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SOLICITORS CHARGES FOR PROBATE AND TRUSTS

THE SOLICITORS' (NON-CONTENTIOUS BUSINESS) REMUNERATION ORDER 1994 provides that a solicitor shall charge such sum as is fair and reasonable to both the solicitor and the client having regard to all the circumstance and in particular to:

- (a) the complexity of the matter or the difficulty or novelty of the questions raised;
- (b) the skill, labour, specialised knowledge and responsibility involved;
- (c) the time spent on the business;
- (d) the number and importance of the documents prepared or perused, without regard to length;
- (e) the place where or circumstances in which the business or any part thereof is transacted;
- (f) the amount or value of any money or property involved;
- (g) whether any land involved is registered land;
- (h) the importance of the matter to the client; and
- (i) the approval (express or implied) of the client or the express approval of the deceased to:
 - i. the solicitor undertaking any part of the work giving rise to the costs, or
 - ii. the amount of the costs.

If you find that complicated - so do solicitors!

We start by recording all time spent on the matter in minimum units of 6 minutes per item of work, or half that for letters received, and calculate what the time spent has cost us in salaries and overheads. We then have to consider what charge is appropriate to the particular estate to arrive at a fee that is "fair and reasonable". For smaller and simpler estates the charge will be calculated at an hourly rate which may vary to take into account the above factors. For the average matter our time spent is at present being charged at the following rates, which are reviewed annually:

Partner £195.00 Consultant £180.00 Probate executive £170.00 Clerk £115.00

These hourly rates are high, as are our overheads which build-up every hour of every day. Nevertheless, a solicitor can only work on one client's business at a time and is doing well if he can record five hours chargeable work a day: and that is only on the days when he is working on client's matters.

When dealing with complicated or valuable estates, particularly those above the threshold for Inheritance Tax, at present £255,000, the charge must also reflect the value of the assets. The court has suggested that that element of the charge be 0.5% of the value of any house or land owned by the deceased and 1% of the rest of the estate. If there is a charge based on value, we usually think it appropriate to reduce the hourly charge somewhat. In a fairly straightforward estate, our fee often works out at about 2.5% of the value of the estate, somewhat less for larger estates, somewhat more for less valuable ones unless you are content for us simply to obtain the Grant of Representation, but you will understand that if difficulties are encountered the time/rate element of our fee can increase rapidly.

These notes relate only to the Law in England and Wales. They are by no means exhaustive but we hope that they will help avoid some of the difficulties which may arise. Please raise any queries with us as soon as possible.

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Where there is a continuing trust, our fee is normally based on the time spent on the matter, but at somewhat less than at the rates set out above. There is an additional charge of 1% of the value of funds taken out of the trust fund, but only when taken out of the fund.

VAT at the standard rate has to be added to our fee.

Fair and reasonable means fair both to the solicitor and to the client. Any client who thinks that he has been overcharged may request the solicitor to obtain a Remuneration Certificate from the Law Society (the Solicitor's professional body) certifying whether the sum charged is fair and reasonable. Solicitor's bills can also be challenged through the Courts but that may well add further charges and the Court's fee of 7.5% on the amount allowed.

Except in the smallest cases an application has to be made to the Court to obtain a Grant of Probate or Letters of Administration. The Court fee is usually £50 for an application made by solicitors or £130 if made in person. An additional £1 is payable for each copy of the Grant of Probate that may be required.

The responsibilities of a Personal Representative or Trustee should not be shouldered lightly particularly as the powers of the Inland Revenue to obtain information and impose penalties are being greatly increased. Personal Representatives and Trustees are personally responsible for all taxes, even out of their own pocket! They may also be liable in damages to the beneficiaries if they do not carry out the administration correctly in every respect.

Except in the simplest and smallest cases it is advisable to use a solicitor who is a member of *The Society of Trust and Estate Practitioners*.

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