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STATUTORY RULES OF NORTHERN IRELAND

# 2007 No. 381

# FAMILY PROCEEDINGS

SUPREME COURT

COUNTY COURT

## The Family Proceedings Fees (Amendment) Order (Northern Ireland) 2007

| | |
|---|---|
| *Made - - - -* | *30th August 2007* |
| *Coming into operation* | *24th September 2007* |

The Lord Chancellor, in exercise of the powers conferred on him by section 116(1) and (1A) of the Judicature (Northern Ireland) Act 1978(**1**), after consultation with the Lord Chief Justice and with the concurrence of the Treasury, hereby makes the following Order:—

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Family Proceedings Fees (Amendment) Order (Northern Ireland) 2007 and shall come into operation on 24th September 2007.

(2) In this Order "the 1996 Order" means the Family Proceedings Fees Order (Northern Ireland) 1996(**2**).

**Amendments to the principal Order**

**2.** After Article 7 of the principal Order insert the following new Articles—

"**Exemptions and refunds**

**8.**—(1) No fee shall be payable under this Order by a party who, at the time when a fee would otherwise become payable—

(a) is in receipt of any qualifying benefit, and

(b) is not in receipt of legal aid under Part II of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**3**) for the purposes of the proceedings.

(**1**) 1978 c. 23 as amended by the Courts Act 2003 (c. 39)

(**2**) S.R. 1996 No. 495 as amended by S.R. 1997 No. 177, S.R. 1998 No. 408, S.R. 2002 No. 344, S.R 2004 No. 340 and S.R. 2005 No. 560

(**3**) S.I. 1981/228 (N.I. 8)

(2) The following are qualifying benefits for the purposes of paragraph (1)(a) above—

(a) income support under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**4**);

(b) income-based jobseeker's allowance under the Jobseekers (Northern Ireland) Order 1995(**5**);

(c) guarantee credit under the State Pension Credit Act (Northern Ireland) 2002(**6**);

(d) working tax credit, provided that—

(i) child tax credit is being paid to the party or otherwise following a claim for child tax credit made jointly by the members of a married couple or an unmarried couple (as defined respectively in section 3(5) and (6) of the Tax Credits Act 2002(**7**)) which includes the party; or

(ii) there is a disability element or severe disability element (or both) to the tax credit received by the party;

and that the gross annual income taken into account for the calculation of the working tax credit is £16,017 or less.

**9.**—(1) Subject to paragraph (2), where a fee has been paid at a time—

(a) when, under Article 8, it was not payable, the fee shall be refunded;

(b) where the Lord Chancellor, if he had been aware of all the circumstances, would have reduced the fee, the amount by which the fee would have been reduced shall be refunded; and

(c) where the Lord Chancellor, if he had been aware of all the circumstances, would have remitted the fee under Article 4(3), the fee shall be refunded.

(2) No refund shall be made under paragraph (1) unless the party who paid the fee applies within 6 months of paying the fee.

(3) The Lord Chancellor may extend the period of 6 months referred to in paragraph (2) if he considers that there is good reason for an application being made after the end of the period of 6 months.".

**3.** For the Schedule to the principal Order there shall be substituted the new Schedule set out in the Schedule to this Order.

Signed by the authority of the Lord Chancellor

*Bridget Prentice*
Parliamentary Under Secretary of State
Ministry of Justice

(**4**) 1992 c. 7
(**5**) S.I. 1995/2705 (N.I. 15)
(**6**) 2002 c. 14
(**7**) 2002 c. 21

Dated 16th August 2007
We concur

*Steve McCabe*
*Claire Ward*
Two of the Lords Commissioners
of Her Majesty's Treasury

Dated 30th August 2007

SCHEDULE Article 3

"SCHEDULE Article 4

Fees to be taken in Family Proceedings

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| Item | Fee<br>£ | Document to be endorsed |
| 1. Commencement of Proceedings | | |
| (a) On sealing an originating summons | 200.00 | The filed copy |
| (b) On sealing any petition other than a second petition presented with leave granted under rule 2.6(3) or (3A) – | | |
| (i) When the petition is presented to the High Court | 200.00 | The filed copy |
| (ii) When the petition is presented to a divorce county court or a civil partnership proceedings county court | 200.00 | The filed copy |
| NOTE: Fees to include provision for the number of initial copies required for service | | |
| 2. Entering and Setting Down for trial in court | | |
| On entering or setting down any cause or matter for trial, hearing or further consideration in court, except where it is otherwise provided for in this Schedule | | |
| (a) High Court petition | 300.00 | The setting down docket |
| (b) County Court petition | 250.00 | The setting down docket |
| 3. Certificate of Decree Absolute or Final Order | | |
| On filing an application for a certificate of Decree Absolute or Making Conditional Order Final | 75.00 | The filed copy |

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| Item | Fee<br>£ | Document to be endorsed |
| 4. Proceedings under the Children (Northern Ireland) Order 1995 | | |
| On filing an application or requesting leave under the following provisions of the Children (Northern Ireland) Order 1995 – | | |
| Parental Responsibility, Guardians, Article 8 orders | | |
| (a) Article 7(1)(a) or (4), 10(1) or (2), 159(1); | | |
| (i) High Court | 100.00 | |
| (ii) County Court | 75.00 | The filed copy |
| (b) Article 13(1) or 163(1) | | |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | The filed copy |
| Financial Provision for Children | | |
| (c) paragraph 2(1), 3(1), 7(5), 16(1) of Schedule 1 | | The filed copy |
| (i) High Court | 100.00 | |
| (ii) County Court | 75.00 | |
| (d) paragraph 2(4), 3(5), 6(6), 7(7), 7(8), 10(2), 12(2) or 13 of Schedule 1 | | |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | |
| Secure Accommodation | | |
| (e) Article 44 | | |
| (i) High Court | 100.00 | |
| (ii) County Court | 75.00 | |

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| Item | Fee<br>£ | Document to be endorsed |
| Care, Supervision etc | | |
| (f) Article 50 | | The filed copy |
| (i) High Court | 100.00 | |
| (ii) County Court | 75.00 | |
| (g) Article 52(7), 57(8)(b), 58(1), (2), (3) or (4), paragraph 6(3) of Schedule 3 or paragraph 10(3) of Schedule 8 | | The filed copy |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | |
| Contact with child in care | | |
| (h) Article 53(2), (3), (4) or (9) | | The filed copy |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | |
| Placement Abroad | | |
| (i) Article 33(1) | | The filed copy |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | |
| Education supervision | | |
| (j) Article 55(1) | | The filed copy |
| (i) High Court | 100.00 | |
| (ii) County Court | 75.00 | |
| (k) paragraph 5(2) or 7(1) of Schedule 4 | | The filed copy |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | |
| Child Assessment | | |
| (l) Article 62(1) | | The filed copy |
| (i) High Court | 100.00 | |
| (ii) County Court | 75.00 | |

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| Item | Fee<br>£ | Document to be endorsed |
| (m) Article 62(12) | | The filed copy |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | |
| Emergency Protection | | |
| (n) Article 63 | | |
| (i) High Court | 0.00 | |
| (ii) County Court | 0.00 | |
| Recovery of children | | |
| (o) Article 69 | | |
| (i) High Court | 100.00 | |
| (ii) County Court | 75.00 | |
| Miscellaneous | | |
| (p) Article 178 | | The filed copy |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | |
| (q) On commencing an appeal under Article 166 or Article 41(11) | | |
| (i) to the county court | 75.00 | |
| (ii) to the High Court | 100.00 | |

NOTE: Where an application requires leave of the court the relevant fee applies where leave is sought but no further fee may be charged if leave is granted and the application is made

5. Proceedings under the Family Homes and Domestic Violence (Northern Ireland) Order 1998

| | | |
|---|---|---|
| (a) Application for a non molestation or occupation order | | |
| (i) High Court | 0.00 | |
| (ii) County Court | 0.00 | |
| (b) On a C2 application | | |
| (i) High Court | 0.00 | |
| (ii) County Court | 0.00 | |

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| Item | Fee<br>£ | Document to be endorsed |
| (c) On an ex-parte (emergency) application | 0.00 | |
| (d) On the following full application | 0.00 | |
| (e) On a C2 application not otherwise provided for | | |
| (i) High Court | 75.00 | |
| (ii) County Court | 57.50 | |
| (f) Application under the Family Homes & Domestic Violence Order not otherwise provided for | 0.00 | |
| (g) On filing an answer/reply to a petition/answer | 100.00 | |
| (h) Personal Application Fee for a matrimonial interview | 50.00 | |
| 6. Application for Ancillary Relief | | |
| On filing a notice of application for ancillary relief | | The filed copy |
| (i) High Court | 300.00 | |
| (ii) County Court | 250.00 | |
| 7. Other Application in Proceedings | | |
| (a) On any application in matrimonial proceedings or civil partnership proceedings, except where it is otherwise provided for in this Schedule, or is for an order by consent, made | | |

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| Item | Fee<br>£ | Document to be endorsed |
| (i) to a master<br>(ii) to a judge | 115.00<br>150.00 | The filed copy<br>The filed copy |
| (b) Ex-parte application to remove a petitioner's address from the petition | Fee charged at the Judge's discretion | |
| 8. Writ of Subpoena & Witness Summonses | | |
| On sealing a writ of subpoena or issuing a witness summons per person | 30.00 | The filed copy |
| 9. Copies of Documents | | |
| (a) (i) On a copy document (5 sheets or less) not otherwise provided for | 5.00 | The requisition |
| (ii) On any additional copy per page | 0.50 | The requisition |
| (b) On a copy order/decree including certified or sealed | 10.00 | |
| (c) On a copy order/decree produced online | 8.00 | |
| (d) On an audio recording produced on compact disc in any court proceedings – for each hour recorded or part thereof | 25.00 | |
| 10. Searches and Inspections | | |
| (a) On making a search in the index of Parental Responsibility Agreements kept in the Office of Care and Protection in accordance with regulations made under Article 7 of the Children (Northern Ireland) Order 1995 and, if appropriate providing a copy of an agreement | 20.00 | The requisition |
| (b) (i) On a search (including inspection) other than one for which a fee is prescribed under 10(a) above | 20.00 | The requisition |

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| Item | Fee<br>£ | Document to be endorsed |
| (ii) Additional fee where the search is carried out by an officer of the court | 10.00 | |
| (c) For an official certificate of the result of a search in any index | 30.00 | The requisition |
| 11. Miscellaneous | | |
| For signing, settling or approving an advertisement | 30.00 | The requisition |
| 12. Appeals | | |
| (a) On filing a notice of appeal from a master to a judge in chambers | 200.00 | The filed copy |
| (b) On entering any appeal (including an interlocutory appeal) to the Court of Appeal | 500.00 | The notice of appeal or requisition |
| 13. Taxation | | |
| (a) On lodgement of a bill of costs. Provided that where the bill is taxed credit for this fee is to be given against the final amount payable | 5% of original bill | |
| (b) On the taxation of a bill of costs: | | The bill |
| Where the amount allowed does not exceed £5 | 1.00 | The bill |
| Where the amount allowed exceeds £5 but does not exceed £100, for every £1 or fraction thereof – | 0.15 | |
| Where the amount allowed exceeds £100 – | | |
| (i) for the first £100 | 24.00 | The bill |
| (ii) for every £1 or fraction thereof over £100 | 0.15 | |

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| Item | Fee<br>£ | Document to be endorsed |
| (c) On withdrawal of a bill of costs which has been lodged for taxation | In addition to 13(a) such fee (not exceeding the amount which would have been payable under Fee No.13 (b) if the bill had been allowed in full) as shall appear to the taxing master to be fair and reasonable having regard to the amount of work done in the office | |

NOTE: In addition to 13(b) the taxing master may in any case require the bill of costs to be stamped before taxation with the whole or part of the amount of fees which would be payable if the bill were allowed by him at the full amount thereof.

14. Enforcement

| | | |
|---|---|---|
| On any application for enforcement of a matrimonial order or civil partnership order | 150.00 | The filed copy" |

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Family Proceedings Fees Order (Northern Ireland) 1996 so as to—

(a) introduce the following new fees in the Schedule:—

in proceedings under the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (Fee No.5(a)-(j));

on an ex parte application to remove a petitioner's address from the petition (Fee No.7(b));

on copies of orders, decrees or audio recordings produced on compact disc (Fee No.9(b)-(d));

where a search is carried out by an officer of the court (Fee No.10(b)(ii));

on lodgement of a bill of costs (Fee No.13(a));

(b) increase a number of fees;

(c) decrease the on making a search in the index of Parental Responsibility Agreements (Fee No.10(a) ); and

(d) to provide for exemptions from fees payable in the circumstances as outlined in Article 2 and refunds where appropriate.

A Regulatory Impact Assessment of the costs and benefits of this Order (and other Orders relating to court fees) was placed in the libraries of both Houses of Parliament and is available on the Court Service's web-site at www.courtsni.gov.uk.