STATUTORY RULES OF NORTHERN IRELAND

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(**1**), 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(**2**); 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.".

(**1**) 1978 c. 23 as amended by the Courts Act 2003 (c. 39)
(**2**) S.R. 1996 No. 104 as amended by S.R. 1997 No. 176, S.R. 1998 No. 407, and S.R. 2004 No. 342

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;

(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(**3**) 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(**4**);

(b) income-based jobseeker's allowance under the Jobseekers (Northern Ireland) Order 1995(**5**);

(c) guarantee credit under the State Pension Credit Act (Northern Ireland) 2002(**6**);

(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(**7**)) 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**) S.I. 1981/228 (N.I. 8)
(**4**) 1992 c. 7
(**5**) S.I. 1995/2705 (N.I. 15)
(**6**) 2002 c. 14
(**7**) 2002 c. 21

(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.

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