

2009 No. 1499 (L. 16)

FAMILY PROCEEDINGS, ENGLAND AND WALES

SUPREME COURT OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

The Family Proceedings Fees (Amendment) Order 2009

Made - - - - - *10th June 2009*

Laid before Parliament *18th June 2009*

Coming into force in accordance with article 1

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(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.—(1) This Order may be cited as the Family Proceedings Fees (Amendment) Order 2009.
- (2) Except as provided in paragraph (3), this Order comes into force on 13th July 2009.
- (3) Article 5 comes into force on 1st September 2009.

Amendment of the Family Proceedings Fees Order 2008

2. The Family Proceedings Fees Order 2008(b) is amended as follows.
3. In Schedule 1, in fee 1.6, in column 2, for “£30” substitute “£40”.
4. In Schedule 1, in fee 2.1, for “C78” substitute “C79”.
5. In Schedule 1, after fee 2.1(a), insert —

| | |
|--|-------|
| “(aa) section 4ZA(1)(c) or (6)(c) (parental responsibility); | £175” |
|--|-------|

(a) 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.
(b) S.I. 2008/1054 (L. 6), amended by S.I. 2008/2856 (L.22) (which was amended by S.I. 2008/3106 (L.27)).
(c) Section 4ZA(1)(c) and (6) were inserted by paragraph 27 of Schedule 6 to the Human Fertilisation and Embryology Act 2008 (c. 22) and come into force on 1st September 2009 (see the Human Fertilisation and Embryology Act 2009 (Commencement No. 1 and Transitional Provisions) Order 2009 (S.I. 2009/479)).

6. In Schedule 1, in fee 2.2 —
- (a) in fee 2.2 (b) omit “at least 14 days before the day on which that hearing is listed”;
 - (b) in fee 2.2 (c) omit “at least 14 days before the day on which the final hearing is listed”;
 - (c) at the end of the notes to fee 2.2, insert “The fee in 2.2(b) and (c) is payable 14 days before the hearing or review.”.

7. In Schedule 1, in fee 4.1, in the description, omit “for an order”.

8. In Schedule 1, after 4.1 insert —

| | |
|---|--|
| “Note: Fee 4.1 is not payable in relation to an application by consent for an adjournment of a hearing where the application is received by the court at least 14 days before the date set for that hearing.” | |
|---|--|

9. In Schedule 1, in fee 6.1, in column 2, for “£40” substitute “£60”.

10. In Schedule 1, in fee 7.1 —

- (a) in fee 7.1(a), at the end of the description, insert “and”;
- (b) for the note to fee 7.1, substitute —
 - “Note: The fee payable under fee 7.1 includes –
 - where the court allows a party to fax to the court for the use of that party a document that has not been requested by the court and is not intended to be placed on the court file.
 - where a party requests that the court fax a copy of a document from the court file.
 - the court provides a subsequent copy of a document which it has previously provided. ”

11. In Schedule 1, in fee 8.4, in column 2, for “£100” substitute “£200”.

12. In Schedule 1, in fee 8.5, in column 2, for “£30” substitute “£50”.

13. In Schedule 1, in fee 8.6, in column 2, for “£60” substitute “£100”.

14. In Schedule 1, in fee 10.1, in column 2, for “£30” substitute “£100”.

15. In Schedule 1, in fee 11.1 —

- (a) in the description, omit “(a) where the amount for which the warrant issues does not exceed £125;” and “(b) where the amount for which the warrant issues exceeds £125.”;
- (b) In column 2, omit “£35” and “£55” and substitute “£100”.

16. In Schedule 1, omit fees 11.3, 11.4(a), 11.4(b), 11.5, 13.2, 13.3(a), 13.3(b) and 13.4.

17. In Schedule 1, omit the notes to fees 11.4(a), 11.4(b), 13.3(a) and 13.3(b).

18. In Schedule 1, after fee 9.2, insert —

| “9A. Enforcement | |
|--|-------|
| 9A.1 On an application to question a judgment debtor or other person on oath in connection with enforcement of a judgment. | £50 |
| 9A.2(a) On an application for a garnishee order or the appointment of a receiver by way of equitable execution. Note: Fee 9A.2(a) is payable in respect of each third party against whom the order is sought. | £100 |
| 9A.2(b) On an application for a charging order. Note: Fee 9A.2(b) is payable in respect of each charging order applied for. | £100 |
| 9A.3 On an application for a judgment summons. | £100” |

19. In Schedule 1, in fee 11.7, in column 2, for “£65” substitute “£100”.
20. In Schedule 1, in fee 13.1, in column 2, for “£30” substitute “£50”.
21. In Schedule 1, in fee 13.5, in column 2, for “£30” substitute “£50”.
22. In paragraph 1(1)(c) of Schedule 2, for “626” substitute “26”.
23. In paragraph 3(1) of Schedule 2, in column 2 —
- (a) for “£12,000” substitute “£13,000”;
 - (b) for “£14,735” substitute “£15,930”;
 - (c) for “£17,470” substitute “£18,860”;
 - (d) for “£20,205” substitute “£21,790”; and
 - (e) for “£22,940” substitute “£24,720”.
24. In paragraph 3(1) of Schedule 2, in column 3 —
- (a) for “£16,000” substitute “£18,000”;
 - (b) for “£18,735” substitute “£20,930”;
 - (c) for “£21,470” substitute “£23,860”;
 - (d) for “£24,205” substitute “£26,790”; and
 - (e) for “£26,940” substitute “£29,720”.
25. In paragraph 3(2) of Schedule 2, for “£2,735” substitute “£2,930”.
26. In paragraph 5(3) of Schedule 2 —
- (a) in sub-paragraph (a), for “£296” substitute “£315”;
 - (b) in sub-paragraph(b), for “£228” substitute “£244”; and
 - (c) in sub-paragraph (c), for “£150” substitute “£159”.

Signed by the authority of the Lord Chancellor

4th June 2009

We consent,

10th June 2009

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

Tony Cunningham
Frank Roy
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Family Proceedings Fees Order 2008 (S.I.2008/1054 (L.6)). In this explanatory note “old fee number” and “old fee” refer to the relevant fee numbers and fees in the Family Proceedings Fees Order 2008. “New fee number” and “new fee” refer to the relevant fee numbers and fees as amended by this Order. This Order makes the following changes of substance.

- (a) It increases some of the fees in Schedule 1 to the 2008 Order. Except as shown below, the fee increases are indicated in the body of the Order.
- (b) Article 5 inserts a new sub-paragraph into fee 2.1 to take account of amendments to the Children Act 1989 by the Human Fertilisation and Embryology Act 2008 (c.22). The insertion made by Article 5 will come into force on 1st September 2009.

- (c) Article 15 amends fee 11.1. The fee payable for the issue of a warrant of execution against goods no longer depends on the amount for which the warrant is issued. The previous fees are replaced by a single fee of £100.
- (d) Articles 16 and 17 remove the separate enforcement fees for the county court and the High Court, which are replaced, in article 18, by a common fee for both jurisdictions.
- (e) The table below shows the fee increases.

| Old fee number | Old Fee | New fee number | New fee |
|----------------|---------|----------------|---------|
| 11.3 | £45 | 9A.1 | £50 |
| 13.2 | £40 | 9A.1 | £50 |
| 11.4(a) | £55 | 9A.2(a) | £100 |
| 11.4(b) | £55 | 9A.2(b) | £100 |
| 13.3(a) | £50 | 9A.2(a) | £100 |
| 13.3(b) | £50 | 9A.2(b) | £100 |
| 11.5 | £95 | 9A.3 | £100 |
| 13.4 | £90 | 9A.3 | £100 |

- (f) Articles 23 to 25 increase the figures for gross annual income in paragraph 3 of Schedule 2 which are used to determine whether a party is eligible for fee remission.
- (g) Article 26 increases 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 £296 to £315. The amount for each child of the party rises from £228 to £244 and the amount that may be deducted if the party has a partner rises from £150 to £159.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at <http://www.justice.gov.uk/docs/civil-court-fees-2008-consultation-paper-cp31-08.pdf>

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.00