
STATUTORY INSTRUMENTS

2008 No. 2856 (L. 22)

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

The Family Proceedings 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(1).

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 Family Proceedings Fees (Amendment) Order 2008.
- (2) Except as provided in paragraph (3), this Order shall come into force on 26th November 2008.
- (3) Article 5 shall come into force on 8th December 2008.

Amendment of the Family Proceedings Fees Order 2008

2. The Family Proceedings Fees Order 2008(2) is amended as follows.
3. For the description of fee 1.2, after “On presenting any petition,”, insert “including a petition for a declaration of parentage, divorce or dissolution of civil partnership,”.

(1) 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 paragraphs 4(1) and (3) of Schedule 11 to that Act from a date to be appointed.

(2) [S.I. 2008/1054](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

4. For the description of fee 1.3, substitute “On applying for a non-molestation order, an occupation order or a forced marriage protection order under Part 4 or Part 4A of the Family Law Act 1996(3) (or on applying for two or more of those orders).”.

5. In fee 2.1 —

(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 sub-paragraph (c), insert —

“(ca) section 11J(2)(4) (enforcement orders);

(cb) section 11O(2)(5) (compensation for financial loss)”;

(3) after sub-paragraph (o), insert —

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

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

6. After fee 2.2 —

(1) delete —

(a) the notes that apply to fee 2.2 only,

(b) the notes that apply to fees 2.1 and 2.2; and

(2) insert —

“Notes to fees 2.1 and 2.2

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, permission is sought or an appeal is commenced 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, permission is sought or on appeal is commenced 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, permission is sought or an appeal is commenced in respect of two or more children, who are siblings or

(3) 1996 c. 27. Part 4A was inserted by the [Forced Marriage \(Civil Protection\) Act 2007 \(c. 20\)](#)

(4) Section 11J was inserted by section 4(1) of the [Children and Adoption Act \(2006 c. 20\)](#).

(5) Section 11O was inserted by section 5 of the [Children and Adoption Act \(2006 c. 20\)](#).

(6) Schedule A1 was inserted by Schedule 1 to the [Children and Adoption Act \(2006 c. 20\)](#).

<p>children of the family, at the same time, only one fee is payable in respect of each numbered fee.</p> <p>Notes to fee 2.2 only</p> <p>Where a final order is made at a case management conference, £500 of the amount paid under fee 2.2(a) will be refunded.</p> <p>Where the court lists more than one issues resolution hearing or pre-hearing review, the fee is payable only once.</p> <p>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.</p> <p>Where a fee is paid under fee 2.2(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.”</p>	
---	--

7. In fee 3 —
- (1) after fee 3.1, delete the notes; and
 - (2) after fee 3.3, insert —

<p>“When 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.</p> <p>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.</p> <p>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.”</p>	
---	--

8. For fee 11.4, substitute —

<p>“11.4(a) On an application for a garnishee order, a third party debt order or the appointment of a receiver by way of equitable execution.</p>	<p>£55</p>
<p>11.4(b) On an application for a charging order.</p> <p>Fee 11.4(a) is payable in respect of each third party against whom the order is sought.</p> <p>Fee 11.4(b) is payable in respect of each charging order applied for.</p>	<p>£55”</p>

9. For fee 13.3, substitute —

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“13.3(a) On an application for a garnishee order nisi, or the appointment of a receiver by way of equitable execution.	£50
13.3(b) On an application for a charging order nisi. Fee 13(a) is payable in respect of each third party against whom the order is sought. Fee 13(b) is payable in respect of each charging order applied for.	£50”

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

11. 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(7).”.

Signed by authority of the Lord Chancellor

4th November 2008

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

We consent,

4th November 2008

Tony Cunningham
Steve McCabe
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 to take account of the coming into force of sections 1 to 5 and 8 of the Children and Adoption Act 2006, the Forced Marriage (Civil Protection) Act 2007 and the Welfare Reform Act 2007. The 2006 Act inserts new provisions into the Children Act 1989, and this Order makes provision for those applications by inserting new fees into fee 2.1. The Forced Marriage (Civil Protection) Act 2007 inserts a new application into the Family Law Act 1996, which is provided for by an amendment to fee 1.3. The Welfare Reform Act 2007 introduces a new benefit, income-related employment and support allowance. This Order inserts the benefit into the list of qualifying benefits in Schedule 2 (which deals with fee remission).

In addition, this Order:

- (a) amends fee 1.2 to make clear that the fee applies to petitions for declarations of parentage, divorce and dissolution of civil partnership;
- (b) 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 2.1 applies;
- (c) amends the notes to fee 2.1 and fee 2.2 to make clear that only one fee is payable when any of the forms referred to in the description of the fee are filed together;
- (d) amends the notes to fee 2.1 and fee 2.2 and the notes to fees 3.1, 3.2 and 3.3 to make clear that only one fee is payable when two or more children, who are siblings or children of the family, are the subjects of an application even though two or more application forms are filed;
- (e) creates new fees 11.4(b) and 13.3(b) so that fees are charged in respect of each charging order, or charging order nisi, applied for; and
- (f) 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.

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