

2018 No. 84

HIGH COURT OF JUSTICIARY

The High Court of Justiciary Fees Order 2018

Made - - - - *23rd February 2018*

Laid before the Scottish Parliament *27th February 2018*

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by section 107(1) and (2) of the Courts Reform (Scotland) Act 2014(a) and all other powers enabling them to do so.

Citation, commencement and effect

1.—(1) This Order may be cited as the High Court of Justiciary Fees Order 2018 and, subject to paragraphs (2) and (3), comes into force on 25th April 2018.

(2) Article 2(1)(b) and schedule 2 come into force, and article 2(1)(a) and schedule 1 cease to have effect, on 1st April 2019.

(3) Article 2(1)(c) and schedule 3 come into force, and article 2(1)(b) and schedule 2 cease to have effect, on 1st April 2020.

Fees payable in the High Court of Justiciary

2.—(1) Subject to paragraph (3) and articles 3 and 4—

(a) the fees payable in the High Court of Justiciary in respect of the matters specified in column 1 of the Table of Fees in schedule 1 (table of fees payable from 25th April 2018) are the fees specified in relation to those matters in column 2 of that Table;

(b) the fees payable in the High Court of Justiciary in respect of the matters specified in column 1 of the Table of Fees in schedule 2 (table of fees payable from 1st April 2019) are the fees specified in relation to those matters in column 2 of that Table; and

(c) the fees payable in the High Court of Justiciary in respect of the matters specified in column 1 of the Table of Fees in schedule 3 (table of fees payable from 1st April 2020) are the fees specified in relation to those matters in column 2 of that Table.

(2) The fees payable under this Order are to be paid to the Principal Clerk of Justiciary or any other officer acting for the Principal Clerk.

(3) The fees provided for by this Order are not payable by the Crown in the enforcement of the criminal law or in the exercise of powers or the performance of duties arising out of or relating to that enforcement.

(a) 2014 asp 18. The definition of “relevant officer” in section 107(3) was amended by S.S.I. 2016/387.

(4) No act is required of the Principal Clerk of Justiciary or any other officer acting for the Principal Clerk in connection with a matter specified in relation to any fee prior to—

- (a) the payment of that fee; or
- (b) an arrangement being entered into for payment of that fee.

Exemption of certain persons from fees: legal aid

3.—(1) A fee specified by this Order is not payable by a person if—

- (a) the person is in receipt of civil legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986(a) in respect of the matter in the Table of Fees in schedule 1, 2 or 3 in connection with which the fee is payable;
- (b) the fee is payable in connection with a simplified divorce or dissolution of a civil partnership application and the person is in receipt of advice and assistance from a solicitor under the Legal Aid (Scotland) Act 1986 in respect of that application; or
- (c) the person's solicitor is undertaking work in relation to the matter in the Table of Fees in schedule 1, 2 or 3 in connection with which the fee is payable on the basis of any regulations made under section 36(1) of the Legal Aid (Scotland) Act 1986 providing for legal aid in a matter of special urgency.

(2) This article does not apply to the fees payable in respect of matter 5 in the Table of Fees in schedule 1, 2 or 3 (petition for removal of disqualification from driving).

Exemption of certain persons from fees: social security

4.—(1) A fee specified by this Order is not payable by a person if—

- (a) the person or the person's partner is in receipt of income support under the Social Security Contributions and Benefits Act 1992(b);
- (b) the person is in receipt of an income-based jobseeker's allowance under the Jobseekers Act 1995(c);
- (c) the person or the person's partner is in receipt of guarantee credit under the State Pension Credit Act 2002(d);
- (d) the person or the person's partner is in receipt of working tax credit, provided that—
 - (i) child tax credit is being paid to the party, or otherwise following a claim for child tax credit made jointly by the members of a couple (as defined in section 3(5A) of the Tax Credits Act 2002(e)) which includes the party; or
 - (ii) there is a disability element or severe disability element (or both) to the tax credit received by the party;

and that the gross annual income taken into account for the calculation of the working tax credit is £18,000 or less;

- (e) the person or the person's partner is in receipt of income-related employment and support allowance under the Welfare Reform Act 2007(f);

(a) 1986 c.47. Section 13(2) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), section 74 and schedule 8, paragraph 36(3).

(b) 1992 c.4. Section 124, which provides for income support, was amended by the Jobseekers Act 1995 (c.18), section 41 and schedules 2 and 3; the Welfare Reform and Pensions Act 1999 (c.30), section 70 and schedule 8, Part IV, paragraph 28; the State Pension Credit Act 2002 (c.16), schedules 2 and 3; the Civil Partnership Act 2004 (c.33), schedule 24; the Welfare Reform Act 2007 (c.5), schedules 3 and 8; the Welfare Reform Act 2009 (c.24), section 3; and the Welfare Reform Act 2012 (c.5), schedule 14.

(c) 1995 c.18.

(d) 2002 c.16.

(e) 2002 c.21. Section 3(5A) was substituted for section 3(5) to (6) by the Civil Partnership Act 2004, schedule 24, paragraph 144(3).

(f) 2007 c.5.

- (f) the person is in receipt of universal credit under Part 1 of the Welfare Reform Act 2012(a); or
- (g) the person or the person's partner has, within the period of 3 months prior to the date the specified fee would be payable but for this exemption, received financial or other assistance under the Welfare Funds (Scotland) Act 2015(b).

(2) This article does not apply to the fees payable in respect of matter 5 in the Table of Fees in schedule 1, 2 or 3 (petition for removal of disqualification from driving).

(3) In this article, "partner" means a person to whom a person is married or with whom the person is in a civil partnership.

Revocation

5. The High Court of Justiciary Fees Order 2015(c) is revoked.

ANNABELLE EWING

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
23rd February 2018

(a) 2012 c.5.
(b) 2015 asp 5.
(c) S.S.I. 2015/262, amended by S.S.I. 2016/332.

SCHEDULE 1
TABLE OF FEES

Article 2(1)(a)

Payable from 25th April 2018

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</i>
1. Petitions to the nobile officium and applications for criminal letters (inclusive fee covering all steps in procedure).	109	107
2. Certified copy of any document other than an extract conviction.	19	18
3. Recording, engrossing, printing or copying of all documents (exclusive of search fee)—		
(a) by photocopying or otherwise producing a printed or typed copy—		
(i) each document, up to 10 pages;	7	6
(ii) each further page or part thereof in excess of 10 pages;	0.50	0.50
(b) for a copy of each document in electronic form.	7	6
4. Any search of records or archives, per 30 minutes or part thereof.	13	12
In addition, correspondence fee where applicable.	13	12
5. Petition for removal of disqualification from driving.	91	89

(a) Column 3 shows the fees which were payable by virtue of schedule 3 of S.S.I. 2015/262 (as substituted by schedule 2 of S.S.I. 2016/332) immediately before the coming into force of this schedule.

SCHEDULE 2
TABLE OF FEES

Article 2(1)(b)

Payable from 1st April 2019

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</i>
1. Petitions to the nobile officium and applications for criminal letters (inclusive fee covering all steps in procedure).	111	109
2. Certified copy of any document other than an extract conviction.	19	19
3. Recording, engrossing, printing or copying of all documents (exclusive of search fee)—		
(a) by photocopying or otherwise producing a printed or typed copy—		
(i) each document, up to 10 pages;	7	7
(ii) each further page or part thereof in excess of 10 pages;	0.50	0.50
(b) for a copy of each document in electronic form.	7	7
4. Any search of records or archives, per 30 minutes or part thereof.	13	13
In addition, correspondence fee where applicable.	13	13
5. Petition for removal of disqualification from driving.	93	91

(a) Column 3 shows the fees which were payable by virtue of schedule 1 of this Order immediately before the coming into force of this schedule.

SCHEDULE 3
TABLE OF FEES

Article 2(1)(c)

Payable from 1st April 2020

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</i>
1. Petitions to the nobile officium and applications for criminal letters (inclusive fee covering all steps in procedure).	113	111
2. Certified copy of any document other than an extract conviction.	19	19
3. Recording, engrossing, printing or copying of all documents (exclusive of search fee)—		
(a) by photocopying or otherwise producing a printed or typed copy—		
(i) each document, up to 10 pages;	7	7
(ii) each further page or part thereof in excess of 10 pages;	0.50	0.50
(b) for a copy of each document in electronic form.	7	7
4. Any search of records or archives, per 30 minutes or part thereof.	13	13
In addition, correspondence fee where applicable.	13	13
5. Petition for removal of disqualification from driving.	95	93

(a) Column 3 shows the fees which were payable by virtue of schedule 2 of this Order immediately before the coming into force of this schedule.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the fees payable in the High Court of Justiciary, to the Principal Clerk of Justiciary or any other officer acting for the Principal Clerk.

Article 2 and schedules 1 to 3 specify fee levels payable in the High Court of Justiciary in respect of certain matters.

- The fee levels for the period from 25th April 2018 until 31st March 2019 are given effect by the Table of Fees in schedule 1.
- The fee levels for the period from 1st April 2019 until 31st March 2020 are given effect by substituting the Table of Fees in schedule 1 with the Table of Fees in schedule 2.
- The fee levels from 1st April 2020 onwards are given effect by substituting the Table of Fees in schedule 2 with the Table of Fees in schedule 3.

Article 2(3) provides that fees are not to be payable by the Crown in the enforcement of the criminal law or in the exercise of powers or the performance of duties arising out of or relating to that enforcement.

Article 2(4) provides that the Principal Clerk of Justiciary or any other officer acting for the Principal Clerk is not required to do any act in connection with the matter specified in relation to that fee without either prior payment of the fee or entering into an arrangement for payment of the fee.

Articles 3 and 4 exempt certain persons from payment of fees.

Article 5 revokes the High Court of Justiciary Fees Order 2015.

A Business and Regulatory Impact Assessment has been prepared for this Order and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrews House, Edinburgh EH1 3DG.

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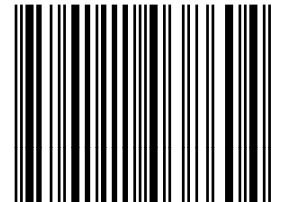
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