

2005 No. 3443 (L.29)

FAMILY PROCEEDINGS, ENGLAND AND WALES
SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES

The Family Proceedings Fees (Amendment No. 2) Order 2005

<i>Made</i> - - - -	<i>20th December 2005</i>
<i>Laid before Parliament</i>	<i>20th December 2005</i>
<i>Coming into force</i> - -	<i>10th January 2006</i>

The Lord Chancellor, with the consent of the Treasury, makes the following Order in exercise of the powers conferred by section 92 and 108(6) of the Courts Act 2003(a).

In accordance with section 92(5) and (6) of that Act the Lord Chancellor has consulted the Lord Chief Justice, the Master of the Rolls, the President of the Queen’s Bench Division, the President of the Family Division, the Chancellor of the High Court, the Head of Civil Justice and the Deputy Head of Civil Justice and the Civil Justice Council.

Citation and commencement

1. This Order may be cited as the Family Proceedings Fees (Amendment No. 2) Order 2005 and shall come into force on 10th January 2006.

Amendments to the Family Proceedings Fees Order 2004

2. The Family Proceedings Fees Order 2004(b) is amended in accordance with the following articles.

3. In article 3(2)(b)(i), for “married couple or an unmarried couple (as defined respectively in section 3(5) and (6) of the Tax Credits Act 2002)” substitute “couple (as defined in section 3(5A) of the Tax Credits Act 2002(c))”.

4. For Schedule 1 substitute the Schedule in the Schedule to this Order.

(a) 2003 c.39; section 92 is amended by sections 15(1) and 59(5) of, paragraphs 308 and 345 of Part 1 of Schedule 4 and paragraph 4(1) and (3) of Schedule 11 to, the Constitutional Reform Act 2005 (c.4) from a date to be appointed. Section 108(6) is amended by section 15(1) of, and paragraphs 308 and 348 of Part 1 of Schedule 4 to, that Act, from a date to be appointed.
(b) S.I. 2004/3114, amended by S.I. 2005/472.
(c) 2002 c.21; section 3 is amended by section 254(1) of, and paragraph 144 of Part 14 of Schedule 24 to, the Civil Partnership Act 2004 (c.33).

Transitional Provisions

5. The Family Proceedings Fees Order 2004 is to continue to have effect as if the amendments in this Order had not been made for the purposes of an application under the following sections of the Adoption Act 1976(a)—

- (a) section 20 (revocation of a section 18 order);
- (b) section 21 (variation of a section 18 order so as to substitute one adoption agency for another);
- (c) section 27(1) or (2) (restriction on removal of child where adoption pending or application made under section 18); and
- (d) section 29 (return of child taken away in breach of section 27).

Date 16th December 2005

Falconer of Thoroton, C

We consent,

*Vernon Coaker
David Watts*

Date 20th December 2005

Two of the Lords Commissioner's of Her Majesty's Treasury

(a) 1976 c.36, section 20 was amended by section 88 of, and Schedule 10, paragraph 8(1) and (2) to, the Children Act 1989 (c.41) and by section 139(2) of, and paragraph 7(2) of Schedule 4 to, the Adoption and Children Act 2002 (c.38). Sections 21, 27 and 29(1) and (2) were substituted by section 88 of, and Schedule 10, paragraphs 9, 12 and 15 to, the Children Act 1989. The Adoption Act 1976 is repealed, with savings, by section 139(3) of, and Schedule 5 to, the Adoption and Children Act 2002 (c.38).

SCHEDULE

Article 3

“SCHEDULE

Article 2

Fees to be taken

Column 1 Number and description of fee	Column 2 Amount of fee
<i>Section 1. Fees to be taken in the High Court and in the county courts</i>	
1 Commencement of proceedings	
1.1 On filing originating proceedings where no other fee is specified	£200
1.2 On presenting any petition, other than a second petition with permission granted under rule 2.6(4) or (4A)	£300
1.3 On applying for a non-molestation order or an occupation order (or both) under Part IV of the Family Law Act 1996(a)	£60
1.4 On amending a petition or presenting a second or subsequent petition with permission granted under rule 2.6(4) or (4A)	£80
1.5 On filing an answer to a petition or a cross-petition	£200
1.6 On an application for an order under Part III of the Solicitors Act 1974(b) for the assessment of costs payable to a solicitor by his client; or on the commencement of costs-only proceedings	£30
2 Proceedings under the Children Act 1989(c)	
On filing an application or requesting permission under the following provisions of the Children Act 1989—	
<i>Parental responsibility, guardians, section 8 orders, special guardianship orders etc</i>	
2.1(a) section 4(1)(c) or (3), 4A(1)(b) or (3), 5(1) or 10(1) or (2)(d)	£175
2.1(b) section 6(7) or 13(1)	£175
2.1(c) section 14A(3) or (6)(a), 14C(3) or 14D(1)(e)	£140
<i>Financial provision for children</i>	
2.2(a) paragraph 1(1), 2(1), 6(5) or 14(1) of Schedule 1	£175
2.2(b) paragraph 1(4), 2(5), 5(6), 6(7), 6(8), 8(2), 10(2) or 11 of Schedule 1(f)	£175
<i>Secure accommodation</i>	
2.3 section 25	£150
<i>Care, supervision, etc</i>	
2.4(a) section 31(g)	£150

(a) 1996 c.27.

(b) 1974 c.47.

(c) 1989 c.41.

(d) Section 4 was amended by section 111 of, section 4A was inserted by section 112 of, and section 5 was amended by section 115 of, the Adoption and Children Act 2002 (c.38).

(e) Sections 14A to 14G were inserted by section 115 of the Adoption and Children Act 2002 (c.38).

(f) Paragraphs 1(1), 6(8), 8(2) and 14(1) are amended by paragraph 54 and 71 of Schedule 3 to the Adoption and Children Act 2002 (c.38).

(g) Amended by section 121 Adoption and Children Act 2002 (c.38). There are other amendments not relevant to this Order.

For the purposes of fee 2.4(a) a care order does not include an interim care order, and a supervision order does not include an interim supervision order.	
2.4(b) section 33(7), 38(8)(b), 39(1), (2), (3) or (4) or paragraph 6 of Schedule 3	£150
2.4(c) paragraph 11(3) of Schedule 14, to discharge an order relating to provisions to which the following fees apply—	
(i) fees 2.1(a) or (b) or 2.2(a) or (b)	£120
(ii) fees 2.3, 2.4(a), (b), (c)(i) or (c)(ii), 2.5, 2.6, 2.7(a) or (b), 2.8, 2.9(a) or (b), 2.10	£150
Contact with child in care	
2.5 section 34(2), (3), (4) or (9)	£150
Placement abroad	
2.6 paragraph 19(1) of Schedule 2	£150
Education supervision	
2.7(a) section 36(1)	£150
2.7(b) paragraph 15(2) or 17(1) of Schedule 3	£150
Child assessment order	
2.8 section 43(1)	£150
Emergency protection	
2.9(a) section 43(12)	£150
2.9(b) section 44, 45(a), 46 or 48	£150
Recovery of children	
2.10 section 50	£150
Miscellaneous	
2.11 section 102	£150
Appeals	
2.12(a) on commencing an appeal under section 94 of the Children Act 1989 relating to provisions to which the following fees apply—	
(i) fees 2.1(a) or (b) or 2.2(a) or (b)	£175
(ia) fee 2.1(c)	£140
(ii) fees 2.3, 2.4(a), (b), (c)(i) or (c)(ii), 2.5, 2.6, 2.7(a) or (b), 2.8, 2.9(a) or (b), 2.10	£150
2.12(b) on commencing an appeal under paragraph 23(11) of Schedule 2 to the Children Act 1989	£150
Interim care/supervision orders	
2.13 on an application for an interim care order or an interim supervision order to be made under section 38(1) of the Children Act 1989 where an application for a care order or an application for a supervision order has already been made, and at least one interim care order or at least one interim supervision order has been made in the proceedings	£30
Fee 2	
In the notes below to fee 2 “numbered fee” means each of the following fees: 2.1(a); 2.1(b); 2.2(a); 2.2(b); 2.3; 2.4(a); 2.4(b); 2.4(c)(i); 2.4(c)(ii); 2.5; 2.6; 2.7(a); 2.7(b); 2.8; 2.9(a); 2.9(b); 2.10; 2.11; 2.12(a)(i); 2.12(a)(ii); 2.12(b) and 2.13.	
Where an application is made or filed, or (as the case may be) permission	

(a) Amended by paragraph 19 of Schedule 16 to the Courts and Legal Services Act 1990 (c.41).
(b) Amended by paragraph 23 of Schedule 16 to the Courts and Legal Services Act 1990 (c.41).

is sought or an appeal commenced, under or relating to provisions of the Children Act 1989 which are listed in two or more different numbered fees, only one fee shall be payable, and if those fees are different, only the highest fee shall be payable.

Where an application is made or filed, or (as the case may be) permission is sought or an appeal commenced under or relating to two or more provisions of the Children Act 1989 which are listed in the same numbered fee, that fee shall be payable only once.

Where the same application is made or filed, or (as the case may be) permission is sought or an appeal commenced, in respect of two or more children at the same time, only one fee shall be payable in respect of each numbered fee.

3 Adoption and wardship applications

3.1 On filing an application or requesting permission under Part 1 of the Adoption and Children Act 2002(a) £140

When an application requires the permission of the court, the relevant fee applies where permission is sought but no further fee may be charged if permission is granted and the application is made.

3.2 On applying for the exercise by the High Court of its inherent jurisdiction with respect to children £140

4 Applications in proceedings

4.1 On an application for an order without notice or by consent (including an application to make a decree nisi absolute or a conditional order final) except where separately listed in this schedule £40

4.2 On a request for directions for trial (other than in uncontested divorce or in dissolution proceedings, in which no fee is chargeable) except where separately listed in this schedule £40

4.3 On an application on notice except where separately listed in this schedule £80

4.4 On an application on notice for ancillary relief, or on filing a notice of intention to proceed with an application for ancillary relief other than an application for an order by consent £210

5 Appeal from a district judge

5.1 On filing a notice of appeal from a district judge to a judge £100

6 Searches

6.1 On making a search in the central index of decrees absolute or of final orders kept at the Principal Registry of the Family Division for any specified period of ten calendar years or, if no such period is specified, for the ten most recent years, and, if appropriate, providing a certificate of decree absolute or of final order, as the case may be £25

6.2 On making a search in the central index of parental responsibility agreements kept at the Principal Registry of the Family Division in accordance with regulations made under section 4(2) of the Children Act 1989 and, if appropriate, providing a copy of the agreement £25

6.3 On making a search in the index of decrees absolute or of final orders kept at any designated county court or district registry for any specified £10

(a) 2002 c.38.

period of ten calendar years or, if no period is specified, for the ten most recent years, and if appropriate, providing a certificate of decree absolute or of final order, as the case may be

7 Copy documents

7.1 On a request for a copy of a document (other than where fee 7.2 applies):

- | | |
|--|-----|
| (a) for the first page (except the first page of a subsequent copy of the same document supplied at the same time) | £1 |
| (b) per page in any other case | 20p |

Fee 7.1 shall be payable for a faxed copy or for examining a plain copy and marking it as an examined copy and shall be payable whether or not the copy is issued as an office copy.

7.2 On a request for a copy of a document required in connection with proceedings and supplied by the party making the request at the time of copying, for each page	20p
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7.3 On a request for a copy of a document on a computer disk or in other electronic form, for each such copy	£3
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8 Determination of costs

Transitional provision

Where a bill of costs (or a request for detailed assessment or a request for a detailed assessment hearing as the case may be) is filed pursuant to an order made by the court before the coming into operation of this Order the fees payable shall be those which applied immediately before the coming into force of this Order.

8.1 On the filing of a request for detailed assessment where the party filing the request is legally aided or is funded by the LSC and no other party is ordered to pay the costs of the proceedings	£140
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8.2 On the filing of a request for a detailed assessment hearing in any case where fee 8.1 does not apply; or on the filing of a request for a hearing date for the assessment of costs payable to a solicitor by his client pursuant to an order under Part III of the Solicitors Act 1974	£250
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Where there is a combined party and party and legal aid, or a combined party and party and LSC, or a combined party and party, legal aid and LSC determination of costs, fee 8.2 shall be attributed proportionately to the party and party, legal aid, or LSC (as the case may be) portions of the bill on the basis of the amount allowed.

8.3 On a request for the issue of a default costs certificate	£60
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8.4 On an appeal against a decision made in detailed assessment proceedings	£100
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8.5 On applying for the court's approval of a certificate of costs payable from the Community Legal Service Fund(a)	£30
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Fee 8.5 is payable at the time of applying for approval and is recoverable only against the Community Legal Service Fund.

8.6 On an application to set aside a default costs certificate	£60
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9 Registration of maintenance orders

On an application for a maintenance order to be—

(a) Established under section 5 of the Access to Justice Act 1999 (c.22).

9.1 registered under the Maintenance Orders Act 1950(a) or the Maintenance Orders Act 1958(b)	£35
9.2 sent abroad for enforcement under the Maintenance Orders (Reciprocal Enforcement) Act 1972(c)	£35
<i>Section 2. Fees to be taken in the county courts only</i>	
10 Service	
10.1 On a request for service by bailiff, of any document except: (a) an order for a debtor to attend the adjourned hearing of a judgment summons; (b) an interpleader summons under an execution; (c) an order made under section 23 of the Attachment of Earnings Act 1971(d) (enforcement provisions); or (d) an order for a debtor to attend an adjourned oral examination of his means	£30
11 Enforcement in the county courts	
11.1 On an application for or in relation to enforcement of a judgment or order of a county court or through a county court, by the issue of a warrant of execution against goods except a warrant to enforce payment of a fine	(a) where the amount for which the warrant issues does not exceed £125.....£35 (b) where the amount for which the warrant issues exceeds £125.....£55
11.2 On a request for a further attempt at execution of a warrant at a new address following a notice of the reason for non-execution (except a further attempt following suspension)	£25
11.3 On an application to question a judgment debtor or other person on oath in connection with enforcement of a judgment	£45
11.4 On an application for a garnishee order, a charging order or a third party debt order, or the appointment of a receiver by way of equitable execution Fee 11.4 shall be payable in respect of each party against whom the fee order is sought.	£55
11.5 On an application for a judgment summons	£95
11.6 On the issue of a warrant of possession or a warrant of delivery Where the recovery of a sum of money is sought in addition, no further fee is payable	£95
11.7 On an application for an attachment of earnings order (other than a consolidated attachment of earnings order) to secure money due under an order made in family proceedings	£65

(a) 1950 c.37.

(b) 1958 c.39.

(c) 1972 c.18.

(d) 1971 c.32 amended by paragraph 6 of Part III of Schedule 2 to the Contempt of Court Act 1981 (c. 49); sections 37 and 38 of the Criminal Justice Act 1982 (c. 48); section 53(2) of the Administration of Justice Act 1982 (c. 53); paragraph 41 of Schedule 2 to the County Courts Act 1984 (c. 28); paragraph 6 of Schedule 17 to the Courts and Legal Services Act 1990 (c. 41); and Part 1 of Schedule 4 and paragraph 6 of Schedule 12 to the Criminal Justice Act 1991 (c. 53).

Fee 11.7 is payable for each defendant against whom an order is sought.

Fee 11.7 is not payable where the attachment of earnings order is made on the hearing of a judgment summons.

12 Sale

12.1 For removing or taking steps to remove goods to a place of deposit The reasonable expenses incurred

Fee 12.1 is to include the reasonable expenses of feeding and caring for animals.

12.2 For advertising a sale by public auction pursuant to section 97 of the County Courts Act 1984(a) The reasonable expenses incurred

12.3 For the appraisalment of goods 5p in the £1 or part of a £1 of the appraised value

12.4 For the sale of goods (including advertisements, catalogues, sale and commission and delivery of goods) 15p in the £1 or part of a £1 on the amount realised by the sale or such other sum as the district judge may consider to be justified in the circumstances

12.5 Where no sale takes place by reason of an execution being withdrawn, satisfied or stopped (a) 10p in the £1 or part of a £1 on the value of the goods seized, the value to be the appraised value where the goods have been appraised or such other sum as the district judge may consider to be justified in the circumstances; and in addition (b) any sum payable under fee 12.1, 12.2 or 12.3

Section 3. Fees to be taken in the High Court only

13 Enforcement in the High Court

13.1 On sealing a writ of execution/possession/delivery £30
Where the recovery of a sum of money is sought in addition to a writ of possession and delivery, no further fee is payable.

13.2 On an application to question a judgment debtor or other person on oath in connection with enforcement of a judgment £40

13.3 On an application for a garnishee order nisi or a charging order nisi, or the appointment of a receiver by way of equitable execution £50

Fee 13.3 shall be payable in respect of each party against whom the order is sought.

(a) 1984 c.28.

13.4 On an application for a judgment summons	£90
13.5 On a request or application to register a judgment or order; or for permission to enforce an arbitration award; or for a certified copy of a judgment or order for use abroad	£30
14 Affidavits	
14.1 On taking an affidavit or an affirmation or attestation upon honour in lieu of an affidavit or a declaration; and	£5
14.2 For each exhibit referred to and required to be marked	£2”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Family Proceedings Fees Order 2004 (S.I. 2005/3114). The table below sets out where fees have been increased or new fees introduced.

Fees 1.2, 1.4, 4.1, 4.2, 6.1 and 6.3 have been extended to include applications for the dissolution or annulment of a civil partnership or for the legal separation of civil partners under the Civil Partnership Act 2004 (c.33). Article 3(2)(b)(i) is also amended as a consequence of the implementation of the 2004 Act.

Fee 2.1(a) and (b) has been extended to include applications under section 4A (acquisition of parental responsibility by step-parent) of the Children Act 1989 (c.41) and new fee 2.1(c) has been inserted setting out the fee for an application under the following sections of the Children Act—

- (a) section 14A and 14D (making, variation and discharge of a special guardianship order); and
- (b) section 14C (permission to cause child to be known by a new surname or remove him from the United Kingdom while a special guardianship order is in force).

Fee 3 has been amended to provide for applications under the Adoption and Children Act 2002 (c.38) although the fee has not been increased. The Family Proceedings Fees Order 2004 will continue to apply, as if this Order had not been made, to applications under sections 20, 21, 27 and 29 of the Adoption Act 1976 (c.36).

Brief description of new fee	Amount of new fee	Amount of old fee
<i>Section 1. Fees to be taken in the High Court and in the county courts</i>		
1 Commencement		
1.1 Filing originating proceedings	£200	£130
1.2 Presenting any petition	£300	£210
1.4 Amending a petition	£80	£50
1.5 Filing an answer to a petition or a cross-petition	£200	£150
2 Proceedings under the Children Act 1989		
On filing an application or requesting permission—		
2.1 Parental responsibility, guardians, section 8 orders, special guardianship orders etc		
(a) section 4(1)(c) or (3), 4A(1)(b) or (3), 5(1), 10(1) or (2)	£175	£120 (in respect of applications under sections 4(1)(c) or (3), 5(1) and 10(1) or (2))
(b) section 6(7) or 13(1)	£175	£120
(c) section 14A(3) or (6)(a), 14C(3) or 14D(1)	£140	-
2.2 Financial provision for children		
(a) paragraph 1(1), 2(1), 6(5) or 14(1) of Schedule 1	£175	£120
(b) paragraph 1(4), 2(5), 5(6), 6(7), 6(8), 8(2), 10(2) or 11 of Schedule 1	£175	£120
2.12 Appeals		
(a) on commencing an appeal under section 94 of the Children Act 1989 relating to provisions to which the following fees apply—		
(i) fees 2.1(a) or (b) or 2.2	£175	£120

(ia) fee 2.1(c)	£140	-
3 Adoption and wardship applications		
3.1 On filing an application or requesting permission under Part 1 of the Adoption and Children Act 2002	£140	£140 (for equivalent application under Adoption Act 1976)
3.2 Applying for the exercise of High Court jurisdiction to children	£140	£140
4 Applications in proceedings		
4.1 Application for an order without notice or with consent	£40	£30
4.2 Request for directions for trial	£40	£30
5 Appeal from a district judge		
5.1 Appeal from a district judge to a judge	£100	£80
6 Searches		
6.1 Search in the central index of decrees absolute or of final orders at Principal Registry	£25	£20
6.2 Search in the central index of parental responsibility agreements at Principal Registry	£25	£20
6.3 Search in the index of decrees absolute or of final orders at any designated county court	£10	£5
8 Determination of costs		
8.1 Request for detailed assessment where party is legally aided or otherwise funded	£140	£100
8.3 Request for default costs certificate to be issued	£60	£40
9 Registration of maintenance orders		
9.1 Application to register maintenance order	£35	£30
9.2 Application to send maintenance order abroad for reciprocal enforcement	£35	£30
<i>Section 2. Fees to be taken in the county courts only</i>		
11 Enforcement in the county courts		
11.1(a) Enforcement by issue of warrant of execution up to £125	£35	£30
11.1(b) Enforcement by issue of warrant of execution over £125	£55	£50
11.2 Further attempt at execution of warrant	£25	£20
11.3 Application for oral examination	£45	£40
11.4 Application for garnishee order, charging order, third party debt order or appointment of receiver	£55	£50
11.5 Application for a judgment summons	£95	£90
11.6 Issue of warrant of possession or delivery	£95	£90
11.7 Application for attachment of earnings order	£65	£60

An Initial Regulatory Impact Assessment of the costs and benefits of this Order was placed in the Libraries of both Houses of Parliament, and is available on the Department for Constitutional Affairs's website at www.dca.gov.uk/consult/civilfam/civilfam.htm.

2005 No. 3443 (L.29)

FAMILY PROCEEDINGS, ENGLAND AND WALES

SUPREME COURT OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

The Family Proceedings Fees (Amendment No. 2) Order 2005

£3.00

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Stationery Office and Queen's Printer of Acts of Parliament.

E1832 12/2005 151832T 19585