

5. There shall be payable upon the grant of representation in respect of the estate of a deceased person, being property within the limits of the Principal Order, such fees in accordance with the value of the estate as may be prescribed by Rules of Court made under the Principal Order.

6.—(1) The estate of a deceased person shall, for the purposes of this Order, be deemed to include:—

(a) Any property (i) taken as a *donatio mortis causa* made by the deceased person; or (ii) taken under a disposition, made by him purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust or otherwise, which shall not have been *bona fide* made three years, or in the case of a gift for public or charitable purposes one year, before the death of the deceased person; or (iii) taken under any gift by him whenever made, of which property *bona fide* possession and enjoyment shall not have been assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise; Provided that this paragraph shall not apply to any immediate gifts *inter vivos* which are made in consideration of marriage, or which are proved to the satisfaction of the Court to have been part of the normal expenditure of the deceased person and to have been reasonable having regard to the amount of his income or to the other circumstances of the case, or which in the case of any donee do not exceed in the aggregate one hundred pounds in value or amount;

(b) any property, which the deceased person, having been absolutely entitled thereto, has caused to be transferred to or vested in himself and any other person or persons jointly, including therein any purchase or investment effected by such deceased person either by himself alone or in concert or by arrangement with any other person, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person;

(c) Any property passing under any past or future settlement, made by the deceased person by deed or any other instrument not taking effect as a will, whereby an interest in such property, or the proceeds of sale thereof, for life or any other period determinable by reference to death, is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in such property, or the proceeds of sale thereof, and the term "settlement" in this paragraph shall include any trust, whether expressed in writing or otherwise, but shall not include any settlement *bona fide* made for full consideration in money or money's worth;

(d) Money received under a policy of assurance effected by the deceased person on his life, where the policy was wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money in proportion to the premiums paid by him, where the policy was partially kept up by him for such benefit.

(2) Subject to the foregoing provisions of this Article, the estate of a deceased person shall not include property held by the deceased as trustee for another person.

7. In arriving at the value of the estate, an allowance shall be made for reasonable funeral expenses and for debts and incumbrances due to persons resident within the limits of the Principal Order, and for debts and incumbrances due to persons resident outside those limits to the extent, to which it is shown to the satisfaction of the Court that the property of the deceased situate in the country in which the person to whom such debts are due resides, is insufficient for their payment, but an allowance shall not be made:—

(a) for any debt incurred by the deceased or incumbrance created by a disposition made by the deceased, unless such debt or incumbrance were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest; nor

(b) for any debt in respect whereof there is a right to reimbursement from any other person or estate unless such reimbursement cannot be obtained; nor

(c) more than once for the same debt or incumbrances charged upon different portions of the property; nor

(d) for any debt charge on property of the deceased, not subject to the jurisdiction of the Court in matters of probate and administration, except to the extent that such property is insufficient to meet the charge.

8. Subject to the provisions of this Article and of Article 12, every application for a grant of representation shall be accompanied by an affidavit to be made by the person applying for the grant giving particulars of the estate of the deceased person and of the value thereof and of the deductions permissible under the last foregoing Article, and no representation shall be granted until all the fees then shown to be payable have been paid:

Provided that the Court may, in cases where difficulties or delays arise in ascertaining the gross value of the estate or the permissible deductions therefrom, or where the applicant for representation is unable to pay the fees until representation has been granted (the reasons whereof shall appear in the affidavit), grant representation upon an undertaking by the personal representative to pay any fees payable on the value of the estate which have not been paid, and the Court may in its discretion require a bond or guarantee in such form as the Court may direct for the due performance of the undertaking or may require the deposit in Court of such sum as it may think necessary for the purpose of securing the payment in due course of such fees as aforesaid.

9.—(1) Every grant of representation shall bear a certificate in writing under the hand of the proper officer of the Court stating the amount of the fees that have been paid together with the gross value of the estate and the amount of the permissible deductions therefrom.

(2) Where the representation has been issued under the terms of the proviso to Article 8 of this Order, the grant shall bear a certificate