

2008 No. 2855 (L.21)

MAGISTRATES' COURTS, ENGLAND AND WALES

The Magistrates' Courts Fees (Amendment) Order 2008

Made - - - - *4th November 2008*

Laid before Parliament *5th November 2008*

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 the Courts Act 2003 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.—(1) This Order may be cited as the Magistrates' Courts Fees (Amendment) Order 2008.
- (2) Except as provided in paragraph (3), this Order shall come into force on 26th November 2008.
- (3) Article 3 and article 6 shall come into force on 8th December 2008.

Amendment of the Magistrates' Courts Fees Order 2008

2. The Magistrates' Courts Fees Order 2008(b) is amended as follows.

3. In fee 10.1—

(1) for the description, substitute “On an application for an order in form C1 or form C100 (free-standing application), form C78 (application related to enforcement of a contact order), form C2 (application in existing proceedings) or a request for permission to apply for an order in form C2 under the following provisions of the Children Act 1989—”;

(2) after paragraph (c), insert —

“(ca) section 11J(2)(c) (enforcement orders);	£175
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(cb) section 11O(2)(d) (compensation for financial loss);	£175”
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(3) after paragraph (o), insert —

(a) 2003. c. 39. Section 92 is amended by paragraphs 308 and 345 of Schedule 4 to the Constitutional Reform Act (2005 c. 4) and by paragraph 4(1) and (3) of Schedule 11 to that Act from a date to be appointed.
(b) S.I. 2008 No. 1052.
(c) section 11J was inserted by section 4(1) of the Children and Adoption Act (2006 c. 20).
(d) section 11O was inserted by section 5 of the Children and Adoption Act (2006 c. 20).

“(oa) paragraph 4(2), 6(2), 7(2) or 9(2) of Schedule A1(a) (applications in respect of enforcement orders); £80

(ob) paragraph 5(2) of Schedule A1 (amendment of enforcement order by reason of change of address); £40”

4. Delete the notes to fee 10.2 only and the notes to fees 10.1 and 10.2, and insert —

“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, or require two or more different numbered forms, 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, the fee is payable only once.

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

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.”

5.—(1) Delete the notes to fee 13.1, and

(2) after fee 13.2, insert —

“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, who are siblings or children of the family, at the same time, only one fee is payable.”

6. After fee 14, insert —

“14A Proceedings under the Children and Adoption Act 2006(b)

14A.1 On an application for a warning notice to be attached to a contact order. £40”

Where an application is made or permission is sought under or

(a) Schedule A1 was inserted by Schedule 1 to the Children and Adoption Act (2006 c. 20).

(b) 2006 c. 20.

relating to provisions of the Children Act 1989 and the Children and Adoption Act 2006 which are listed in two or more different numbered fees, only one fee is payable.

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

7. For the description of fee 18.2, substitute “On a request to issue a hearing notice and copy or a summons and copy.”

8. In paragraph 1(1) of Schedule 2, in the definition of “party”, for “the party” substitute “the individual”.

9. In paragraph 2 of Schedule 2, after sub-paragraph 2(d), insert —

“; and

(e) income-related employment and support allowance under the Welfare Reform Act 2007(a).”.

Signed by authority of the Lord Chancellor

4th November 2008

We consent,

4th November 2008

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

Tony Cunningham
Steve McCabe

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 2007 c. 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Magistrates' Courts Fees Order 2008 to take account of the coming into force of sections 1 to 5 and 8 of the Children and Adoption Act 2006 and the Welfare Reform Act 2007. The 2006 Act gives rise to a new application which is provided for by new fee 14A. The 2006 Act also inserts new applications into the Children Act 1989, and this Order inserts fees for these applications into fee 10.1. The 2007 Act introduces a new benefit, income-related employment and support allowance. This Order inserts the benefit into the list of qualifying benefits in Schedule 2.

In addition, this Order:

- (a) makes provision for the new form C100 to be used in applications under the section 8 of the Children Act 1989 without incurring any additional fee and includes the new form C78 in the list of forms to which fee 10.1 applies. The notes to fee 10.1 and fee 10.2 are amended to make clear that only one fee is payable when any of the forms listed in the description of fee 10.1 are filed together;
- (b) amends the notes to fee 13.1 and fee 13.2 to make clear that only one fee is payable when an application relates to two or more children who are siblings or children of the family;
- (c) amends the definition of "party" in Schedule 2, so that it refers to "individual" rather than "party", in order that fee remissions do not apply to companies, partnerships or charities;
- (d) amends the description of fee 18.2 to reflect a procedural change.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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