

# STATES OF JERSEY



Jersey

## **DRAFT ROYAL COURT AND STAMP DUTIES AND FEES (JERSEY) AMENDMENT LAW 202-**

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**Lodged au Greffe on 1st October 2024  
by the Minister for Treasury and Resources  
Earliest date for debate: 12th November 2024**

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**STATES GREFFE**



Jersey

## **DRAFT ROYAL COURT AND STAMP DUTIES AND FEES (JERSEY) AMENDMENT LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Treasury and Resources has made the following statement –

In the view of the Minister for Treasury and Resources, the provisions of the Draft Royal Court and Stamp Duties and Fees (Jersey) Amendment Law 202- are compatible with the Convention Rights.

Signed: **Deputy M.E. Millar of St. John, St. Lawrence and Trinity**

*Minister for Treasury and Resources*

Dated: 30th September 2024

## REPORT

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### Summary

1. The draft Amendment Law seeks to achieve the following objectives:
  - Abolishing Jurat Stamps (the last remaining physical stamps) by repealing the [Loi \(1938\) sur les honoraires des Jurés-Justiciers](#) (the 1938 Law) from a future appointed day. The Minister for Treasury and Resources (the Minister) expects to stop the sale of stamps as soon as the Law, if supported by the Assembly, receives Royal Assent and is registered by the Royal Court.
  - Creating an obligation on the Bailiff and Treasury to fund the annual honoraria for Jurats from public expenditure (once the income stream from Jurat Stamps is abolished). It is proposed in the first instance that a sum of £65,000 is allocated from which to provide honoraria for all serving jurats.
  - Uprating in line with inflation the Judicial fees; fees in matrimonial proceedings; and probate fees contained in the three schedules of the [Stamp Duties and Fees \(Jersey\) Law 1998](#) (the 1998 Law).
  - Modernising the definition of “stamp” in the 1998 Law to reflect the abolition of physical (pre-paid) stamps. In future, Government receipts for payments will be acceptable evidence of payment of fees.
  - Creating a new obligation on the Bailiff and the Minister to review the duties/fees in the 1998 Law annually, having consulted the “Designated Officers” (the Bailiff, Judicial Greffier and Viscount). (This excludes the stamp duties which are de facto taxes – i.e. the duty on mortgages and freehold land transactions. No changes are made in respect of these matters.)
  - The Minister will have the power to amend court fees by Order (excepting those which are de facto taxes which continue to be subject to the procedures to create the annual (Budget) Finance Law.
  - Creating of a new rate Q (£5,000) in Schedule 1 of the 1998 Law for proceedings involving costs exceeding £10 million.
  - Specifying that judicial fees in Schedule 1 of the 1998 Law are to be made routinely non-refundable recognising that the majority of costs to the judicial system are incurred despite late settlements removing the need for a hearing. The Designated Officer (the Judicial Greffier in most cases and the Bailiff and Viscount) will have discretion to refund in appropriate circumstances.

### Abolition of Jurat Stamps

2. Jurat Stamps have existed since 1938 and are the last physical stamps in existence which are affixed to certain legal documents. Stamps are available in three denominations: £5; £4; and £1. In 2023 the total revenue from sales was in the region of £27,500.
3. Historically, stamps were provided to evidence the payment of a fee or duty and had to be physically applied to the different categories of chargeable documents. Under the 1938 Law the proceeds from sales of stamps have been ring-fenced for paying the honoraria of Jurats.
4. With the repeal of the 1938 Law, any remaining monies in the ring-fenced fund will be transferred to the Bailiff for the purpose of paying Jurats expenses and honoraria. In future, the Jurats remuneration will be handled through the normal annual budgeting process.

**Future mechanism to fund Jurats' Honoraria**

5. In future, Jurats' honoraria and expenses will be funded from public expenditure in the normal way as part of the annual Budget (Government Plan) process. At the outset, the Minister for Treasury and Resources has agreed that the sum available to pay honoraria and expenses should be £65,000. The draft Law gives the Bailiff discretion in the allocation of these funds and allows the Bailiff and the Minister to uprate the sum in future years with regard to RPI.

**Uprating of Judicial/Court Fees**

6. The Judicial fees in Schedule 1 of the 1998 Law have not been uprated since 2022. This Amendment Law proposes to uprate them by 16% (slightly less than RPI over the period) to restore their 2022 value.
7. Excluded from this uprating of Schedule 1 are item 1 (relating to mortgage contracts) and item 13 (mainly relating to freehold property transactions) which are taxes and are dealt with in the annual Budget process.
8. The fees set out in Schedules 2 (matrimonial) and Schedule 3 (probate) have not been uprated since 2018 and the Amendment Law proposes to uprate them by 34% (slightly less than RPI over the period) to restore their 2018 value.
9. It is not proposed to uprate the fees further to take account of the loss of income from Jurat Stamps.

**The definition of "Stamp"**

10. With the abolition of Jurat Stamps all of the stamp duties and fees covered by the 1998 Law will simply be receipted in one way or another by the Judicial Greffier; the Customer & Local Services Department; or by the Treasurer of the States through the Government's online systems. The new definition of "Stamp" reflects this.

**Annual review**

11. Court fees are somewhat out-of-step with other Government fees and charges which are normally reviewed annually. The Amendment Law puts an obligation on the Minister to keep fees under review with the assistance of the Designated Officers – principally the Judicial Greffier but also the Bailiff and the Viscount. It should be noted for the avoidance of doubt that the two items in Schedule 1 which are deemed to be taxes (relating to mortgage contracts and house sales etc.) are already reviewed regularly as part of the Budget process which leads to the lodging of the annual Finance (Budget) Law.

**Power to amend Court Fees by Order**

12. The Minister will have the power to amend court fees by Order (excepting those which are de facto taxes which continue to be subject to the procedures to create the annual (Budget) Finance Law.

**The new "Q" Rate**

13. The new rate of £5,000 on proceedings involving claims which exceed £10 million reflects the additional costs involved in these higher-value and complex matters.

**Making specified fees non-refundable**

14. At present, all true court fees (as opposed to the stamp duty on contracts – items 1 and 13 in Schedule 1) are refundable in the event that a matter settles and the need for a hearing falls away.
15. The purpose of court fees is to cover the costs of the administrative time involved in processing a case; setting a case down for a hearing; and also to cover the cost of the hearing itself (including judicial and other staff time which is pre-booked). The administrative time involved varies across the courts, but might involve work such as sending a summons out for a litigant (Petty Debts Court); tabling a case (Royal Court); mediating a dispute (Petty Debts court). If a case is settled before it is heard, then the reality is that a great deal of administrative work would have been carried out in any event. The proposed fees, even uplifted as proposed, would be unlikely to be more than the notional cost of administrative work which would have been done by then.
16. A change of emphasis is therefore sought to ensure that the general position is that court fees are non-refundable unless the applicant makes an application within 12 months and unless it is considered to be just to do so, in the special circumstances of the case. It is envisaged that cases where a refund is granted would be relatively rare. However, it is considered that it is important to preserve a discretion in this regard so that individuals who are financially disadvantaged are not put off from having access to justice.
17. A specified list of items in Schedule 1 are accordingly proposed to become non-refundable. It is proposed that the Designated Officer (Judicial Greffier or in some cases the Bailiff or Viscount) should have discretion to permit a refund where the circumstances suggest it would be just to do so, on application from the fee-payer.

**Review of the Stamp Duties and Fees (Jersey) Law 1998**

18. The Minister has commissioned a “re-write” of the Stamp Duties and Fees (Jersey) Law 1998 to simplify it. The intention is to create a much shorter law solely focused on the taxation of contracts (essentially mortgages and freehold property sales) and then to simplify the arrangements for the review and scheduling of court fees.

**Financial and staffing implications**

19. The abolition of Jurat Stamps will remove costs from the judicial system. Physical stamps have a monetary value and their production; secure storage; and sale involves costs which will fall away. Equally, removing the need to maintain a special ring-fenced fund from which honoraria have been paid will reduce costs.
20. Funding of Jurats’ honoraria will in future not be dependent upon the sale of stamps and can be more intelligently and effectively managed as part of the annual Budget process.
21. There are no staffing implications.

**Children’s Rights Impact Assessment**

22. A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

**Human Rights**

23. The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers’ Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

**APPENDIX TO REPORT****Human Rights Notes on the Draft Royal Court and Stamp Duties and Fees (Jersey) Amendment Law 202-**

These Notes have been prepared in respect of the draft Royal Court and Stamp Duties and Fees (Jersey) Amendment Law 202- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**”).

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

The draft Law repeals the Loi (1938) sur les honoraires des Jurés-Justiciers and amends the Royal Court (Jersey) Law 1949 to remove the requirement for physical ‘stamps’ to be purchased by court users but to maintain provision for the payment of an ‘honorarium’ to the jurats.

The draft Law amends the Stamp Duties and Fees (Jersey) Law 1998 (“the **SD Law**”) to reflect the removal of physical stamps and to uplift the lettered rates under that Law in line with inflation. It creates a new lettered rate, rate “Q” which will be applied to claims valued at more than £10 million. The draft Law removes the automatic refund of stamp duty where a chargeable document is not used to reflect the wasted administrative and booking costs which nevertheless fall to be met. Refunds may however still be given under the draft Law in exceptional circumstances and following application being made for the same. Two provisions of the ECHR have been identified as potentially relevant to the draft Law: Article 1 of the First Protocol to the ECHR (“**A1P1**”), the right to property; and Article 6, the right to a fair trial.

*A1P1*

It is not considered that the draft Law engages A1P1 because the fees applied are designed to cover the cost of the service which are provided rather than being a general revenue raising measure.

It is recognised that there may be an argument that A1P1 is engaged in respect of the removal of an automatic refund of fees where proceedings are not progressed, and the chargeable document is not in fact used. It is not considered that the fee paid is an asset for the purposes of A1P1, there can be no expectation of a refund on the part of the court users noting that the draft Law will only apply prospectively.

Even if A1P1 was engaged, however, it is not an absolute right and States are afforded a wide margin of appreciation to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions. Overall, the provisions are considered to achieve a fair balance for the purposes of A1P1.

*Article 6*

It is recognised that Article 6 may be engaged where a fee represents a barrier to justice. It is noted that some of the fees set out under the SD Law are declaratory, unilateral or non-contentious. In those circumstances, the civil limb of Article 6 will not be engaged because there is no determination of a person’s rights and obligations.

The European Court of Human Rights has made clear that Article 6 is not an absolute right and that fees applied by courts are not in principle incompatible with it. To the extent that Article 6 may be engaged the lettered rates under the Schedules to the SD Law are considered compliant. The rates are considered modest and there is existing provision under the SD Law for exemption from stamp duties for financial grounds and so they are not considered to constitute an unacceptable barrier to justice.

Whilst there are no bespoke appeal provisions relating to decisions regarding the refund of stamp duty, such decisions are liable to challenge by way of judicial review. This is considered sufficient for the purposes of Article 6. In any event, it is noted that if A1P1 is not engaged then there may not be any “determination of a civil right” and accordingly no engagement of Article 6.

Overall, the draft Law is considered compliant with the provisions of the ECHR.

## EXPLANATORY NOTE

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This Law, if passed, will make alternative arrangements for the paying of an honorarium to Jurats, to be inserted into the Royal Court (Jersey) Law 1948. The cost of the honorarium, which is no longer to be funded by the requirement to purchase Jurats' stamps, is to be funded in future as part of the annual budget process though the Law also provides for an increase in court fees by amending the Stamp Duties and Fees (Jersey) Law 1998. There are in addition some minor amendments to that Law.

*Article 1* inserts 2 new Articles into Part 1 (The Juratship) of the Royal Court (Jersey) Law 1948. Article 8A makes new provision for an annual sum, known as the Jurats' honorarium, to be distributed amongst the Jurats when and as the Bailiff considers appropriate in the particular circumstances, including each Jurat's length of service during the year. The Bailiff must review the honorarium each year and if the Bailiff considers appropriate having regard to any change in the retail price index and after having consulted the Minister for Treasury and Resources, it may be varied.

Article 8B is a transitional provision that enables Jurats' stamps to be used or refunded for up to a year after the law changes take effect.

*Article 2* amends the Stamp Duties and Fees (Jersey) Law 1998. In Article 1 of that Law, it inserts a new definition of "chargeable document", amends other definitions to correct cross references to the Schedules and substitutes a new definition of "stamp" to reflect the fact that physical stamps are no longer being used.

Article 3 is amended to enable lettered rates (as opposed to revenue-raising amounts such as on the purchase of immovable property) to be amended by Order of the Minister for Treasury and Resources after consulting the Bailiff, the Viscount and the Judicial Greffier.

Article 9 is amended to remove the refund of judicial fees regardless of whether a hearing ever takes place. The designated officer may reduce or remit the whole or part of those fees if in the particular circumstances it is just to do so.

Article 12A (transitional provision) is deleted as being spent and the Schedules are amended to increase the rates of fees payable. The increases of 16% in judicial fees and 22% in the case of matrimonial and civil partnership proceedings and probate fees restore the value of the fees to when they were last amended (2022 and 2018 respectively). A new rate Q is also added to the Schedule of judicial fees applicable to claims exceeding £10 million. To maintain parity with other land transaction Laws some references to rate F are converted to a monetary value.

*Article 3* repeals the Loi (1938) sur les honoraires des Jurés-Justiciers, which currently provides for the existing system of funding the Jurats by means of stamps.

*Article 4* provides for how the Law may be cited and for it to come into force on a day to be specified by the Minister for Treasury and Resources by Order.





Jersey

## DRAFT ROYAL COURT AND STAMP DUTIES AND FEES (JERSEY) AMENDMENT LAW 202-

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Jersey

## DRAFT ROYAL COURT AND STAMP DUTIES AND FEES (JERSEY) AMENDMENT LAW 202-

A LAW to amend the [Royal Court \(Jersey\) Law 1948](#) to make new provisions for the remuneration and expenses of Jurats and the [Stamp Duties and Fees \(Jersey\) Law 1998](#) to increase court fees and to make other amendments to that Law.

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

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### 1 [Royal Court \(Jersey\) Law 1948](#) Articles 8A and 8B inserted

After Article 8 of the [Royal Court \(Jersey\) Law 1948](#) there is inserted –

#### **“8A Jurats’ honorarium**

- (1) The Bailiff must distribute the whole of an annual sum, known as the Jurats’ honorarium, of an amount agreed by the Minister for Treasury and Resources, amongst the Jurats each calendar year –
  - (a) at whatever times that the Bailiff considers appropriate; and
  - (b) as the Bailiff considers appropriate in the particular circumstances, including the length of service by each Jurat during that year.
- (2) The Bailiff must review the Jurats’ honorarium annually, having regard to the percentage change, if any, in the RPI during the previous calendar year and if the Bailiff considers it appropriate after consulting the Minister for Treasury and Resources, the amount of the honorarium may be varied.
- (3) In this Article “RPI” means the means the Retail Prices Index published by the Office of the Chief Statistician constituted under Article 5(1) of the [Statistics and Census \(Jersey\) Law 2018](#).

**8B Jurats' stamps: transitional provision**

- (1) Any Jurats' stamps issued by the Treasurer of the States under Article 1(2) of the [Loi \(1938\) sur les honoraires des Jurés-Justiciers](#) that have not been affixed to a chargeable document (within the meaning of that Loi) before the commencement of the Royal Court and Stamp Duties and Fees (Jersey) Amendment Law 202- (the "Amendment Law") –
  - (a) during the 3 months following that commencement –
    - (i) remain valid for affixing to a chargeable document, or
    - (ii) if not so affixed or if the document is not used, may be returned to the Judicial Greffe in return for a refund by the Treasurer of the States of the amount paid for them; or
  - (b) may be destroyed or preserved according to the direction of the Treasurer of the States.
- (2) This Article expires 3 months after the day on which the Amendment Law commences."

**2 [Stamp Duties and Fees \(Jersey\) Law 1998](#) amended**

- (1) This Article amends the [Stamp Duties and Fees \(Jersey\) Law 1998](#).
- (2) In Article 1 (interpretation) –
  - (a) for the definition "chargeable document" there is substituted –
 

“chargeable document” means a document in respect of which stamp duty is payable in accordance with Article 2 and a Schedule;”;
  - (b) in the definition "designated officer", for "fourth column of the Schedule" there is substituted "final column of a table in a Schedule";
  - (c) for the definition "stamp" there is substituted –
 

“stamp” means a receipt issued in return for the payment of stamp duty;”;
  - (d) in the definition "stamp duty", for "the Schedule" there is substituted "a Schedule".
- (3) In Article 3 (Regulations) –
  - (a) in the heading after "Regulations" there is inserted "and Orders";
  - (b) the existing text is numbered paragraph (1);
  - (c) after paragraph (1) there is inserted –
 

“(2) But in the case of an amendment to any of the lettered rates set out in paragraph 1 of Schedules 1, 2 and 3, the amendment may be made by Order of the Minister for Treasury and Resources after consulting the Bailiff, the Viscount and the Greffier.”.
- (4) For Article 9(2) (refund of stamp duty) there is substituted –
 

“(2) No refund may be made –

  - (a) in respect of a *billet* which has been *cassé*; or
  - (b) in respect of stamp duty paid in accordance with items 2, 4, 4A, 5, 7, 11, 17, 18, 27, 28, 30, 31, 35, 35A, 36, 38, 40A, 42 and 47 in paragraph 3 (tables of judicial fees) of Schedule 1 regardless of whether a hearing ever takes place.

- (3) Despite paragraph (2)(b), if on the application of the person who has paid the stamp duty within 12 months of the payment, the designated officer considers that the particular circumstances would make it just to do so, that officer may reduce or remit the whole or part of that duty.
- (4) Despite Article 10, the decision of the designated officer under paragraph (3) is final.”.
- (5) In Article 10(2) (determinations and appeals) after “Article 6” there is inserted “and Article 9(4)”.
- (6) Article 12A (transitional provision) is deleted.
- (7) The Schedules are amended in accordance with the Schedule to this Law.

### **3 Repeal of [Loi \(1938\) sur les honoraires des Jurés-Justiciers](#)**

The [Loi \(1938\) sur les honoraires des Jurés-Justiciers](#) is repealed.

### **4 Citation and commencement**

This Law may be cited as the Royal Court and Stamp Duties and Fees (Jersey) Amendment Law 202- and comes into force on a day to be specified by the Minister for Treasury and Resources by Order.

## SCHEDULE

(Article 2(7))

### SCHEDULES AMENDED

#### 1 Schedule 1 (judicial fees) amended

(1) In paragraph 1 of Schedule 1 (lettered rates), for sub-paragraphs (a) to (p) there is substituted –

- “(a) by rate A, £2;
- (b) by rate B, £18;
- (c) by rate C, £43;
- (d) by rate D, £52;
- (e) by rate E, £75;
- (f) by rate F, £104;
- (g) by rate G, £151;
- (h) by rate H, £191;
- (i) by rate I, £255;
- (j) by rate J, £383;
- (k) by rate K, £464;
- (l) by rate L, £638;
- (m) by rate M, £870;
- (n) by rate N, £1,160;
- (o) by rate O, £1,450;
- (p) by rate P, £1,740;
- (q) by rate Q, £5,000.”.

(2) In paragraph 3 (tables of judicial fees) –

(a) in item 1 (acknowledgement of debt on table or *au Greffe*) of the table –

- (i) in paragraphs (ba)(i), (ii)(I) and (d) for “rate F” in the third column there is substituted “£90”,
- (ii) in the proviso to paragraph (d), in sub-paragraph (A) for “rate F” there is substituted “£90”;

(b) in item 2 (actions) of the table –

- (i) in paragraph (2)(a)(ii) after “£2 million” there is inserted “but does not exceed £10 million”,
- (ii) after the row including paragraph (2)(a)(ii) there is inserted –

	“(iii) where the value of the claim or the value of the assets affected by the claim exceeds £10 million	rate Q	Billet or application	Greffier”,
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(iii) in paragraph (2)(d)(ii) after “£2 million” there is inserted “but does not exceed £10 million”,

(iv) after the row including paragraph (2)(d)(ii) there is inserted –

	“(iii) where the value of the claim or the value of the assets affected by the claim exceeds £10 million	rate Q	Application	Greffier”,
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(v) in paragraph (2)(e)(vi) after “£2 million” there is inserted “but does not exceed £10 million”,

(vi) after the row including paragraph (2)(e)(vi) there is inserted –

	“(vii) where the value of the claim or the value of the assets affected by the claim exceeds £10 million	rate Q	<i>Billet</i> or application	Greffier”;
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(c) in item 13 (contracts) in paragraphs (d1), (q), (t) and (u) for “rate F” in the third column there is substituted “£90”;

(d) in item 31 (orders of justice and provisional orders) –

(i) in paragraph (a)(ii) after “£2 million” there is inserted “but does not exceed £10 million”,

(ii) after the row including paragraph (a)(ii) there is inserted –

	“(iii) where the value of the claim or the value of the assets affected by the claim exceeds £10 million	rate Q	Order of justice	Bailiff”,
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(iii) in paragraph (b)(i)(B) after “£2 million” there is inserted “but does not exceed £10 million”,

(iv) after the row including paragraph (b)(i)(B) there is inserted –

	“(C) where the value of the claim or the value of the assets affected by the claim exceeds £10 million	rate Q	Provisional order	Bailiff”;
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(e) in item 36 (remonstrance, representation or *doléance*) –

(i) in paragraph (a)(ii) after “£2 million” there is inserted “but does not exceed £10 million”,

(ii) after the row including paragraph (a)(ii) there is inserted –

	“(iii) where the value of the assets affected by the remonstrance, representation or <i>doléance</i> exceeds £10 million	rate Q	Remonstrance, representation or <i>doléance</i>	Greffier”,
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(iii) in paragraph (b)(ii) after “£2 million” there is inserted “but does not exceed £10 million”,

(iv) after the row including paragraph (b)(ii) there is inserted –

	“(iii) where the value of the assets affected by the remonstrance, representation or <i>doléance</i> exceeds £10 million	rate Q	Remonstrance, representation or <i>doléance</i>	Greffier”.
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## 2 Schedule 2 (fees in matrimonial and civil partnership proceedings) amended

In paragraph 1 of Schedule 2 (lettered rates), for sub-paragraphs (a) to (m) there is substituted –

- (a) by rate A, £1;
- (b) by rate B, £20;
- (c) by rate C, £40;
- (d) by rate D, £54;
- (e) by rate E, £80;
- (f) by rate F, £107;
- (g) by rate G, £161;
- (h) by rate H, £201;
- (i) by rate I, £268;
- (j) by rate J, £402;
- (k) by rate K, £482;
- (l) by rate L, £670;
- (m) by rate M, £2,010.

## 3 Schedule 3 (probate fees) amended

In paragraph 1 of Schedule 3 (lettered rates), for sub-paragraphs (a) to (m) there is substituted –

- (a) by rate A, £1;
- (b) by rate B, £20;
- (c) by rate C, £40;
- (d) by rate D, £54;
- (e) by rate E, £80;
- (f) by rate F, £107;
- (g) by rate G, £161;
- (h) by rate H, £201;
- (i) by rate I, £268;
- (j) by rate J, £402;
- (k) by rate K, £482;
- (l) by rate L, £670;

(m) by rate M, £2,010.