “2.25 per cent”, substitute “3.75 per cent”;
- (b) for “1.75 per cent”, substitute “2.15 per cent”;
- (c) for “1.25 per cent”, substitute “1.6 per cent”;
- (d) for “0.75 per cent”, substitute “1 per cent”;
- (e) for the words “in respect of any excess over £2,500,000” to “0.25 per cent”, substitute—

“in respect of any excess over £2,500,000 up to £3,000,000	0.5 per cent
in respect of any excess over £3,000,000	0.25 per cent”;
- (f) for “£60”, substitute “£300”;
- (g) in paragraph (c), omit “and”; and
- (h) after paragraph (d), insert—

“; and

(a) 1906 c. 55. Section 9 was amended by section 2(1) of the Public Trustee (Liability and Fees) Act 2002 (c. 35).
(b) 1957 c. 12. Section 1 was amended by section 2(3) of the Public Trustee (Liability and Fees) Act 2002 (c. 35).
(c) S.I. 1999/855 amended by S.I. 2002/2232 and S.I. 2003/690.

- (e) where the trust or estate has a net capital value of less than £3,000 (calculated in accordance with article 17(2)) the fee payable shall be 10 per cent of the net capital value”.
4. In article 19, for sub-paragraph (iii), substitute—
“(iii) the Public Trustee is acting other than as trustee or manager of any scheme or fund under Part VII of this Order and the trust or estate has, in the opinion of the Public Trustee, a total value of £30,000 or less on 31st March 2004; or”.
5. In article 20—
(a) in paragraph (1), for “The withdrawal fee”, substitute “Except where paragraph (2A) applies, the withdrawal fee”;
(b) in paragraph (2)—
(i) for sub-paragraph (a), substitute—
“(a) one half of the effective rate of administration or management fee charged on that property on the assessment date immediately prior to withdrawal, where the Public Trustee ceases to act upon retirement; and”; and
(ii) in sub-paragraph (b), for “4 times”, substitute “equivalent to”; and
(c) after paragraph (2), insert—
“(2A) Where the Public Trustee ceases to act as trustee or manager of any scheme or fund under Part VII of this Order—
(a) the withdrawal fee is such amount as may be agreed between the Public Trustee and the other trustees of the scheme or society as commensurate with the amount of work involved in the cessation and the capital value of the fund; or
(b) where no such agreement is reached, the withdrawal fee shall be charged as a relative percentage of the gross capital value of the property withdrawn or distributed equivalent to the effective rate of administration or management fee charged on that property on the assessment date immediately prior to the withdrawal or distribution”; and
(d) in paragraph (3), in the definition of “effective rate”, omit the words from “but so that the rate” to “1.875 per cent in any other case”.
6. In article 24(1), for “5 per cent”, substitute “6 per cent”.
7. In article 30(3)—
(a) for “1.58”, substitute “1.35”; and
(b) for “2003”, substitute “2004”.

Transitional provisions

8. This Order has effect only in relation to fees payable on or after 1st April 2004, and in relation to fees payable before that date the Public Trustee (Fees) Order 1999 shall have effect as if this Order had not been made.

Signed by authority of the Lord Chancellor

28th February 2004

Filkin
Parliamentary Under Secretary of State
Department for Constitutional Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Public Trustee (Fees) Order 1999 (S.I. 1999/855), which was amended by the Public Trustee (Fees) (Amendment) Order 2002 (S.I. 2002/2232) and further amended by the Public Trustee (Fees) (Amendment) Order 2003 (S.I. 2003/690), and comes into force on 1 April 2004, in relation to fees payable on or after that date.

The table below sets out where executorship fees and annual administration fees have been increased. In addition—

- (a) a new article 17(4)(e) provides that the administration fee shall be 10 per cent of the net capital value of the trust where that net capital value is less than £3,000;
- (b) proviso (iii) to article 19 is amended so as to provide that no withdrawal fee is payable where the trust or estate (other than a superannuation scheme or friendly society) has a net capital value of £30,000 or less on 31 March 2004; and
- (c) article 20 is amended in the following ways:
 - (i) the withdrawal fee (charged at a relative percentage of the gross capital value of the property withdrawn or distributed) where the Public Trustee ceases to act other than under Part VII (superannuation schemes or friendly societies) is amended as follows:
 - on a retirement of the Public Trustee, the rate is reduced from 2 times the effective percentage rate of administration or management fee charged on the property on the assessment date immediately prior to cessation to one half times the effective percentage rate.
 - in other cases the rate is reduced from 4 times the effective percentage rate of administration or management fee charged on the property on the assessment date immediately prior to withdrawal or distribution to a rate equivalent to the effective percentage rate.
 - (ii) the withdrawal fee where the Public Trustee ceases to act as trustee or manager of any scheme or fund under Part VII becomes such amount as may be agreed between the Public Trustee and the other trustees of the scheme or society as commensurate with the amount of work required for the cessation and the capital value of the fund. Where no such agreement is reached the fee is charged as a relative percentage of the gross capital value of the property withdrawn or distributed equivalent to the effective rate of administration or management fee charged on the property on the assessment date immediately prior to the withdrawal or distribution; and
 - (iii) paragraph (3) of article 20 is amended so that there is no longer any cap on the effective rate.

<i>Description of fee</i>	<i>Current fee</i>	<i>New fee</i>
Article 11(2): Executorship fee (rate calculated in accordance with Article 11(1)):		
— in respect of the first £50,000	7.7 per cent	10 per cent
— in respect of any excess over £50,000 up to £75,000	6 per cent	8 per cent
— in respect of any excess over £75,000 up to £100,000	3 per cent	4 per cent
— in respect of any excess over £100,000	2 per cent	3 per cent
— minimum amount of fee payable	£770	£1,000
Article 17(4): Administration fee (relevant percentages of net capital value of the estate or trust fund):		
— in respect of the first £30,000	2.25 per cent	3.75 per cent
— in respect of any excess over £30,000 up to £150,000	1.75 per cent	2.15 per cent
— in respect of any excess over £150,000 up to £375,000	1.25 per cent	1.6 per cent
— in respect of any excess over £375,000 up to £2,500,000	0.75 per cent	1 per cent

<i>Description of fee</i>	<i>Current fee</i>	<i>New fee</i>
— in respect of any excess over £2,500,000 up to £3,000,000 (previously not capped at £3,000,000)	0.25 per cent	0.5 per cent
— minimum fee payable	£60	£300
Article 24(1): Income collection fee (rate to be payable as the Public Trustee may direct in respect of the gross income of any estate or trust received by him)	5 per cent	6 per cent
Article 30(3): Management fee (fee to be charged where no agreement under article 30(2))	1.58 times annual fee last charged	1.35 times annual fee last charged

£3.00

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