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STATUTORY INSTRUMENTS

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**2005 No. 3444**

**The Magistrates' Courts Fees Order 2005**

**Citation and commencement**

1. This Order may be cited as the Magistrates' Courts Fees Order 2005 and shall come into force on 10th January 2006.

**Fees to be taken**

2. The fees set out in column 2 of the Schedule to this Order shall be taken in magistrates' courts in respect of the items described in column 1 in accordance with and subject to the directions specified in column 1.

3.—(1) No fees shall be taken in respect of—

- (a) criminal matters (except for the supply of a document prepared for use in connection with a criminal matter but which is for use in connection with a matter which is not a criminal matter);
- (b) any summons, warrant, notice or order issued, given or made under sections 83(1) or (2), 88, 89 or 136 of the Magistrates' Courts Act 1980(1), or under any rule made for the purpose of those provisions; or
- (c) binding over proceedings.

(2) In this article, “binding over proceedings” means any proceedings instituted (whether by way of complaint under section 115 of the Magistrates' Courts Act 1980 or otherwise) with a view to obtaining from a magistrates' court an order requiring a person to enter into a recognizance to keep the peace or to be of good behaviour.

**Exemptions and remissions**

4. No fee shall be payable under this Order by a party who, at the time when a fee would otherwise become payable,—

- (a) is in receipt of—
  - (i) legal advice and assistance under Part II or Part III of the Legal Aid Act 1988(2) in connection with the matter to which the proceedings relate; or
  - (ii) representation under Part IV of the Legal Aid Act 1988 for the purposes of the proceedings;
- (b) is receiving services funded by the Legal Services Commission(3) as part of the Community Legal Service; or

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(1) 1980 c. 43.

(2) 1988 c. 34. Parts II, III and IV were repealed by Part I of Schedule 15 to the Access to Justice Act 1999 (c. 22) from 1 April 2000 subject to the transitional and savings provisions in article 5 of the Access to Justice Act 1999 (Commencement No. 3, Transitional Provisions and Savings) Order 2000 (S.I.2000/774), in respect of an application for legal aid signed before 1 April 2000 and received by the Legal Aid Board by 2 May 2000.

(3) Established under section 1 of the Access to Justice Act 1999(c. 22).

- (c) is in receipt of—
- (i) income support under the Social Security Contributions and Benefits Act 1992<sup>(4)</sup>;
  - (ii) income-based jobseeker’s allowance under the Jobseekers Act 1995<sup>(5)</sup>;
  - (iii) guarantee credit under the State Pension Credit Act 2002<sup>(6)</sup>;
  - (iv) any element of child tax credit, under the Tax Credits Act 2002<sup>(7)</sup>, other than the family element; or
  - (v) working tax credit under the Tax Credits Act 2002.

5. The Lord Chancellor may on the ground of financial hardship or for other reasonable cause remit in whole or in part any fee prescribed by this Order.

### Consequential amendment

6. In regulation 7(1)(b) of the Register of Fines Regulations 2003<sup>(8)</sup> for “Part 1 of Schedule 6 to the Magistrates’ Courts Act 1980” substitute “an Order made under section 92 of the Courts Act 2003<sup>(9)</sup> (fees)”.

16th December 2005

*Falconer of Thoroton, C*

We consent,

*Vernon Coaker*

*David Watts*

Two of the Lords Commissioner’s of Her Majesty’s Treasury

20th December 2005

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

<sup>(5)</sup> 1995 c. 18.

<sup>(6)</sup> 2002 c. 16.

<sup>(7)</sup> 2002 c. 21.

<sup>(8)</sup> S.I. 2003/3184, to which there are amendments not relevant to this Order.

<sup>(9)</sup> 2003 c. 39; section 92 is amended by sections 15(1) and 59(5) of, paragraphs 308 and 345 of Part 1 of Schedule 4 and paragraph 4(1) and (3) of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).