
STATUTORY INSTRUMENTS

2008 No. 1052 (L. 4)

**MAGISTRATES' COURTS,
ENGLAND AND WALES**

The Magistrates' Courts Fees Order 2008

<i>Made</i>	- - - -	<i>7th April 2008</i>
<i>Laid before Parliament</i>		<i>9th April 2008</i>
<i>Coming into force</i>	- -	<i>1st May 2008</i>

The Lord Chancellor, with the consent of the Treasury, makes the following Order in exercise of the power conferred by section 92 of the Courts Act 2003⁽¹⁾.

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, the Deputy Head of Civil Justice and the Civil Justice Council.

Citation and commencement

1. This Order may be cited as the Magistrates' Courts Fees Order 2008 and shall come into force on 1st May 2008.

Fees payable

2. The fees set out in column 2 of Schedule 1 are payable in magistrates' courts in respect of the items described in column 1 in accordance with and subject to the directions specified in that column.

3.—(1) No fee is payable in respect of—

- (a) criminal matters (except for the supply of a document prepared for use in connection with a criminal matter but which is for use in connection with a matter which is not a criminal matter);
- (b) any summons, warrant, notice or order issued, given or made under sections 83(1) or (2), 88, 89 or 136 of the Magistrates' Courts Act 1980⁽²⁾, or under any rule made for the purpose of those provisions; or
- (c) binding over proceedings.

(1) [2003 c. 39](#). Section 92 is amended by paragraphs 308 and 345 of Schedule 4 to the Constitutional Reform Act [2005 \(c.4\)](#) from 1 October 2005 and by paragraph 4(1) and (3) of Schedule 11 to that Act from a date to be appointed.

(2) [1980 c.43](#).

(2) In this article, “binding over proceedings” means any proceedings instituted (whether by way of complaint under section 115 of the Magistrates’ Courts Act 1980 or otherwise) with a view to obtaining from a magistrates’ court an order requiring a person to enter into a recognizance to keep the peace or to be of good behaviour.

4. Where by any convention entered into by Her Majesty with any foreign power it is provided that no fee is required to be paid in respect of any proceedings, the fees specified in this Order are not payable in respect of those proceedings.

Remissions and part remissions

5. Schedule 2 applies for the purpose of ascertaining whether a party is entitled to a remission or part remission of a fee prescribed by this Order.

Revocations

6. The instruments listed in column 1 of the table in Schedule 3 (which have the references listed in column 2) are revoked.

Transitional provision

7. Fees 10.2(b) and (c) are not payable in respect of an issues resolution hearing, pre-hearing review or final hearing which has been listed on any day between 1st May 2008 and 14th May 2008 inclusive.

Signed by authority of the Lord Chancellor

3rd April 2008

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

We consent,

7th April 2008

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

SCHEDULE 1

Article 2

Fees to be taken

<i>Column 1</i>	<i>Column 2</i>
<i>Number and description of fee</i>	<i>Amount of fee</i>
1 Attendance	
1.1 On an application for a justice of the peace to view deserted premises in order to affix notice or to give possession thereof, or to view a highway, bridge or nuisance.	£50
2 Case for the opinion of High Court	
2.1 On an application to state a case for the opinion of the High Court under section 111 Magistrates' Courts Act 1980(3): drawing of case, copies, taking recognizance as required by section 114 of that Act and enlargement and renewal of such recognizance.	£400
2.2 On a request for a certificate of refusal to state a case.	£100
3 Certificate	
3.1 On a request for a certificate not otherwise charged.	£40
4 Register of Judgments, Orders and Fines	
4.1 On a request for a certificate of satisfaction.	£15
5 Council tax and rates	
5.1 On an application for a liability order (each defendant).	£3
<i>Commitment</i>	
5.2 On a request for the issue of a complaint (or application) and the issue of a summons or a warrant of arrest without issuing a summons.	£25
5.3 On a request for the issue of a warrant of arrest if the summons is not obeyed.	£25
5.4 On a request for the making of a commitment order.	£40
6 Copy Documents	
6.1 On a request for a copy of a document (other than where fee 6.2 applies)—	
(a) for ten pages or less;	£5
(b) for each subsequent page.	50p
Where a fee has been paid for a summons, order or warrant no fee will be charged for a copy of that document.	
6.2 On a request for a copy of a document on a computer disk or in other electronic form, for each such copy.	£5
7 Duplicate	
7.1 On a request for the duplicate of a document.	£15

(3) 1980 c.43.

Fee 7.1 includes a copy or part copy (extract) of a document that is held or supplied by the court that is not otherwise charged (including the transcription of the notes of a justices' clerk or an assistant to a justices' clerk).

8 Proceedings under the Domestic Proceedings and Magistrates' Courts Act 1978(4)

8.1 On an application for an order for financial provision (excluding an application to vary or revoke such an order or in respect of an application for an order made to the benefit of, or against, a person residing outside the United Kingdom) £175

9 Proceedings under the Family Law Act 1986(5)

9.1 On an application for a declaration of parentage (each child). £130

10 Proceedings under the Children Act 1989(6)

10.1 On an application for an order in form C1 (free-standing application) or form C2 (application in existing proceedings) or request for permission to apply for an order in form C2 under the following provisions of the Children Act 1989—

- | | |
|---|------|
| (a) section 4(1)(c) or (3) or 4A(1)(b) or (3)(7) (parental responsibility); | £175 |
| (b) section 5(1) or 6(7) (guardians); | £175 |
| (c) section 10(1) or (2) (section 8 orders); | £175 |
| (d) section 13(1) (change of child's surname or removal from jurisdiction while residence order in force); | £175 |
| (e) section 14A(3) or (6)(a), 14C(3) or 14D(1)(8) (special guardianship orders); | £140 |
| (f) section 25 (secure accommodation order); | £150 |
| (g) section 33(7) (change of child's surname or removal from jurisdiction while care order in force); | £150 |
| (h) section 34(2), (3), (4) or (9) (contact with child in care); | £150 |
| (i) section 36(1) (education supervision order); | £150 |
| (j) section 39 (variation or discharge etc of care and supervision orders); | £150 |
| (k) section 43(1) (child assessment order); | £150 |
| (l) sections 44, 45 and 46 (emergency protection order); | £150 |
| (m) section 48 (warrant to assist person exercising powers under emergency protection order); | £150 |
| (n) section 50 (recovery order); | £150 |
| (o) section 79K (cancellation, variation or removal or imposition of condition of registration of child minder or day carer); | £150 |
| (p) section 102 (warrant to assist person exercising powers to search for children or inspect premises); | £150 |

(4) 1978 c.22.

(5) 1986 c. 55.

(6) 1989 c.41.

(7) Section 4A was inserted by section 112 of the Adoption and Children Act 2002 (c.38) and was amended by section 75 of the Civil Partnership Act 2004 (c33).

(8) Sections 14A, 14C and 14D were inserted by section 115 of the Adoption and Children Act 2002 (c.38).

- (q) paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1 (financial provision for children); £175
- (r) paragraph 19(1) of Schedule 2 (approval of court for child in care of local authority to live abroad); £150
- (s) paragraph 6 of Schedule 3 (extension of supervision order); £150
- (t) paragraph 15(2) or 17(1) of Schedule 3 (extension or discharge of education supervision order); £150
- (u) paragraph 8(1) of Schedule 8 (appeals concerning foster parenting). £150
- 10.2 In relation to proceedings under section 31 of the Children Act 1989 (care and supervision orders)—
- (a) on an application; £2,225
- (b) where an issues resolution hearing or pre-hearing review has been listed, at least 14 days before the day on which that hearing is listed; £700
- (c) where a final hearing has been listed, at least 14 days before the day on which the final hearing is listed; £1900

Notes to fee 10.2 only

Where a final order is made at a case management conference, £500 of the amount paid under fee 10.2(a) will be refunded.

Where the court lists more than one issues resolution hearing or pre-hearing review, the fee is payable only once.

Where proceedings are consolidated with other proceedings, any fee which falls to be paid after the date on which the proceedings are consolidated is payable only once.

Where a fee is paid under fee 10.2(b) or (c) in relation to a hearing that is cancelled, for example, because a final order is made at earlier hearing, the application is withdrawn, or the hearing is no longer needed, the fee will be refunded. A refund will not be given if the hearing is adjourned to a later date or to a date to be fixed.

Notes to fees 10.1 and 10.2

Where an application requires the permission of the court, the relevant fee is payable when permission is sought but no further fee will be charged if permission is granted and the application is made.

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

Where an application is made or permission is sought under or relating to two or more provisions of the Children Act 1989 which are listed in the same numbered fee, that fee is payable only once.

Where the same application is made or permission is sought in respect of two or more children at the same time, only one fee is payable in respect of each numbered fee.

11 Proceedings under the Human Fertilisation and Embryology Act 1990(9)

11.1 On an application under section 30 (parental order). £175

12 Proceedings under the Child Support Act 1991(10)

12.1 On an application for a liability order. £40

12.2 On commencing an appeal under section 20(11). £130

12.3 On commencing an appeal against a deduction from earnings order. £80

12.4 On a complaint (or an application), the issue of a summons and/or a warrant of arrest, and the making of a commitment order (combined fee). £90

13 Proceedings under the Adoption and Children Act 2002(12)

13.1 On an application or a request for permission to apply under any provision in Part 1 of the Adoption and Children Act 2002, other than an application under section 22 of that Act. £140

Where an application requires the permission of the court, the relevant fee is payable when permission is sought but no further fee will be charged if permission is granted and the application is made.

Where an application is made or permission is sought under or relating to two or more provisions of the Adoption and Children Act 2002 only one fee is payable.

Where the same application is made or permission is sought in respect of two or more children at the same time, only one fee is payable.

13.2 On an application under section 22 of the Adoption and Children Act 2002 (placement order). £400

14 Proceedings under Schedule 6 to the Civil Partnership Act 2004(13)

14.1 On an application for an order for financial provision (excluding an application to vary or revoke such an order or in respect of an application for an order made to the benefit of, or against, a person residing outside the United Kingdom). £175

15 Proceedings to vary, extend or revoke an order made in family proceedings

15.1 On an application to vary, extend or revoke an order not otherwise charged. £20

16 Licences

16.1 On a request for a licence, consent or authority not otherwise provided for, to include registration when necessary. £20

16.2 On an application for the revocation of a licence not otherwise provided for. £30

17 Oaths

(9) 1990 c.37.

(10) 1991 c.48.

(11) Section 20 is substituted by section 10 of the Child Support, Pensions and Social Security Act 2000 (c.19) from a date to be appointed. By virtue of the Child Support Appeals (Jurisdiction of Courts) Order 1993 (S.I. 1993/961) appeals under section 20 relating to issues of parentage are to be made to the court instead of the Child Support Appeals Tribunal. This Order is revoked and replaced by the Child Support Appeals (Jurisdiction of Courts) Order 2002 (S.I. 2002/1915), which also provides that appeals relating to issues of parentage are to be made to the court instead of the Appeals Tribunal. This Order will come into force on the date on which section 10 of the Child Support, Pensions and Social Security Act 2000 comes into force.

(12) 2002 c.38.

(13) 2004 c.33.

17.1 On taking the attestation of a constable – for each person.	£10
17.2 For every oath, affirmation or solemn declaration not otherwise charged (no fee is payable for the swearing in of witnesses in civil proceedings or in any case where an Act directs that no fee will be taken).	£25
18 Other civil proceedings	
18.1 On filing a complaint (or application).	£75
18.2 On a request to issue a summons and copy.	£75
18.3 On a request to issue a warrant and copy.	£50
18.4 On a request to make an order and copy.	£50
18.5 On commencing an appeal under paragraph 1, 2(2), 3(2)(a), 4(2), 7(2), 8(2) (b), 8A(2)(b), 10, 11(2), 12(2), 13(2)(b), 14, 16(2), 17(1) and (4) or 18(2)(a) of Schedule 5 to the Licensing Act 2003(14).	£400
19 Warrant of Entry	
19.1 On the application for a warrant of entry.	£10

Note: Only one fee is payable where more than one document is issued in relation to a partnership.

SCHEDULE 2

Article 5

Remissions and part-remissions

Interpretation

1.—(1) In this Schedule—

“child” means a child or young person in respect of whom a party is entitled to receive child benefit in accordance with section 141, and regulations made under section 142, of the Social Security Contributions and Benefits Act 1992(15);

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- (14) 2003 c.17. Schedule 5 is amended by S.I. 2005/886 and by section 22(2) of the Violent Crime Reduction Act 2006 (c.38).
(3) 1980 c.43.
(4) 1978 c.22.
(5) 1986 c. 55.
(6) 1989 c.41.
(7) Section 4A was inserted by section 112 of the Adoption and Children Act 2002 (c.38) and was amended by section 75 of the Civil Partnership Act 2004 (c33).
(8) Sections 14A, 14C and 14D were inserted by section 115 of the Adoption and Children Act 2002 (c.38).
(9) 1990 c.37.
(10) 1991 c.48.
(11) Section 20 is substituted by section 10 of the Child Support, Pensions and Social Security Act 2000 (c.19) from a date to be appointed. By virtue of the Child Support Appeals (Jurisdiction of Courts) Order 1993 (S.I. 1993/961) appeals under section 20 relating to issues of parentage are to be made to the court instead of the Child Support Appeals Tribunal. This Order is revoked and replaced by the Child Support Appeals (Jurisdiction of Courts) Order 2002 (S.I. 2002/1915), which also provides that appeals relating to issues of parentage are to be made to the court instead of the Appeals Tribunal. This Order will come into force on the date on which section 10 of the Child Support, Pensions and Social Security Act 2000 comes into force.
(12) 2002 c.38.
(13) 2004 c.33.
(14) 2003 c.17. Schedule 5 is amended by S.I. 2005/886 and by section 22(2) of the Violent Crime Reduction Act 2006 (c.38).
(15) 1992 c.4.

“child care costs” has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006⁽¹⁶⁾;

“couple” has the meaning given in section 3(5A) of the Tax Credits Act 2002⁽¹⁷⁾;

“disposable monthly income” has the meaning given in paragraph 5;

“excluded benefits” means—

- (a) any of the following benefits payable under the Social Security Contributions and Benefits Act 1992—
 - (i) attendance allowance paid under section 64;
 - (ii) severe disablement allowance;
 - (iii) carer’s allowance;
 - (iv) disability living allowance;
 - (v) constant attendance allowance paid under section 104 or paragraph 4 or 7(2) of Schedule 8 as an increase to a disablement pension;
 - (vi) council tax benefit;
 - (vii) any payment made out of the social fund;
 - (viii) housing benefit;
- (b) any direct payment made under the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003⁽¹⁸⁾ or the Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2004⁽¹⁹⁾;
- (c) a back to work bonus payable under section 626 of the Jobseekers Act 1995⁽²⁰⁾;
- (d) any exceptionally severe disablement allowance paid under the Personal Injuries (Civilians) Scheme 1983⁽²¹⁾;
- (e) any pension paid under the Naval, Military and Air Forces etc (Disablement and Death) Service Pension Order 2006⁽²²⁾;
- (f) any payment made from the Independent Living Funds; and
- (g) any financial support paid under an agreement for the care of a foster child;

“the Funding Code” means the code approved under section 9 of the Access to Justice Act 1999⁽²³⁾;

“gross annual income” means total annual income, for the 12 months preceding the application for remission or part remission, from all sources other than receipt of any of the excluded benefits;

“gross monthly income” means total monthly income, for the month in which the application for remission or part remission is made, from all sources other than receipt of any of the excluded benefits;

“the Independent Living Funds” has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006;

⁽¹⁶⁾ S.I. 2006/2492, to which there are amendments not relevant to this Order.

⁽¹⁷⁾ 2002 c.21. Section 3(5A) was inserted by paragraph 144 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

⁽¹⁸⁾ S.I. 2003/762.

⁽¹⁹⁾ S.I. 2004/1748.

⁽²⁰⁾ 1995 c.18.

⁽²¹⁾ S.I. 1983/686.

⁽²²⁾ S.I. 2006/606.

⁽²³⁾ 1999 c.22. Sections 1 and 9 were amended by S.I. 2005/3429.

“LSC” means the Legal Services Commission established under section 1 of the Access to Justice Act 1999;

“partner” means a person with whom the party lives as a couple and includes a person with whom the party is not currently living but from whom the party is not living separate and apart;

“party” means the party who would, but for this Schedule, be liable to pay the fee required under this Order;

“restraint order” means—

- (a) an order under section 42(1A) of the Supreme Court Act 1981(24); or
- (b) a civil restraint order under rule 3.11 of the Civil Procedure Rules 1998(25) or a practice direction made under that rule.

(2) Paragraphs 2, 3 and 4—

- (a) do not apply to a party who is in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issued under the Funding Code; and
- (b) are subject to the provisions of paragraph 10 (vexatious litigants).

Full remission of fees – qualifying benefits

2.—(1) No fee is payable under this Order if, at the time when a fee would otherwise be payable, the party—

- (a) is in receipt of a qualifying benefit; or
- (b) is not a beneficiary of a trust fund in court of a value of more than £50,000 and is—
 - (i) under the age of eighteen; or
 - (ii) a person for whose financial relief an order under paragraph 2 of Schedule 1 to the Children Act 1989 is in force or being applied for.

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

- (a) income support under the Social Security Contributions and Benefits Act 1992;
- (b) working tax credit, provided that no child tax credit is being paid to the party;
- (c) income-based jobseeker’s allowance under the Jobseekers Act 1995; and
- (d) guarantee credit under the State Pension Credit Act 2002(26).

(3) Sub-paragraph (1)(b) applies to—

- (a) an application to which fee 8, 9, 10, 11, 12, 13, 14 or 15 applies;
- (b) an application or request to which fee 2, 3, 6 or 7 applies where the application or request is made in relation to proceedings to which fee 8, 9, 10, 11, 12, 13, 14 or 15 applies.

Full remission of fees – gross annual income

3.—(1) No fee is payable under this Order if, at the time when the fee would otherwise be payable, the party has the number of children specified in column 1 of the following table and—

- (a) if the party is single, the gross annual income of the party does not exceed the amount set out in the appropriate row of column 2; or
- (b) if the party is one of a couple, the gross annual income of the couple does not exceed the amount set out in the appropriate row of column 3.

(24) 1981 c.54. Section 42(1A) was inserted by section 24 of the Prosecution of Offences Act 1985 (c.23).

(25) S.I. 1988/3132, amended by S.I.2004/2072; there are other amending instruments but none is relevant.

(26) 2002 c.16.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Number of children of party paying fee</i>	<i>Single</i>	<i>Couple</i>
no children	£12,000	£16,000
1 child	£14,735	£18,735
2 children	£17,470	£21,470
3 children	£20,205	£24,205
4 children	£22,940	£26,940

(2) If the party paying the fee has more than 4 children then the relevant amount of gross annual income is the amount specified in the table for 4 children plus the sum of £2,735 for each additional child.

Full and part remission of fees – disposable monthly income

4.—(1) No fee is payable under this Order if, at the time when the fee would otherwise be payable, the disposable monthly income of the party is £50 or less.

(2) The maximum amount of fee payable is—

- (a) if the disposable monthly income of the party is more than £50 but does not exceed £210, an amount equal to one-quarter of every £10 of the party's disposable monthly income up to a maximum of £50; and
- (b) if the disposable monthly income is more than £210, an amount equal to £50 plus one-half of every £10 over £200 of the party's disposable monthly income.

(3) Where the fee that would otherwise be payable under this Order is greater than the maximum fee which a party is required to pay as calculated in sub-paragraph (2), the fee will be remitted to the amount payable under that sub-paragraph.

Disposable monthly income

5.—(1) A party's disposable monthly income is the gross monthly income of the party for the month in which the fee becomes payable ("the period") less the deductions referred to in sub-paragraphs (2) and (3).

(2) There are to be deducted from the gross monthly income—

- (a) income tax paid or payable in respect of the period;
- (b) any contributions estimated to have been paid under Part 1 of the Social Security Contributions and Benefits Act 1992 in respect of the period;
- (c) either—
 - (i) monthly rent or monthly payment in respect of a mortgage debt or hereditament security, payable in respect of the only or main dwelling of the party, less any housing benefit paid under the Social Security Contributions and Benefits Act 1992; or
 - (ii) the monthly cost of the living accommodation of the party;
- (d) any child care costs paid or payable in respect of the period;
- (e) if the party is making bona fide payments for the maintenance of a child who is not a member of the household of the party, the amount of such payments paid or payable in respect of the period; and

- (f) any amount paid or payable by the party, in respect of the period, in pursuance of a court order.
- (3) There will be deducted from the gross monthly income an amount representing the cost of living expenses in respect of the period being—
 - (a) £296; plus
 - (b) £228 for each child of the party; plus
 - (c) £150, if the party has a partner.

Resources of partners

6.—(1) For the purpose of determining whether a party is entitled to the remission or part remission of a fee in accordance with this Schedule, the income of a partner, if any, is to be included as income of the party.

- (2) The receipt by a partner of a qualifying benefit does not entitle a party to remission of a fee.

Application for remission or part remission of fees

7.—(1) An application for remission or part remission of a fee must be made to the court officer at the time when the fee would otherwise be payable.

(2) Where a claim for full remission of fees is made, the party must provide documentary evidence of, as the case may be—

- (a) entitlement to a qualifying benefit; or
- (b) gross annual income and, if applicable, the children included for the purposes of paragraph 3.

(3) Where a claim for full or part remission of fees under paragraph 4 is made, the party must provide documentary evidence of—

- (a) such of the party's gross monthly income as is derived from—
 - (i) employment;
 - (ii) rental or other income received from persons living with the party by reason of their residence in the party's home;
 - (iii) a pension; or
 - (iv) a state benefit, not being an excluded benefit; and
- (b) any expenditure being deducted from the gross monthly income in accordance with paragraph 5(2).

Remission in exceptional circumstances

8. Where it appears to the Lord Chancellor that the payment of any fee prescribed by this Order would, owing to the exceptional circumstances of the particular case, involve undue financial hardship, the Lord Chancellor may reduce or remit the fee in that case.

Refunds

9.—(1) Subject to sub-paragraph (3), where a party has not provided the documentary evidence required by paragraph 7 and a fee has been paid at a time when, under paragraphs 2, 3 or 4, it was not payable, the fee will be refunded if documentary evidence relating to the time when the fee became payable is provided at a later date.

(2) Subject to sub-paragraph (3), where a fee has been paid at a time where the Lord Chancellor, if all the circumstances had been known, would have reduced or remitted the fee under paragraph 8, the fee or the amount by which the fee would have been reduced, as the case may be, will be refunded.

(3) No refund will be made under this paragraph unless the party who paid the fee applies within 6 months of paying the fee.

(4) The Lord Chancellor may extend the period of 6 months mentioned in sub-paragraph (3) if the Lord Chancellor considers that there is a good reason for an application being made after the end of the period of 6 months.

Vexatious Litigants

10.—(1) This paragraph applies where—

- (a) a restraint order is in force against a party; and
- (b) the party makes an application for permission to—
 - (i) issue proceedings or take a step in proceedings as required by the restraint order;
 - (ii) apply for amendment or discharge of the order; or
 - (iii) appeal the order.

(2) The fee prescribed for the application by Schedule 1 is payable in full.

(3) If the court grants the permission requested the applicant will be refunded the difference between—

- (a) the fee paid; and
- (b) the fee that would have been payable if this Schedule had been applied without reference to this paragraph.

SCHEDULE 3

Article 6

Revocations

<i>Column 1</i>	<i>Column 2</i>
<i>Title</i>	<i>Reference</i>
The Magistrates' Courts Fees Order 2005	S.I. 2005/3444
The Magistrates' Courts Fees (Amendment) Order 2006	S.I. 2006/715
The Magistrates' Courts Fees (Amendment) Order 2007	S.I. 2007/2619
The Magistrates' Courts Fees (Amendment) Order 2008	S.I. 2008/117

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and consolidates the Magistrates' Courts Fees Order 2005 (S.I. 2005/3444) as amended. It specifies the fees payable in magistrates' courts. In addition to minor and drafting amendments, this Order also makes the following changes of substance—

In Schedule 1, fee 10 is amended so as to introduce a £150 fee for applications under the following provisions of the Children Act: section 25 (secure accommodation); sections 44, 45 and 46 (emergency protection orders etc); section 48 (warrant to assist person exercising powers under emergency protection order); section 50 (recovery order), section 102 (warrant to assist person exercising powers to search for children or inspect premises) and paragraph 19(1) of Schedule 2 (approval of court for child in care of local authority to live abroad).

An incremental fee is introduced in relation to proceedings for a care or supervision order under section 31 of the Children Act 1989 (fee 10.2). The first fee (£2,225) is paid on an application for such an order. The second fee (£700) is payable if an issues resolution hearing or pre-hearing review is listed, at least 14 days before the day on which the hearing is listed, and the third fee (£1,900) is payable if a final hearing is listed, at least 14 days before the day on which that hearing is listed. Provision is made for a refund to be made if a final order is made at a case management conference or if a hearing which has been listed does not take place. The purpose of a case management conference and issues resolution hearing is set out in the Practice Direction entitled "Guide to Case Management in Public Law Proceedings" given by the President of the Family Division of the High Court in April 2008 and the purpose of a pre-hearing review is set out in the Protocol entitled "Judicial Case Management in Public Law Children Act Cases" issued by the President in June 2003. No fee is payable in relation to any issues resolution hearing, pre-hearing review or final hearing listed between 1st May 2008 and 14th May 2008 inclusive (article 6).

The fee for an application for a placement order under section 22 of the Adoption and Children Act 2002 is increased from £140 to £400 (fee 13.2). The notes to fee 13 are updated so as to make it clear that only one fee is payable in relation to an application under more than one provision of the 2002 Act or in relation to an application in respect of two or more children.

In Schedule 2, the definition of "child" in paragraph 1(1) is amended so as to include any qualifying young person in respect of whom child benefit is paid to a party under regulations made under section 142 of the Social Security Contributions and Benefits Act 1992. In paragraph 1(2), it is clarified that paragraphs 2, 3 and 4 of Schedule 2 (full and part remission of fees) only apply to a party who is not in receipt of funding provided by the LSC for the purposes of the proceedings and for which a certificate has been issued under the Funding Code.

Paragraph 3, which sets out the gross annual income, having regard to the number of children that the party has, for the purposes of determining whether a fee is payable by a party under the Order, is amended so as to increase the amount allowable for each child from £2470 to £2735.

Paragraph 5(3), which makes provision for the calculation of a party's disposable monthly income, is amended so as to increase the amounts that may be deducted from a party's gross monthly income for living expenses. The amount that a party may deduct rises from £279 to £296, the amount for each child of the party rises from £198 to £228 and the amount that may be deducted if the party has a partner rises from £142 to £150.

An impact assessment of the effect that this instrument will have on the costs of business is available on the Ministry of Justice's website at www.justice.gov.uk/publications/cp3207.htm.

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