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STATUTORY INSTRUMENTS

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**2013 No. 2302 (L. 21)**

**BETTING, GAMING AND LOTTERIES  
COUNTY COURTS, ENGLAND AND WALES  
FAMILY PROCEEDINGS,  
ENGLAND AND WALES  
GENDER RECOGNITION  
MAGISTRATES' COURTS,  
ENGLAND AND WALES  
MENTAL CAPACITY, ENGLAND AND WALES  
SENIOR COURTS OF ENGLAND AND WALES  
SUPREME COURT OF THE UNITED KINGDOM  
TRIBUNALS AND INQUIRIES**

The Courts and Tribunals Fee Remissions Order 2013

*Made* - - - - *10th September 2013*

*Laid before Parliament* *16th September 2013*

*Coming into force* - - *7th October 2013*

The Lord Chancellor and Secretary of State makes this Order in exercise of the powers conferred on the Lord Chancellor by section 92 of the Courts Act 2003<sup>(1)</sup>, sections 414 and 415 of the Insolvency Act 1986<sup>(2)</sup>, section 42 of the Tribunals, Courts and Enforcement Act 2007<sup>(3)</sup>, section 52 of the Constitutional Reform Act 2005<sup>(4)</sup> and section 54 of the Mental Capacity Act 2005<sup>(5)</sup> and on the Secretary of State by section 7(2) of the Gender Recognition Act 2004<sup>(6)</sup>.

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(1) 2003 c. 39; section 92 is amended by paragraph 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.

(2) 1986 c. 45.

(3) 2007 c. 15.

(4) 2005 c. 4.

(5) 2005 c. 9.

(6) 2004 c. 7.

The Lord Chancellor has consulted in accordance with section 92(5) and (6) of the Courts Act 2003, section 42(5) of the Tribunals, Courts and Enforcement Act 2007, section 52(4) to (6) of the Constitutional Reform Act 2005 and section 54(3) of the Mental Capacity Act 2005.

In accordance with section 92(1) of the Courts Act 2003, sections 414(1) and 415(1) of the Insolvency Act 1986, section 42(6) of the Tribunals, Courts and Enforcement Act 2007 and section 54(1) of the Mental Capacity Act 2005, the Lord Chancellor has obtained the agreement, consent and sanction of the Treasury.

### **Citation and commencement**

1. This Order may be cited as the Courts and Tribunals Fee Remissions Order 2013 and shall come into force on 7th October 2013.

### **Amendments**

2. For Schedule 2 of—

- (a) the Family Proceedings Fees Order 2008(7); and
- (b) the Magistrates' Courts Fees Order 2008(8);

substitute the Schedule to this Order, numbered as Schedule 2.

### **Amendments to the Non-Contentious Probate Fees Order 2004**

3.—(1) The Non-Contentious Probate Fees Order 2004 (9) is amended as follows.

(2) For Schedule 1A (remissions and part remissions), substitute the Schedule to this Order, numbered as Schedule 1A.

(3) Omit article 5.

### **Amendments to the Gender Recognition (Application Fees) Order 2006**

4.—(1) The Gender Recognition (Application Fees) Order 2006(10) is amended as follows.

(2) In article 1 (citation, commencement and interpretation), omit paragraph (4).

(3) For article 2 (application fees), substitute—

#### **“Application fees**

2. Subject to article 3, the fee payable under section 7(2) in relation to an application is £140.”

(4) For article 3 (circumstances in which no fee is payable), substitute—

#### **“Circumstances in which no fee is payable**

3. No fee is payable in relation to an application if—

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(7) S.I. 2008/1054, amended by section 59(5) of, and paragraph 1(2) of Part 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c.4) and relevant amending instruments are S.I. 2008/2856, 2009/1499 and 2011/1045.

(8) S.I. 2008/1052, amended by section 59(5) of, and paragraph 1(2) of Part 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c.4) and relevant amending instruments are S.I. 2008/2855, 2009/1496 and 2013/388.

(9) S.I. 2004/3120, relevant amending instruments are S.I. 2007/2174, 2009/1497 and 2013/388.

(10) S.I. 2006/758, amended by S.R. 2008/412, S.I. 2008/1879 and 2012/920.

- (a) an application is made under section 1(1) and an interim gender recognition certificate was previously issued to the applicant; or
  - (b) the application is made under section 5(2), 5A(2) or 6(1).”.
- (5) After article 3 (circumstances in which no fee is payable), insert—

**“Remissions and part remissions**

**3A.** The Schedule applies for the purpose of ascertaining whether a party is entitled to a remission or part remission of the fee prescribed in article 2.”.

- (6) Omit articles 4 (definition of relevant income) and 5 (definition of qualifying benefit).
- (7) Insert the Schedule to this Order.

**Amendments to the Court of Protection Fees Order 2007**

- 5.—**(1) The Court of Protection Fees Order 2007(**11**) is amended as follows.
- (2) In article 3 (schedule of fees), for “the Schedule”, substitute “Schedule 1”.
  - (3) For article 8 (exemptions), substitute—

**“Remissions and part remissions**

**8.** 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.”.

- (4) Omit article 9 (reductions and remissions in exceptional circumstances).
- (5) Number the Schedule (fees to be taken) as Schedule 1.
- (6) After Schedule 1 (fees to be taken) as numbered by this Order, insert the Schedule to this Order, numbered as Schedule 2.
- (7) For paragraph 14 (income and resources treated as the party’s income and resources) of Schedule 2 so inserted, substitute—

**“Resources and income treated as the party’s resources and income**

**14.—**(1) Subject to sub-paragraphs (2) to (5), the disposable capital and gross monthly income of a partner is to be treated as disposable capital and gross monthly income of the party.

(2) Where the partner of the party has a contrary interest to the party in the matter to which the fee relates, the disposable capital and gross monthly income of that partner is not treated as the disposable capital and gross monthly income of the party.

(3) Where proceedings are brought concerning the property and affairs of ‘P’, for the purpose of determining whether a party is entitled to a remission or part remission of a fee in accordance with this Schedule—

- (a) the disposable capital and gross monthly income of the person bringing those proceedings is not treated as the disposable capital and gross monthly income of the party;
- (b) the disposable capital and gross monthly income of ‘P’ is to be treated as the disposable capital of the party; and
- (c) the disposable capital and gross monthly income of the partner of ‘P’, if any, is not treated as the disposable capital and gross monthly income of the party.

(4) Where proceedings are brought concerning the personal welfare of ‘P’, for the purpose of determining whether a party is entitled to a remission or part remission of a fee in accordance with this Schedule, the disposable capital and gross monthly income of a partner, if any, is not treated as the disposable capital and gross monthly income of the party, where that partner is ‘P’ who is the subject of those proceedings in which the fee is payable.

(5) Where proceedings concern both the property and affairs of ‘P’ and their personal welfare, their disposable capital and gross monthly income shall be treated in accordance with sub-paragraph (3).”

(8) At the end of sub-paragraph 16(3) of Schedule 2 so inserted, for “paying the fee”, substitute “the date of the order of the court which finally disposed of the proceedings”.

### **Amendments to the Civil Proceedings Fees Order 2008**

6.—(1) The Civil Proceedings Fees Order 2008(12) is amended as follows.

(2) For article 5 (remissions and part remissions), substitute—

#### **“Remissions and part remissions**

5.—(1) Subject to paragraph (2), 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.

(2) Schedule 2 does not apply to—

- (a) fee 1.3 (fee payable on starting proceedings to recover a sum of money brought by Money Claim OnLine users); or
- (b) fee 8.8 (fee payable on a consolidated attached of earnings order or an administration order).”

(3) In Schedule 1, after the description for fee 1.9(a), insert—

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“1.9(aa) On a request to reconsider at a hearing £215  
a decision on permission.

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Where fee 1.9(aa) has been paid and permission  
is granted at a hearing, fee 1.9(b) is not payable.”

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(4) For Schedule 2 (remissions and part remissions), substitute the Schedule to this Order, numbered as Schedule 2.

### **Amendments to the Supreme Court Fees Order 2009**

7.—(1) The Supreme Court Fees Order 2009(13) is amended as follows.

(2) For Schedule 2 (remissions and part remissions), substitute the Schedule to this Order, numbered as Schedule 2.

(3) In paragraphs 16 (remission in exceptional circumstances) and 17 (refunds) of Schedule 2 so inserted, for “Lord Chancellor”, in each place, substitute “Chief Executive of the Supreme Court”.

(4) For paragraph 18 (legal aid) of Schedule 2 so inserted, substitute—

“18. A party is not entitled to a remission of a fee if, for the purpose of the proceedings to which the fee relates—

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(12) S.I. 2008/1053, amended by section 59(5) of, and paragraph 1(2) of Part 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c.4), S.I. 2008/2853, 2009/1498, 2013/388 and 2013/1410.

(13) S.I. 2009/2131, amended by S.I. 2010/2582 and 2013/388.

- (a) they are in receipt of the following services under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(14)</sup>:
    - (i) Legal representation; or
    - (ii) Family help (higher);
  - (b) they are in receipt of legal aid under Part 2 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981<sup>(15)</sup>; or
  - (c) they are living in Scotland and are in receipt of legal aid.”.
- (5) At the end of Schedule 2 so inserted, add—

**“Remission for charitable or not-for-profit organisations**

**21.** Where an application for permission to intervene in an appeal is filed by a charitable or not-for-profit organisation which seeks to make submissions in the public interest, the Chief Executive of the Supreme Court may reduce or remit the fee in that case.”.

**Amendments to the Upper Tribunal (Lands Chamber) Fees Order 2009**

- 8.—**(1) The Upper Tribunal (Lands Chamber) Fees Order 2009<sup>(16)</sup> is amended as follows.
- (2) In article 4 (fees payable), for “the Schedule”, substitute “Schedule 1”.
  - (3) Omit article 7 and the heading to that article.
  - (4) After article 7, insert—

**“Remissions and part remissions**

**7A.** 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.”.

- (5) Omit article 8.
- (6) Number the Schedule (fees to be taken in the Lands Chamber of the Upper Tribunal) as Schedule 1.
- (7) After Schedule 1 (fees to be taken in the Lands Chamber of the Upper Tribunal) as numbered by this Order, insert the Schedule to this Order, numbered as Schedule 2.

**Amendments to the First-tier Tribunal (Gambling) Fees Order 2010**

- 9.—**(1) The First-tier Tribunal (Gambling) Fees Order 2010<sup>(17)</sup> is amended as follows.
- (2) In article 2(1) and 2(2) (fees for bringing an appeal under the Gambling Act 2005<sup>(18)</sup>), for “Schedule”, substitute “Schedule 1”.
  - (3) For article 3 (exemption from fees), substitute—

**“Remissions and part remissions**

**3.** 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.”.

- (4) Omit articles 4 (reduction and remission of fees) and 5 (refunds).

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<sup>(14)</sup> 2012 c. 10.

<sup>(15)</sup> S.I. 1981/228 (N.I. 8).

<sup>(16)</sup> S.I. 2009/1114, amended by S.I. 2010/2601 and 2013/1199.

<sup>(17)</sup> S.I. 2010/42, amended by S.I. 2010/633.

<sup>(18)</sup> 2005 c. 19.

(5) Number the Schedule (fees to be taken) as Schedule 1.

(6) After Schedule 1 (fees to be taken) as numbered by this order, insert the Schedule to this Order, numbered as Schedule 2.

### **Amendments to the Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011**

**10.**—(1) The Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011(**19**) is amended as follows.

(2) In Schedule 1 (fees to be taken in fresh claim proceedings), after 1.1, insert—

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“1.1(a) On a request to reconsider at a hearing a £215 decision on permission.

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Where fee 1.1(a) has been paid and permission is granted at a hearing, fee 1.2 is not payable.”

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(3) For Schedule 2 (remissions), substitute the Schedule to this Order, numbered as Schedule 2.

### **Amendments to the First-tier Tribunal (Property Chamber) Fees Order 2013**

**11.**—(1) The First-tier Tribunal (Property Chamber) Fees Order 2013(**20**) is amended as follows.

(2) For Schedule 2 (remissions), substitute the Schedule to this Order, numbered as Schedule 2.

(3) At the end of Schedule 2 so inserted, add—

#### **“Apportionment of liability for fees in cases involving more than one person as the party**

**21.** Where more than one person is the party and at least one of those persons is granted a remission in accordance with this Schedule—

(a) subject to sub-paragraph (b), the fee shall be payable in equal proportions by those remaining persons who have not been granted a remission;

(b) no person shall be liable to pay an amount that is more than the amount which they would have paid if they alone were the party.”

### **Amendments to the Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013**

**12.**—(1) The Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013(**21**) is amended as follows.

(2) For Schedule 3 (remissions and part remissions), substitute the Schedule of this Order, numbered as Schedule 3.

(3) In sub-paragraph 15(4) of Schedule 3 so inserted, after the words “notified in writing to the party”, insert “, or the fee group (as the case may be).”.

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(19) [S.I. 2011/2344](#).

(20) [S.I. 2013/1179](#).

(21) [S.I. 2013/1893](#).

### **Transitional provisions**

**13.**—(1) The Orders amended by articles 2 to 12 of this Order and in force immediately before 7th October 2013, continue to apply as if this Order had not been made in respect of—

- (a) a fee paid before 7th October 2013; or
- (b) an application for remission received before 7th October 2013;

(2) The amendments made by paragraphs 6(3) and 10(2) of this Order apply only to applications for judicial review issued on or after 7th October 2013.

Signed by the authority of the Lord Chancellor and Secretary of State

10th September 2013

*Helen Grant*  
Parliamentary Under Secretary of State  
Ministry of Justice

We agree and consent

10th September 2013

*Mark Lancaster*  
*Robert Goodwill*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## SCHEDULE

### Remissions and Part Remissions

#### Interpretation

1.—(1) In this Schedule—

“child” means a person—

- (a) whose main residence is with a party and who is aged—
  - (i) under 16 years; or
  - (ii) 16 to 19 years; and is—
    - (aa) not married or in a civil partnership; and
    - (bb) enrolled or accepted in full-time education that is not advanced education, or approved training; or
- (b) in respect of whom a party or their partner pays child support maintenance or periodic payments in accordance with a maintenance agreement,

and “full-time education”, “advanced education” and “approved training” have the meaning given by the Child Benefit (General) Regulations 2006<sup>(22)</sup>;

“child support maintenance” has the meaning given in section 3(6) of the Child Support Act 1991<sup>(23)</sup>;

“couple” has the meaning given in section 3(5A) of the Tax Credits Act 2002<sup>(24)</sup>;

“disposable capital” has the meaning given in paragraph 5;

“excluded benefits” means any of the following—

- (c) any of the following benefits payable under the Social Security Contributions and Benefits Act 1992<sup>(25)</sup> or the corresponding provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(26)</sup>—
  - (i) attendance allowance under section 64;
  - (ii) severe disablement allowance;
  - (iii) carer’s allowance;
  - (iv) disability living allowance;
  - (v) constant attendance allowance under section 104 as an increase to a disablement pension;
  - (vi) any payment made out of the social fund;
  - (vii) housing benefit;
  - (viii) widowed parents allowance;
- (d) any of the following benefit payable under the Tax Credits Act 2002—
  - (i) any disabled child element or severely disabled child element of the child tax credit;
  - (ii) any childcare element of the child tax credit;

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<sup>(22)</sup> S.I. 2006/223, amended by S.I. 2009/3268 and 2012/818.

<sup>(23)</sup> 1991 c. 48; section 3(6) was amended by subsection 1(2)(a) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

<sup>(24)</sup> 2002 c.21; section 3(5A) was inserted by paragraph 144 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

<sup>(25)</sup> 1992 c.4.

<sup>(26)</sup> 1992 c. 7 (N.I.).



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- (e) any direct payment made under the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2009(27), the Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2011(28), the Carers and Direct Payments Act (Northern Ireland) 2002(29), or section 12B(1) of the Social Work (Scotland) Act 1968(30);
- (f) a back to work bonus payable under section 26 of the Jobseekers Act 1995(31), or article 28 of the Jobseekers (Northern Ireland) Order 1995(32);
- (g) any exceptionally severe disablement allowance paid under the Personal Injuries (Civilians) Scheme 1983(33);
- (h) any payments from the Industrial Injuries Disablement Benefit;
- (i) any pension paid under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pension Order 2006(34);
- (j) any payment made from the Independent Living Funds;
- (k) any payment made from the Bereavement Allowance;
- (l) any financial support paid under an agreement for the care of a foster child;
- (m) any housing credit element of pension credit;
- (n) any armed forces independence payment;
- (o) any personal independence payment payable under the Welfare Reform Act 2012(35);
- (p) any payment on account of benefit as defined in the Social Security (Payments on Account of Benefit) Regulations 2013(36);
- (q) any of the following amounts, as defined by the Universal Credit Regulations 2013(37), that make up an award of universal credit—
  - (i) an additional amount to the child element in respect of a disabled child;
  - (ii) a housing costs element;
  - (iii) a childcare costs element;
  - (iv) a carer element;
  - (v) a limited capability for work or limited capacity for work and work -related activity element.

“family help (higher)” has the meaning given in paragraph 15(3) of the Civil Legal Aid (Merits Criteria) Regulations 2013(38);

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(27) S.I. 2009/1887.

(28) S.I. 2011/831.

(29) 2002 c. 6 (N.I.).

(30) 1968 c. 49; section 12B was inserted by section 4 of the Community Care (Direct Payments) Act 1996 (c. 30). Subsection (1) was amended by section 7 of the Community Care and Health (Scotland) Act 2002 (asp 5) and section 70 of the Regulation of Care (Scotland) Act 2001 (asp 8).

(31) 1995 c.18; section 26 has been amended but none of those amendments are relevant to this Order.

(32) S.I. 1995/2705 (N.I. 15).

(33) S.I. 1983/686, amended by S.I. 1983/1164, 1983/1540, 1984/1289, 1984/1675, 1985/1313, 1986/628, 1987/191, 1988/367, 1988/2260, section 123 of, and paragraph 3 of Schedule 8 to, the Criminal Justice Act 1988 (c.33), S.I. 1989/415, 1990/1300, 1991/708, 1992/702, 1992/3226, 1993/480, 1994/715, 1994/2021, 1995/445, 1997/812, 1999/262, 2001/420, 2002/672, 2004/717, 2005/655, 2005/3031, 2006/765, 2007/646, 2008/592, 2008/2683, 2009/438, 2010/283, 2010/1172, 2011/811, 2011/1740, 2012/670 and modified by S.I. 2005/3137.

(34) S.I. 2006/606, amended by S.I. 2006/1455, 2007/909, 2008/679, 2008/2683, 2009/706, 2010/240, 2011/235, 2011/1740 and 2012/359.

(35) 2012 c. 5.

(36) S.I. 2013/383.

(37) S.I. 2013/376.

(38) S.I. 2013/104.

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“family help (lower)” has the meaning given in paragraph 15(2) of the Civil Legal Aid (Merits Criteria) Regulations 2013;

“gross monthly income” has the meaning given in paragraph 13;

“Independent Living Funds” means the funds listed at regulation 20(2)(b) of the Criminal Legal Aid (Financial Resources) Regulations 2013<sup>(39)</sup>;

“legal representation” has the meaning given in paragraph 18(2) of the Civil Legal Aid (Merits Criteria) Regulations 2013;

“maintenance agreement” has the meaning given in subsection 9(1) of the Child Support Act 1991;

“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 individual who would, but for this Schedule, be liable to pay a fee under this Order;

“restraint order” means—

- (a) an order under section 42(1A) of the Senior Courts Act 1981<sup>(40)</sup>;
- (b) an order under section 33 of the Employment Tribunals Act 1996<sup>(41)</sup>;
- (c) a civil restraint order made under rule 3.11 of the Civil Procedure Rules 1998<sup>(42)</sup>, or a practice direction made under that rule; or
- (d) a civil restraint order under rule 4.8 of the Family Procedure Rules 2010<sup>(43)</sup>, or the practice direction referred to in that rule.

(2) References to remission of a fee are to be read as including references to a part remission of a fee as appropriate and remit and remitted shall be construed accordingly.

### Fee remission

2. If a party satisfies the disposable capital test, the amount of any fee remission is calculated by applying the gross monthly income test.

#### *Disposable capital test*

### Disposable capital test

- 3.—(1) Subject to paragraph 4, a party satisfies the disposable capital test if—
- (a) the fee payable by the party and for which an application for remission is made, falls within a fee band set out in column 1 of Table 1; and
  - (b) the party’s disposable capital is less than the amount in the corresponding row of column 2.

**Table 1**

<i>Column 1 (fee band)</i>	<i>Column 2 (disposable capital)</i>
Up to and including £1,000	£3,000
£1,001 to £1,335	£4,000

<sup>(39)</sup> S.I. 2013/471.

<sup>(40)</sup> 1981 c. 54; subsection 42(1A) was inserted by s.24 of the Prosecution of Offences Act 1985 (c. 23).

<sup>(41)</sup> 1996 c. 17.

<sup>(42)</sup> S.I. 1998/3132, rule 3.11 was inserted by rule 6 of S.I. 2004/2072.

<sup>(43)</sup> S.I. 2010/2955.

<i>Column 1 (fee band)</i>	<i>Column 2 (disposable capital)</i>
£1,336 to £1,665	£5,000
£1,666 to £2,000	£6,000
£2,001 to £2,330	£7,000
£2,331 to £4,000	£8,000
£4,001 to £5,000	£10,000
£5,001 to £6,000	£12,000
£6,001 to £7,000	£14,000
£7,001 or more	£16,000

4. Subject to paragraph 14, if a party or their partner is aged 61 or over, that party satisfies the disposable capital test if that party's disposable capital is less than £16,000.

#### **Disposable capital**

5. Subject to paragraph 14, disposable capital is the value of every resource of a capital nature belonging to the party on the date on which the application for remission is made, unless it is treated as income by this Order, or it is disregarded as excluded disposable capital.

#### **Disposable capital - non-money resources**

6. The value of a resource of a capital nature that does not consist of money is calculated as the amount which that resource would realise if sold, less—

- (a) 10% of the sale value; and
- (b) the amount of any borrowing secured against that resource that would be repayable on sale.

#### **Disposable capital - resources held outside the United Kingdom**

7.—(1) Capital resources in a country outside the United Kingdom count towards disposable capital.

(2) If there is no prohibition in that country against the transfer of a resource into the United Kingdom, the value of that resource is the amount which that resource would realise if sold in that country, in accordance with paragraph 6.

(3) If there is a prohibition in that country against the transfer of a resource into the United Kingdom, the value of that resource is the amount that resource would realise if sold to a buyer in the United Kingdom.

#### **Disposable capital - foreign currency resources**

8. Where disposable capital is held in currency other than sterling, the cost of any banking charge or commission that would be payable if that amount were converted into sterling, is deducted from its value.

#### **Disposable capital - jointly owned resources**

9. Where any resource of a capital nature is owned jointly or in common, there is a presumption that the resource is owned in equal shares, unless evidence to the contrary is produced.

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**Excluded disposable capital**

10. The following things are excluded disposable capital—
- (a) a property which is the main or only dwelling occupied by the party;
  - (b) the household furniture and effects of the main or only dwelling occupied by the party;
  - (c) articles of personal clothing;
  - (d) any vehicle, the sale of which would leave the party, or their partner, without motor transport;
  - (e) tools and implements of trade, including vehicles used for business purposes;
  - (f) the capital value of the party’s or their partner’s business, where the party or their partner is self-employed;
  - (g) the capital value of any funds or other assets held in trust, where the party or their partner is a beneficiary without entitlement to advances of any trust capital;
  - (h) a jobseeker’s back to work bonus;
  - (i) a payment made as a result of a determination of unfair dismissal by a court or tribunal, or by way of settlement of a claim for unfair dismissal;
  - (j) any compensation paid as a result of a determination of medical negligence or in respect of any personal injury by a court, or by way of settlement of a claim for medical negligence or personal injury;
  - (k) the capital held in any personal or occupational pension scheme;
  - (l) any cash value payable on surrender of a contract of insurance;
  - (m) any capital payment made out of the Independent Living Funds;
  - (n) any bereavement payment;
  - (o) any capital insurance or endowment lump sum payments that have been paid as a result of illness, disability or death;
  - (p) any student loan or student grant;
  - (q) any payments under the criminal injuries compensation scheme.

*Gross monthly income test*

**Remission of fees—gross monthly income**

11.—(1) If a party satisfies the disposable capital test, no fee is payable under this Order if, at the time when the fee would otherwise be payable, the party or their partner has the number of children specified in column 1 of Table 2 and—

- (a) if the party is single, their gross monthly income 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 monthly income of that couple does not exceed the amount set out in the appropriate row of column 3.

**Table 2**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Number of children of party</i>	<i>Single</i>	<i>Couple</i>
no children	£1,085	£1,245

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Number of children of party</i>	<i>Single</i>	<i>Couple</i>
1 child	£1,330	£1,490
2 children	£1,575	£1,735

(2) If a party or their partner has more than 2 children, the relevant amount of gross monthly income is the appropriate amount specified in Table 2 for 2 children, plus the sum of £245 for each additional child.

(3) For every £10 of gross monthly income received above the appropriate amount in Table 2, including any additional amount added under sub-paragraph (2), the party must pay £5 towards the fee payable, up to the maximum amount of the fee payable.

(4) This paragraph is subject to paragraph 12.

### **Gross monthly income cap**

**12.**—(1) No remission is available if a party or their partner has the number of children specified in column 1 of Table 3 and—

- (a) if the party is single, their gross monthly income exceeds the amount set out in the appropriate row of column 2 of Table 3; or
- (b) if the party is one of a couple, the gross monthly income of that couple exceeds the amount set out in the appropriate row of column 3 of Table 3.

**Table 3**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Number of children of party</i>	<i>Single</i>	<i>Couple</i>
no children	£5,085	£5,245
1 child	£5,330	£5,490
2 children	£5,575	£5,735

(2) If a party or their partner has more than 2 children, the relevant amount of gross monthly income is the appropriate amount specified in Table 3 for 2 children, plus the sum of £245 for each additional child.

### **Gross monthly income**

**13.**—(1) Subject to paragraph 14, gross monthly income means the total monthly income, for the month preceding that in which the application for remission is made, from all sources, other than receipt of any of the excluded benefits.

(2) Income from a trade, business or gainful occupation other than an occupation at a wage or salary is calculated as—

- (a) the profits which have accrued or will accrue to the party; and
- (b) the drawings of the party;

in the month preceding that in which the application for remission is made.

(3) In calculating profits under sub-paragraph (2)(a), all sums necessarily expended to earn those profits are deducted.

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## General

### Resources and income treated as the party's resources and income

14.—(1) Subject to sub-paragraph (2), the disposable capital and gross monthly income of a partner of a party is to be treated as disposable capital and gross monthly income of the party.

(2) Where the partner of a party has a contrary interest to the party in the matter to which the fee relates, the disposable capital and gross monthly income of that partner, if any, is not treated as the disposable capital and gross monthly income of the party.

### Application for remission of a fee

15.—(1) An application for remission of a fee must be made at the time when the fee would otherwise be payable.

(2) Where an application for remission of a fee is made, the party must—

- (a) indicate the fee to which the application relates;
- (b) declare the amount of their disposable capital; and
- (c) provide documentary evidence of their gross monthly income and the number of children relevant for the purposes of paragraphs 11 and 12.

(3) Where an application for remission of a fee is made on or before the date on which a fee is payable, the date for payment of the fee is disapplied.

(4) Where an application for remission is refused, or if part remission of a fee is granted, the amount of the fee which remains unremitted must be paid within the period notified in writing to the party.

### Remission in exceptional circumstances

16. A fee specified in this Order may be remitted where the Lord Chancellor is satisfied that there are exceptional circumstances which justify doing so.

### Refunds

17.—(1) Subject to sub-paragraph (3), where a party pays a fee at a time when that party would have been entitled to a remission if they had provided the documentary evidence required by paragraph 15, the fee, or the amount by which the fee would have been reduced as the case may be, must 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 when the Lord Chancellor, if all the circumstances had been known, would have remitted the fee under paragraph 15, the fee or the amount by which the fee would have been reduced, as the case may be, must be refunded to the party.

(3) No refund shall be made under this paragraph unless the party who paid the fee applies within 3 months of the date on which the fee was paid.

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

## Legal Aid

18. A party is not entitled to a fee remission if, under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(44), they are in receipt of the following civil legal services —

- (a) Legal representation; or
- (b) Family help (higher); or
- (c) Family help (lower) in respect of applying for a consent order.

## Vexatious litigants

19.—(1) This paragraph applies where—

- (a) a restraint order is in force against a party; and
- (b) that 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 by this Order for the application is payable in full.

(3) If the party is granted permission, they are to 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.

## Exceptions

20. No remissions or refunds are available in respect of the fee payable for—

- (a) copy or duplicate documents;
- (b) searches.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order introduces a new, standardised fee remissions system for courts and tribunals, set out in the Schedule. The Schedule has been inserted into:

- the Non-Contentious Probate Fees Order 2004
- the Gender Recognition (Application Fees) Order 2006
- the Court of Protection Fees Order 2007
- the Civil Proceedings Fees Order 2008
- the Family Proceedings Fees Order 2008

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(44) 2012 c. 10.

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- the Magistrates’ Courts Fees Order 2008
- the Supreme Court Fees Order 2009
- the Upper Tribunal (Lands Chamber) Fees Order 2009
- the First-tier Tribunal (Gambling) Fees Order 2010
- the Upper Tribunal (Immigration and Asylum) (Judicial Review) (England and Wales) Fees Order 2011
- the First-tier Tribunal (Property Chamber) Fees Order 2013
- the Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013

Eligibility for remission or part remission of a fee will be based on two new tests - a disposable capital test and a gross monthly income test.

Paragraphs 3 and 4 of the Schedule set out the disposable capital test. Parties who satisfy the disposable capital test will receive a full fee remission, pay a contribution to the fee or have to pay the fee in full, as determined by the gross monthly income test set out in paragraphs 11 and 12 of the Schedule.

The gross monthly income test applies a series of thresholds to single people or couples, with an allowance for the number of dependent children they have. Parties with a gross monthly income below a certain threshold will receive a full fee remission.

Parties will be required to pay a contribution of £5 towards their fee for every £10 of gross monthly income they earn over the relevant threshold. Parties with income in excess of £4,000 above the relevant threshold will not be eligible for any remission or part remission of a fee.

The order also provides for a new fee of £215 payable in judicial review proceedings in the High Court and the Immigration and Asylum Chamber of the Upper Tribunal. The fee is payable where an application is made for reconsideration of permission at a hearing. If permission is granted at a hearing, the £215 fee payable at the start of a judicial review is not payable

For fees paid and applications for remission received before 7th October 2013, the current remission system will apply. Fees paid, or applications for remission received, on or after 7th October 2013 will be subject to the new remission system set out in the Schedule. The new judicial review fee will only apply to applications for judicial review issued on or after 7th October 2013.