

Probate Fee Increase Boomerang

There has been yet another unexpected twist in the ongoing saga of the introduction of new probate fees.

When it was announced that Parliament was prorogued on 9 September 2019, it seemed that this would [delay the new fees](#) from being implemented. This was because the [Non-Contentious Probate Fees Order 2018](#) (which was due to introduce probate fee increases) was thought to have lapsed as a result of the prorogation.

However, the Supreme Court then unanimously held that the decision to prorogue Parliament was unlawful. Lady Hale stated that the advice given to prorogue Parliament was also “...*was null and of no effect... as if the Commissioners had walked into Parliament with a blank piece of paper. It too was unlawful, null and of no effect.*”

This meant that the 2017–19 parliamentary session was resumed on 25 September 2019, as though the prorogation had not occurred.

Have probate fees increased?

Not yet, but the clock is ticking. As the Supreme Court held that it was as though the prorogation had not occurred, the Non-Contentious Probate Fees Order 2018 did not lapse. It is therefore still on the table and it is currently awaiting parliamentary debate and approval.

That debate is unlikely to occur whilst Parliament’s time is occupied with Brexit, but it could still mean an increase in probate fees in the near future. That may mean an increase from the current fixed fee of £215 (or £155 when a solicitor is used) of up to £6,000 for some estates.

Given the unprecedented events of the last month in connection with the attempt to prorogue Parliament, it will be interesting to see what happens next in the turbulent journey of the Non-Contentious Probate Fees Order 2018.