

2008 No. 1054 (L. 6)

FAMILY PROCEEDINGS, ENGLAND AND WALES

SUPREME COURT OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

The Family Proceedings Fees Order 2008

<i>Made</i> - - - -	<i>7th April 2008</i>
<i>Laid before Parliament</i>	<i>9th April 2008</i>
<i>Coming into force</i> - -	<i>1st May 2008</i>

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 that Act 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 Order 2008 and shall come into force on 1st May 2008.

(2) In this Order—

- (a) “LSC” means the Legal Services Commission established under section 1 of the Access to Justice Act 1999(b);
- (b) expressions also used in the Family Proceedings Rules 1991(c) have the same meaning as in those Rules.

Fees payable

2. The fees set out in column 2 of Schedule 1 are payable in family proceedings in the High Court and in county courts in respect of the items described in column 1 in accordance with and subject to the directions specified in that column.

(a) 2003 c. 39. Section 92 is amended by paragraphs 308 and 345 of Schedule 4 to the Constitutional Reform Act 2005 (c.4) from 1 October 2005 and by paragraph 4(1) and (3) of Schedule 11 to that Act from a date to be appointed.
(b) 1999 c.22. Sections 1 and 9 were amended by S.I. 2005/3429.
(c) S.I. 1991/1247.

3. Where by any convention entered into by Her Majesty with any foreign power it is provided that no fee is required to be paid in respect of any proceedings, the fees specified in this Order are not payable in respect of those proceedings.

Remissions and part remissions

4. 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.

Revocations

5. The instruments listed in column 1 of the table in Schedule 3 (which have the references listed in column 2) are revoked.

Transitional provision

6. Fees 2.2(b) and (c) are not payable in respect of an issues resolution hearing, pre-hearing review or final hearing which has been listed on any day between 1st May 2008 and 14th May 2008 inclusive.

Signed by authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

3rd April 2008

We consent,

Steve McCabe
Claire Ward

7th April 2008

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1

Article 2

Fees to be taken

<i>Column 1</i> <i>Number and description of fee</i>	<i>Column 2</i> <i>Amount of fee</i>
SECTION 1: FEES TO BE TAKEN IN THE HIGH COURT AND IN COUNTY COURTS	
1 Commencement of proceedings	
1.1 On filing originating proceedings where no other fee is specified.	£200
1.2 On presenting any petition, other than a second petition with permission granted under rule 2.6(4) or (4A) of the Family Proceedings Rules 1991(a).	£300
1.3 On applying for a non-molestation order or an occupation order (or both) under Part 4 of the Family Law Act 1996(b).	£60
1.4 On amending a petition or presenting a second or subsequent petition with permission granted under rule 2.6(4) or (4A) of the Family Proceedings Rules 1991.	£80

(a) S.I. 1991/1247, amended by S.I. 2005/2922; there are other amending instruments but none is relevant.

(b) 1996 c.27.

- 1.5 On filing an answer to a petition or a cross-petition. £200
- 1.6 On applying for an order under Part 3 of the Solicitors Act 1974(a) £30
for the assessment of costs payable to a solicitor by a client; or on the commencement of costs-only proceedings.

2 Proceedings under the Children Act 1989(b)

2.1 On an application for an order in form C1 (free-standing application) or form C2 (application in existing proceedings) or request for permission to apply for an order in form C2 under the following provisions of the Children Act 1989—

- (a) section 4(1)(c) or (3), 4A(1)(b) or (3) (parental responsibility) (c); £175
- (b) section 5(1) or 6(7) (guardians); £175
- (c) section 10(1) or (2) (section 8 orders); £175
- (d) section 13(1) (change of child's surname or removal from jurisdiction while residence order in force); £175
- (e) section 14A(3) or (6)(a), 14C(3) or 14D(1) (special guardianship orders) (d); £140
- (f) section 25 (secure accommodation order); £150
- (g) section 33(7) (change of child's surname or removal from jurisdiction while care order in force); £150
- (h) section 34(2), (3), (4) or (9) (contact with child in care); £150
- (i) section 36(1) (education supervision order); £150
- (j) section 39 (variation or discharge etc of care and supervision orders); £150
- (k) section 43(1) (child assessment order); £150
- (l) sections 44, 45 and 46 (emergency protection orders); £150
- (m) section 48 (warrant to assist person exercising powers under emergency protection order); £150
- (n) section 50 (recovery order); £150
- (o) section 102 (warrant to assist person exercising powers to search for children or inspect premises); £150
- (p) paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1 (financial provision for children); £175
- (q) paragraph 19(1) of Schedule 2 (approval of court for child in care of local authority to live abroad); £150
- (r) paragraph 6 of Schedule 3 (extension of supervision order); £150
- (s) paragraph 15(2) or 17(1) of Schedule 3 (extension or discharge of education supervision order). £150

2.2 In relation to proceedings under section 31 of the Children Act 1989 (care and supervision orders)—

- (a) on an application; £2,225
- (b) where an issues resolution hearing or pre-hearing review has been listed, at least 14 days before the day on which that hearing is listed; £700
- (c) where a final hearing has been listed, at least 14 days before the day on which the final hearing is listed. £1900

Notes to fee 2.2 only

Where a final order is made at a case management conference, £500 of the amount paid under fee 2.2(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

(a) 1974 c.47.

(b) 1989 c.41.

(c) Section 4A was inserted by section 112 of the Adoption and Children Act 2002 (c.38) and was amended by section 75 of the Civil Partnership Act 2004 (c33).

(d) Sections 14A, 14C and 14D were inserted by section 115 of the Adoption and Children Act 2002 (c.38).

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 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.

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, 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 an 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 at the same time, only one fee is payable in respect of each numbered fee.

2.3 On commencing an appeal under section 94 of the Children Act 1989 relating to proceedings to which the following fees apply—

(a) 2.1 (a) to (d) and (p); £175

(b) 2.1 (e); £140

(c) 2.1 (f) to (o), (q) to (s) and 2.2. £150

2.4 On commencing an appeal under paragraph 23(11) of Schedule 2 to the Children Act 1989 (appeal against contribution order). £150

3 Adoption and wardship applications

3.1 On applying or requesting permission to apply under any provision in Part 1 of the Adoption and Children Act 2002(a), other than an application under section 22 of that Act. £140

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.

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 at the same time, only one fee is payable.

3.2 On applying under section 22 of the Adoption and Children Act 2002 (placement order). £400

3.3 On applying for the exercise by the High Court of its inherent jurisdiction with respect to children. £140

4 Applications in proceedings

4.1 On an application for an order without notice or by consent (including an application to make a decree nisi absolute or a conditional order final) except where separately listed in this schedule. £40

4.2 On a request for directions for trial (other than in uncontested divorce or in dissolution proceedings, where no fee is payable). £40

4.3 On an application on notice except where separately listed in this schedule. £80

(a) 2002 c.38.

4.4 On an application on notice for ancillary relief, or on filing a notice of intention to proceed with an application for ancillary relief other than an application for an order by consent. £210

5 Appeal from a district judge

5.1 On filing a notice of appeal from a district judge to a judge. £100

6 Searches

6.1 On making a search in the central index of decrees absolute or of final orders kept at the Principal Registry of the Family Division for any specified period of ten calendar years or, if no such period is specified, for the ten most recent years, and, if appropriate, providing a certificate of decree absolute or of final order, as the case may be £40

6.2 On making a search in the central index of parental responsibility agreements kept at the Principal Registry of the Family Division in accordance with regulations made under section 4(2) of the Children Act 1989 and, if appropriate, providing a copy of the agreement. £40

6.3 On making a search in the index of decrees absolute or of final orders kept at any designated county court or district registry for any specified period of ten calendar years or, if no period is specified, for the ten most recent years, and if appropriate, providing a certificate of decree absolute or of final order, as the case may be £40

7 Copy documents

7.1 On a request for a copy of a document (other than where fee 7.2 applies)—

- (a) for ten pages or less; £5
- (b) for each subsequent page. 50p

Fee 7.1 is payable where the copy document is sent by fax or where a person examines the copy document at the court office.

7.2 On a request for a copy of a document on a computer disk or in other electronic form, for each such copy. £5

8 Determination of costs

8.1 On filing a request for detailed assessment where the party filing the request is legally aided or is funded by the LSC and no other party is ordered to pay the costs of the proceedings. £140

8.2 On filing a request for detailed assessment in any case where fee 8.1 does not apply; or on filing a request for a hearing date for the assessment of costs payable to a solicitor by a client pursuant to an order under Part 3 of the Solicitors Act 1974 where the amount of the costs claimed—

- (a) does not exceed £15,000; £300
- (b) exceeds £15,000 but does not exceed £50,000; £600
- (c) exceeds £50,000 but does not exceed £100,000; £900
- (d) exceeds £100,000 but does not exceed £150,000; £1,200
- (e) exceeds £150,000 but does not exceed £200,000; £1,500
- (f) exceeds £200,000 but does not exceed £300,000; £2,250
- (g) exceeds £300,000 but does not exceed £500,000; £3,750
- (h) exceeds £500,000. £5,000

Where there is a combined standard basis and legal aid, or a combined standard basis and LSC, or a combined standard basis, legal aid and LSC determination of costs, fee 8.2 will be attributed proportionately to the standard basis, legal aid, or LSC (as the case may be) portions of the bill on the basis of the amount allowed.

8.3 On a request for the issue of a default costs certificate. £60

8.4 On commencing an appeal against a decision made in detailed £100

assessment proceedings.

8.5 On applying for the court's approval of a certificate of costs payable from the Community Legal Service Fund(a). £30

Fee 8.5 is payable at the time of applying for approval and is recoverable only against the Community Legal Service Fund.

8.6 On an application to set aside a default costs certificate. £60

9 Registration of maintenance orders

9.1 On an application for a maintenance order to be registered under the Maintenance Orders Act 1950(b) or the Maintenance Orders Act 1958(c). £35

9.2 On an application for a maintenance order to be sent abroad for enforcement under the Maintenance Orders (Reciprocal Enforcement) Act 1972(d). £35

SECTION 2. FEES TO BE TAKEN IN A COUNTY COURT ONLY

10 Service

10.1 On a request for service by bailiff of any document except— £30

(a) an order for a debtor to attend the adjourned hearing of a judgment summons;

(b) an interpleader summons under an execution;

(c) an order made under section 23 of the Attachment of Earnings Act 1971(e) (enforcement provisions); or

(d) an order for a debtor to attend an adjourned oral examination of means.

11 Enforcement in the county courts

11.1 On an application for or in relation to enforcement of a judgment or order of a county court or through a county court, by the issue of a warrant of execution against goods except a warrant to enforce payment of a fine—

(a) where the amount for which the warrant issues does not exceed £125; £35

(b) where the amount for which the warrant issues exceeds £125. £55

11.2 On a request for a further attempt at execution of a warrant at a new address where the warrant has been returned to the court not executed (except where the warrant has been returned after it has been suspended by the court). £25

11.3 On an application to question a judgment debtor or other person on oath in connection with enforcement of a judgment. £45

11.4 On an application for a garnishee order, a charging order or a third party debt order, or the appointment of a receiver by way of equitable execution. £55

Fee 11.4 is payable in respect of each party against whom the fee order is sought.

11.5 On an application for a judgment summons. £95

11.6 On the issue of a warrant of possession or a warrant of delivery. £95

Where the recovery of a sum of money is sought in addition, no further fee is payable.

11.7 On an application for an attachment of earnings order to secure money due under an order made in family proceedings. £65

Fee 11.7 is payable in respect of each defendant against whom an order is sought.

(a) Established under section 5 of the Access to Justice Act 1999 (c.22).

(b) 1950 c.37.

(c) 1958 c.39.

(d) 1972 c.18.

(e) 1971 c.32.

Fee 11.7 is not payable where the attachment of earnings order is made on the hearing of a judgment summons.

12 Sale

12.1 For removing or taking steps to remove goods to a place of deposit. The reasonable expenses incurred

Fee 12.1 is to include the reasonable expenses of feeding and caring for animals.

12.2 For advertising a sale by public auction pursuant to section 97 of the County Courts Act 1984(a). The reasonable expenses incurred

12.3 For the appraisalment of goods. 5p in the £1 or part of a £1 of the appraised value

12.4 For the sale of goods (including advertisements, catalogues, sale and commission and delivery of goods). 15p in the £1 or part of a £1 on the amount realised by the sale or such other sum as the district judge may consider to be justified in the circumstances

12.5 Where no sale takes place by reason of an execution being withdrawn, satisfied or stopped. (a) 10p in the £1 or part of a £1 on the value of the goods seized, the value to be the appraised value where the goods have been appraised or such other sum as the district judge may consider to be justified in the circumstances; and in addition (b) any sum payable under fee 12.1, 12.2 or 12.3

SECTION 3: FEES TO BE TAKEN IN THE HIGH COURT ONLY

13 Enforcement in the High Court

13.1 On sealing a writ of execution/possession/delivery. £30

Where the recovery of a sum of money is sought in addition to a writ of possession and delivery, no further fee is payable.

13.2 On an application to question a judgment debtor or other person on oath in connection with enforcement of a judgment. £40

13.3 On an application for a garnishee order nisi or a charging order nisi, or the appointment of a receiver by way of equitable execution. £50

Fee 13.3 is payable in respect of each party against whom the order is sought.

13.4 On an application for a judgment summons. £90

13.5 On a request or application to register a judgment or order; or for permission to enforce an arbitration award; or for a certified copy of a judgment or order for use abroad. £30

14 Affidavits

14.1 On taking an affidavit or an affirmation or attestation upon honour in lieu of an affidavit or a declaration. £10

(a) 1984 c.28.

SCHEDULE 2

Article 4

Remissions and part remissions

Interpretation**1.—(1)** In this Schedule—

“child” means a child or young person in respect of whom a party is entitled to receive child benefit in accordance with section 141, and regulations made under section 142, of the Social Security Contributions and Benefits Act 1992**(a)**;

“child care costs” has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006**(b)**;

“couple” has the meaning given in section 3(5A) of the Tax Credits Act 2002**(c)**;

“disposable monthly income” has the meaning given in paragraph 5;

“excluded benefits” means—

(a) any of the following benefits payable under the Social Security Contributions and Benefits Act 1992—

(i) attendance allowance paid under section 64;

(ii) severe disablement allowance;

(iii) carer’s allowance;

(iv) disability living allowance;

(v) constant attendance allowance paid under section 104 or paragraph 4 or 7(2) of Schedule 8 as an increase to a disablement pension;

(vi) council tax benefit;

(vii) any payment made out of the social fund;

(viii) housing benefit;

(b) any direct payment made under the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003**(d)** or the Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2004**(e)**;

(c) a back to work bonus payable under section 626 of the Jobseekers Act 1995**(f)**;

(d) any exceptionally severe disablement allowance paid under the Personal Injuries (Civilians) Scheme 1983**(g)**;

(e) any pension paid under the Naval, Military and Air Forces etc (Disablement and Death) Service Pension Order 2006**(h)**;

(f) any payment made from the Independent Living Funds; and

(g) any financial support paid under an agreement for the care of a foster child;

(a) 1992 c.4.

(b) S.I. 2006/2492, to which there are amendments not relevant to this Order.

(c) 2002 c.21. Section 3(5A) was inserted by paragraph 144 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

(d) S.I. 2003/762.

(e) S.I. 2004/1748.

(f) 1995 c.18.

(g) S.I. 1983/686.

(h) S.I. 2006/606.

“the Funding Code” means the code approved under section 9 of the Access to Justice Act 1999;

“gross annual income” means total annual income, for the 12 months preceding the application for remission or part remission, from all sources other than receipt of any of the excluded benefits;

“gross monthly income” means total monthly income, for the month in which the application for remission or part remission is made, from all sources other than receipt of any of the excluded benefits;

“the Independent Living Funds” has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006;

“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 party who would, but for this Schedule, be liable to pay the fee required under this Order;

“restraint order” means—

- (a) an order under section 42(1A) of the Supreme Court Act 1981(a); or
- (b) a civil restraint order under rule 3.11 of the Civil Procedure Rules 1998(b) or a practice direction made under that rule.

(2) Paragraphs 2, 3 and 4—

- (a) do not apply to a party who is in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issued under the Funding Code; and
- (b) are subject to the provisions of paragraph 10 (vexatious litigants).

Full remission of fees – qualifying benefits

2.—(1) No fee is payable under this Order if, at the time when a fee would otherwise be payable, the party—

- (a) is in receipt of a qualifying benefit; or
- (b) is not a beneficiary of a trust fund in court of a value of more than £50,000 and is—
 - (i) under the age of eighteen; or
 - (ii) a person for whose financial relief an order under paragraph 2 of Schedule 1 to the Children Act 1989 is in force or being applied for.

(2) The following are qualifying benefits for the purposes of sub-paragraph (1)(a)—

- (a) income support under the Social Security Contributions and Benefits Act 1992;
- (b) working tax credit, provided that no child tax credit is being paid to the party;
- (c) income-based jobseeker’s allowance under the Jobseekers Act 1995; and
- (d) guarantee credit under the State Pension Credit Act 2002(c).

Full remission of fees – gross annual income

3.—(1) No fee is payable under this Order if, at the time when the fee would otherwise be payable, the party has the number of children specified in column 1 of the following table and—

- (a) if the party is single, the gross annual income of the party does not exceed the amount set out in the appropriate row of column 2; or

(a) 1981 c.54. Section 42(1A) was inserted by section 24 of the Prosecution of Offences Act 1985 (c.23).
(b) S.I. 1988/ 3132, amended by S.I.2004/2072; there are other amending instruments but none is relevant.
(c) 2002 c.16.

- (b) if the party is one of a couple, the gross annual income of the couple does not exceed the amount set out in the appropriate row of column 3.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Number of children of party paying fee</i>	<i>Single</i>	<i>Couple</i>
no children	£12,000	£16,000
1 child	£14,735	£18,735
2 children	£17,470	£21,470
3 children	£20,205	£24,205
4 children	£22,940	£26,940

(2) If the party paying the fee has more than 4 children then the relevant amount of gross annual income is the amount specified in the table for 4 children plus the sum of £2,735 for each additional child.

Full and part remission of fees – disposable monthly income

4.—(1) No fee is payable under this Order if, at the time when the fee would otherwise be payable, the disposable monthly income of the party is £50 or less.

(2) The maximum amount of fee payable is—

- (a) if the disposable monthly income of the party is more than £50 but does not exceed £210, an amount equal to one-quarter of every £10 of the party's disposable monthly income up to a maximum of £50; and
- (b) if the disposable monthly income is more than £210, an amount equal to £50 plus one-half of every £10 over £200 of the party's disposable monthly income.

(3) Where the fee that would otherwise be payable under this Order is greater than the maximum fee which a party is required to pay as calculated in sub-paragraph (2), the fee will be remitted to the amount payable under that sub-paragraph.

Disposable monthly income

5.—(1) A party's disposable monthly income is the gross monthly income of the party for the month in which the fee becomes payable ("the period") less the deductions referred to in sub-paragraphs (2) and (3).

(2) There are to be deducted from the gross monthly income—

- (a) income tax paid or payable in respect of the period;
- (b) any contributions estimated to have been paid under Part 1 of the Social Security Contributions and Benefits Act 1992 in respect of the period;
- (c) either—
 - (i) monthly rent or monthly payment in respect of a mortgage debt or hereditament security, payable in respect of the only or main dwelling of the party, less any housing benefit paid under the Social Security Contributions and Benefits Act 1992; or
 - (ii) the monthly cost of the living accommodation of the party;
- (d) any child care costs paid or payable in respect of the period;
- (e) if the party is making bona fide payments for the maintenance of a child who is not a member of the household of the party, the amount of such payments paid or payable in respect of the period; and
- (f) any amount paid or payable by the party, in respect of the period, in pursuance of a court order.

(3) There will be deducted from the gross monthly income an amount representing the cost of living expenses in respect of the period being—

- (a) £296; plus
- (b) £228 for each child of the party; plus
- (c) £150, if the party has a partner.

Resources of partners

6.—(1) For the purpose of determining whether a party is entitled to the remission or part remission of a fee in accordance with this Schedule, the income of a partner, if any, is to be included as income of the party.

(2) The receipt by a partner of a qualifying benefit does not entitle a party to remission of a fee.

Application for remission or part remission of fees

7.—(1) An application for remission or part remission of a fee must be made to the court officer at the time when the fee would otherwise be payable.

(2) Where a claim for full remission of fees is made, the party must provide documentary evidence of, as the case may be—

- (a) entitlement to a qualifying benefit; or
- (b) gross annual income and, if applicable, the children included for the purposes of paragraph 3.

(3) Where a claim for full or part remission of fees under paragraph 4 is made, the party must provide documentary evidence of—

- (a) such of the party's gross monthly income as is derived from—
 - (i) employment;
 - (ii) rental or other income received from persons living with the party by reason of their residence in the party's home;
 - (iii) a pension; or
 - (iv) a state benefit, not being an excluded benefit; and
- (b) any expenditure being deducted from the gross monthly income in accordance with paragraph 5(2).

Remission in exceptional circumstances

8. Where it appears to the Lord Chancellor that the payment of any fee prescribed by this Order would, owing to the exceptional circumstances of the particular case, involve undue financial hardship, the Lord Chancellor may reduce or remit the fee in that case.

Refunds

9.—(1) Subject to sub-paragraph (3), where a party has not provided the documentary evidence required by paragraph 7 and a fee has been paid at a time when, under paragraphs 2, 3 or 4, it was not payable, the fee will 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 where the Lord Chancellor, if all the circumstances had been known, would have reduced or remitted the fee under paragraph 8, the fee or the amount by which the fee would have been reduced, as the case may be, will be refunded.

(3) No refund will be made under this paragraph unless the party who paid the fee applies within 6 months of paying the fee.

(4) The Lord Chancellor may extend the period of 6 months mentioned in sub-paragraph (3) if the Lord Chancellor considers that there is a good reason for an application being made after the end of the period of 6 months.

Vexatious Litigants

10.—(1) This paragraph applies where—

- (a) a restraint order is in force against a party; and
- (b) the 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 for the application by Schedule 1 is payable in full.

(3) If the court grants the permission requested the applicant will 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.

SCHEDULE 3

Article 5

Revocations

<i>Column 1</i>	<i>Column 2</i>
<i>Title</i>	<i>Reference</i>
The Family Proceedings Fees Order 2004	S.I. 2004/3114
The Family Proceedings Fees (Amendment) Order 2005	S.I. 2005/472
The Family Proceedings Fees (Amendment No. 2) Order 2005	S.I. 2005/3443
The Family Proceedings Fees (Amendment) Order 2006	S.I. 2006/739
The Family Proceedings Fees (Amendment) Order 2007	S.I. 2007/682
The Family Proceedings Fees (Amendment) (No. 2) Order 2007	S.I. 2007/2175
The Family Proceedings Fees (Amendment) (No. 2) (Amendment) Order 2007	S.I. 2007/2800
The Family Proceedings Fees (Amendment) Order 2008	S.I. 2008/115

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and consolidates the Family Proceedings Fees Order 2004 (S.I. 2004/3114) as amended. It specifies the fees payable for family proceedings in the High Court and in county courts. In addition to minor and drafting amendments, this Order also makes the following changes of substance—

In Schedule 1, an incremental fee is introduced in relation to proceedings for a care or supervision order under section 31 of the Children Act 1989 (fee 2.2). The first fee (£2,225) is paid on an application for such an order. The second fee (£700) is payable if an *issues resolution hearing* or *pre-hearing review* is listed, at least 14 days before the day on which the hearing is listed, and the third fee (£1,900) is payable if a final hearing is listed, at least 14 days before the day on which that hearing is listed. Provision is made for a refund to be made if a final order is made at a *case management conference* or if a hearing which has been listed does not take place. The purpose of a case management conference and issues resolution hearing is set out in the Practice Direction entitled “Guide to Case Management in Public Law Proceedings” given by the President of the Family Division of the High Court in April 2008 and the purpose of a pre-hearing review is set out in the Protocol entitled “Judicial Case Management in Public Law Children Act Cases” issued by the President in June 2003. No fee is payable in relation to any issues resolution hearing, pre-hearing review or final hearing listed between 1st May 2008 and 14th May 2008 inclusive (article 6).

The fee for an application for a placement order under section 22 of the Adoption and Children Act 2002 is increased from £140 to £400 (fee 3.2). The notes to fee 3 are updated so as to make it clear that only one fee is payable in relation to an application under more than one provision of the 2002 Act or in relation to an application in respect of two or more children.

In Schedule 2, the definition of “child” in paragraph 1(1) is amended so as to include any qualifying young person in respect of whom child benefit is paid to a party under regulations made under section 142 of the Social Security Contributions and Benefits Act 1992. In paragraph 1(2), it is clarified that paragraphs 2, 3 and 4 of Schedule 2 (full and part remission of fees) only apply to a party who is not in receipt of funding provided by the LSC for the purposes of the proceedings and for which a certificate has been issued under the Funding Code.

Paragraph 3, which sets out the gross annual income, having regard to the number of children that the party has, for the purposes of determining whether a fee is payable by a party under the Order, is amended so as to increase the amount allowable for each child from £2470 to £2735.

Paragraph 5(3), which makes provision for the calculation of a party’s disposable monthly income, is amended so as to increase the amounts that may be deducted from a party’s gross monthly income for living expenses. The amount that a party may deduct rises from £279 to £296, the amount for each child of the party rises from £198 to £228 and the amount that may be deducted if the party has a partner rises from £142 to £150.

An impact assessment of the effect that this instrument will have on the costs of business is available on the Ministry of Justice’s website at www.justice.gov.uk/publications/cp3207.htm.

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FAMILY PROCEEDINGS, ENGLAND AND WALES

SUPREME COURT OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

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