

PRACTICE NOTE 26

TRUSTEES' FEES FOR THE CARE AND MANAGEMENT OF TRUSTS

1. Section 31 of the *Trustee Act*, R.S.P.E.I. 1988, Cap. T-8, provides that “trustees. . . are entitled to such fair and reasonable compensation for their care, pains and trouble, and their time expended in and about the trust estate, and in such proportion where there is more than one trustee, as is determined by the Court.”
2. In the past, where the trustee’s remuneration was not set by the agreement setting up the trust, it was necessary to apply to the Court to have a trustee’s remuneration decided. This remuneration has usually been determined at five percent (5%) of gross income passing through the trustee’s hands.
3. The Judges of the Supreme Court have decided that they will adopt, as a rule of general application, the fixing of the remuneration of trustees at no more than five percent (5%) of gross income from time to time coming into the hands of the trustee on an annual basis, together with two-fifths of one percent (1%) of capital annually and such other amounts as the Court may allow on application made by the trustee to pass its accounts. Trustees should make application to the Court for approval of ongoing allowances under s. 31, and this practice memorandum at the end of each trust year. An annual determination is deemed desirable when it is not otherwise provided for the settlement deed or document establishing the terms and conditions of the trust.