

2013 No. 1179

TRIBUNALS AND INQUIRIES, ENGLAND

The First-tier Tribunal (Property Chamber) Fees Order 2013

Made - - - - 22nd May 2013

Laid before Parliament 23rd May 2013

Coming into force - - 1st July 2013

The Lord Chancellor makes this Order in exercise of the powers conferred by section 42(1)(a) and (2) and 49(3) of the Tribunals, Courts and Enforcement Act 2007(a).

The Lord Chancellor has consulted the Senior President of Tribunals and the Administrative Justice and Tribunals Council in accordance with section 42(5) before making this Order and has obtained the consent of the Treasury in accordance with section 42(6).

Citation, commencement, extent, and application.

1. This Order may be cited as the First-tier Tribunal (Property Chamber) Fees Order 2013 and comes into force on 1st July 2013.

2. This Order extends to England and applies to proceedings in the Tribunal.

Definitions

3. In this Order—

“lead case” means a case which is directed to be a lead case under rule 23 (lead cases) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013(b);

“related case” means a case which is directed to be a related case under that rule; and

“Tribunal” means the Property Chamber of the First-tier Tribunal.

Fees payable

4.—(1) Proceedings where fees are payable in accordance with the provisions of this Order are listed in column 1 of Schedule 1 to this Order.

(2) The fee due is set out in column 2 of that Schedule.

(3) Any fee payable for an application under fees 1 to 5 is due at the same time as the application is made.

(a) 2007 c. 15.
(b) S.I. 2013/1169

(4) Any fee payable under fee 6 is due within 14 days of an applicant receiving notice of the hearing date under rule 32 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Fees: transferred proceedings

5. Where an issue in proceedings in court has been transferred to the Tribunal and fee 4 or 5 is due, the fee payable shall be the fee due less the total amount of any fees previously paid by the applicant to the court in respect of the court proceedings.

Fees: split hearings

6.—(1) Paragraph (2) applies where the Tribunal has directed that an issue in a related case is to be determined at the hearing of a lead case and the remaining issues are to be determined at a separate hearing.

(2) The fee payable in respect of the hearing of the remaining issues shall be the fee payable under Schedule 1 to this Order less the amount of any fee paid by the applicant in accordance with article 7.

Fees: lead cases

7. A hearing fee for a lead case shall be payable in equal proportions by—

- (a) the applicant in the lead case;
- (b) an applicant in a related case; and
- (c) an applicant whose application is heard with the lead case.

Fees: apportionment of liability for fees in cases involving more than one applicant

8.—(1) This article applies where a fee is payable under fee 4, 5 or 6.

(2) Subject to paragraph (3) and article 9 (remissions), any fee payable shall be payable in equal proportions by the applicants.

(3) Where proceedings are brought by a tenant or landlord of premises and the tenant is more than one person or the landlord is more than one person, the tenant shall be treated as one person and the landlord shall be treated as one person for the purposes of paragraph (2).

Remissions

9. Schedule 2, which provides for remissions, has effect.

Signed by the authority of the Lord Chancellor

21st May 2013

We consent,

22nd May 2013

Helen Grant
Parliamentary Under Secretary of State
Ministry of Justice

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

SCHEDULE 1

Article 4

Fees to be taken

<i>Column 1</i> <i>Proceedings where fee is payable</i>	<i>Column 2</i> <i>Fee to be taken</i>
1 Applications under the Housing Act 2004(a)	
1.1 On an application under section 22(9) of the Housing Act 2004 (refusal to approve use of premises subject to a prohibition order)	£155
1.2 On an application under section 62(7) of the Housing Act 2004 (house in multiple occupation licensing: refusal to grant temporary exemption notice)	£155
1.3 On an application under section 86(7) of the Housing Act 2004 (selective licensing: refusal to grant temporary exemption notice)	£155
1.4 On an application under section 126(4) of the Housing Act 2004 (effect of management orders: furniture)	£155
1.5 On an application under section 138 of the Housing Act 2004 (compensation payable to third parties)	£155
1.6 On an application under paragraph 10 of Schedule 1 to the Housing Act 2004 (improvement notice)	£155
1.7 On an application under paragraph 13 of Schedule 1 to the Housing Act 2004 (local housing authority's decision to vary, or to refuse to revoke or vary, an improvement notice)	£155
1.8 On an application under paragraph 7 of Schedule 2 to the Housing Act 2004 (prohibition order)	£155
1.9 On an application under paragraph 9 of Schedule 2 to the Housing Act 2004 (local housing authority's decision to vary, or to refuse to revoke or vary, a prohibition order)	£155
1.10 On an application under paragraph 11 of Schedule 3 to the Housing Act 2004 (improvement notice: demand for recovery of expenses)	£155
1.11 On an application under paragraph 31 of Schedule 5 to the Housing Act 2004 (grant or refusal of licence)	£155
1.12 On an application under paragraph 32 of Schedule 5 to the Housing Act 2004 (houses in multiple occupancy licensing: decision to vary or revoke, or to refuse to vary or revoke licence)	£155
1.13 On an application under paragraph 28 of Schedule 6 to the Housing Act 2004 (local housing authority's decision to vary or revoke, or to refuse to vary or revoke, a management order)	£155
1.14 On an application under paragraph 32 of Schedule 6 to the Housing Act 2004 (management order: third party compensation)	£155

(a) 2004 c. 34.

1.15 On an application under paragraph 26(1)(a) and (b) of Schedule 7 to the Housing Act 2004 (final empty dwelling management order)	£155
1.16 On an application under paragraph 30 of Schedule 7 to the Housing Act 2004 (local housing authority's decision to vary or revoke, or to refuse to vary or revoke, an interim or final empty dwelling management order)	£155
1.17 On an application under paragraph 34(2) of Schedule 7 to the Housing Act 2004 (empty dwelling management order: third party compensation)	£155
1.18 On an application under paragraph 24 of Schedule 6 to the Housing Act 2004 (interim and final management order)	£155
Note on fee 1.18 This fee does not apply where an application under sub-paragraph 1(b) of paragraph 24 of Schedule 6 to the Housing Act 2004 is made on the grounds set out in sub-paragraph (3) of that paragraph.	
2 Applications under the Housing Act 1985(a)	
2.1 On an application under section 269(1) of the Housing Act 1985(b) (demolition orders)	£155
2.2 On an application under section 318(1) of the Housing Act 1985(c) (power of tribunal to authorise execution of works on unfit premise or for improvement)	£155
3 Applications under the Mobile Homes Act 1983(d)	
3.1 On an application under paragraph 28(1)(h) of Chapter 2, or paragraph 26(1)(h) of Chapter 4, of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (qualifying residents' association to be acknowledged by owner of protected site)	£155
3.2 On an application under section 2(2) of the Mobile Homes Act 1983 (terms concerning matters mentioned in Part 2 of Schedule 1 to the Mobile Homes Act 1983)	The appropriate fee set out at fee 3.6
3.3 On an application under section 2(3) of the Mobile Homes Act 1983 (variation or deletion of express terms in agreement)	The appropriate fee set out at fee 3.6
3.4 On an application under section 4 of the Mobile Homes Act 1983 (determination of any question arising under the Mobile Homes Act 1983 or any agreement to which the Mobile Homes Act 1983 applies)	The appropriate fee set out at fee 3.6

(a) 1985 c. 68.

(b) Section 269(1) was amended by section 48 of the Housing Act 2004 (c. 34). Other relevant amendments were made by paragraphs 10 and 14 of Schedule 15 to the Housing Act 2004 (c. 34) and by the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307).

(c) Section 318 was amended by section 48 of the Housing Act 2004 (c. 35). Other relevant amendments were made by paragraph 38 of Schedule 9 to the Local Government and Housing Act 1989 (c. 42) and paragraphs 10 and 25(a) of Schedule 15 to the Housing Act 2004 (c. 34).

(d) 1983 c. 34 as amended by sections 206 to 208 of the Housing Act 2004, the Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006 (S.I. 2006/1755), the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order 2011 (S.I. 2011/1005), the Housing and Regeneration Act 2008 (Consequential Amendments to the Mobile Homes Act 1983) Order 2011 (S.I. 2011/1004) and the Mobile Homes Act 1983 (Amendment of Schedule and Consequential Amendments) (England) Order 2011 (S.I. 2011/1003).

3.5 On an application under paragraphs 4, 5 or 5A(2) of Chapter 2, or paragraphs 4, 5 or 6(1) of Chapter 4, of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (termination by owner)	The appropriate fee set out at fee 3.6
3.6 On an application under paragraph 10(1) of Chapter 2, or paragraph 8(1) of Chapter 4, of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (re-siting of mobile home)— (a) where the application contains one reference (b) where the application contains two references (c) where the application contains three or four references (d) where the application contains five or more references	 £155 £205 £410 £515
Note on fees 3.1 to 3.6: No fee is payable in relation to an application made under the Mobile Homes Act 1983 that has been transferred from a court to the Tribunal. Note on fees 3.2 to 3.6: The number of references contained in an application is: (a) in the case of an application made in respect of one pitch or mobile home, the number of provisions of the Mobile Homes Act 1983 on which the applicant relies; or (b) in the case of an application made in respect of more than one pitch or mobile home, the number of pitches or mobile homes to which the application relates; and— “mobile home” has the same meaning as in section 5(1) of the Mobile Homes Act 1983(a); and “pitch” has the same meaning as in Part 1 of Schedule 1 to the Mobile Homes Act 1983.	
4 Applications in respect of a service charge, insurance premium or administration charge	
4.1 On an application under section 27A of the Landlord and Tenant Act 1985(b) (determination of liability to pay a service charge)	The appropriate fee set out at fee 4.4
4.2 On an application under paragraph 8(2)(b) of the Schedule to the Landlord and Tenant Act 1985(c) (right to challenge the insurance premium)	The appropriate fee set out at fee 4.4
4.3 On an application under paragraph 3 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002(d) (variation of lease because of administration charge)	The appropriate fee set out at fee 4.4

(a) 1983 c. 34.

(b) 1985 c. 70. Section 27A was inserted by section 155 of the Commonhold and Leasehold Reform Act 2002 (c. 15).

(c) Paragraph 8 of the Schedule was substituted by section 83 of the Housing Act 1996 (c. 52).

(d) 2002 c. 15.

<p>4.4 On an application under paragraph 5 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (determination of liability to pay an administration charge)</p> <p>where the service charge, insurance premium or administration charge which is the subject of the application—</p> <p>(a) does not exceed £500 (b) exceeds £500 but does not exceed £1000 (c) exceeds £1000 but does not exceed £5000 (d) exceeds £5000 but does not exceed £15,000 (e) exceeds £15,000</p>	<p>£65 £90 £125 £250 £440</p>
<p>5 Applications in respect of a consultation, insurance, appointment of manager and variation of lease</p>	
<p>5.1 On an application under section 20ZA of the Landlord and Tenant Act 1985(a) (determination to dispense with consultation requirements)</p>	<p>The appropriate fee set out at fee 5.4</p>
<p>5.2 On an application under paragraph 8(2)(a) of the Schedule to the Landlord and Tenant Act 1985(b) (determination as to suitability of insurer)</p>	<p>The appropriate fee set out at fee 5.4</p>
<p>5.3 On an application under section 24 of the Landlord and Tenant Act 1987(c) (appointment of managers)</p>	<p>The appropriate fee set out at fee 5.4</p>
<p>5.4 On an application under Part 4 of the Landlord and Tenant Act 1987(d) (variation of leases)—</p> <p>(a) where the application relates to 5 or fewer dwellings (b) where the application relates to between 6 and 10 dwellings (c) where the application relates to more than 10 dwellings</p>	<p>£190 £315 £440</p>
<p>Note on fees 4 and 5:</p> <p>Where an application is made under –</p> <p>(a) two or more of the provisions mentioned in fee 4; (b) two or more of the provisions mentioned in fee 5; or (c) one or more of the provisions mentioned in fee 4 and one or more of the provisions mentioned in fee 5,</p> <p>the fee payable in respect of the application shall be the highest fee which would have been payable if a separate application had been made under each of those provisions.</p>	
<p>6 Hearing Fee</p>	
<p>On receiving notice of a hearing date</p>	<p>£190</p>
<p>Note on fee 6: Fee 6 applies only where an application has been made which attracts fee 4 or 5.</p>	

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- (a) 1985 c. 70. Section 20ZA was substituted by section 151 of the Commonhold and Leasehold Reform Act 2002 (c. 15).
(b) Paragraph 8 of the Schedule was substituted by section 83 of the Housing Act 1996 (c. 52).
(c) 1987 c. 31. Section 24 was amended by section 86 of the Housing Act 1996 (c. 52).
(d) 1987 c. 31. Part 4 was amended by sections 162 and 163 of the Commonhold and Leasehold Reform Act 2002 (c. 15) and by section 86 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28).

Remissions

Interpretation

1. In this Schedule –

“applicant” means the individual who would, but for this Schedule, be liable to pay the fee required under this Order;

“couple” means—

- (a) a man and a woman who are married to each other and are members of the same household;
- (b) a man and a woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household;
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners, and

for the purposes of sub-paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

“partner” means—

- (a) where the person is a member of a couple, the other member of that couple; or
- (b) where the person is polygamously married to two or more members of a household, any such member.

Remission

2.—(1) No fee is payable under this Order if the applicant is granted a fee remission.

(2) An applicant is eligible for a fee remission if at the time when a fee would otherwise be payable, the applicant or their partner is in receipt of a qualifying benefit.

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

- (a) either of the following benefits under part 7 of the Social Security Contributions and Benefits Act 1992(a)—
 - (i) income support; or
 - (ii) housing benefit;
- (b) an income-based jobseeker’s allowance within the meaning of section 1 of the Jobseekers Act 1995(b);
- (c) a working tax credit under Part 1 of the Tax Credits Act 2002(c) to which sub-paragraph (4) applies;
- (d) a guarantee credit under the State Pensions Credit Act 2002(d);
- (e) an income-related employment and support allowance payable under Part 1 of the Welfare and Reform Act 2007(e);
- (f) a certificate which has not been revoked or discharged —

(a) 1992 c. 4, as amended by section 60 of and Schedule 6 to the Tax Credits Act 2002 (c. 21).
 (b) 1995 c. 18 as amended by sections 59 and 88 of and Schedules 7 and 13 to the Welfare Reform and Pensions Act 1999 (c. 30).
 (c) 2002 c. 21.
 (d) 2002 c. 16.
 (e) 2007 c. 5.

- (i) which has been issued under the Funding Code^(a), being the code approved under section 9 of the Access to Justice Act 1999^(b); or
 - (ii) which has been issued under the Civil Legal Aid (Procedure) Regulations 2012^(c) under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012^(d); and
 - (iii) which is in respect of the proceedings before the Tribunal where an issue has been transferred from a county court for determination by the Tribunal.
- (4) This sub-paragraph applies where—
- (a) either
 - (i) there is disability element or severe disability element (or both) to the tax credit received by the person or their partner; or
 - (ii) the person or their partner are also in receipt of child tax credit; and
 - (b) the gross annual income taken into account for the calculation of the working tax credit is £16,190 or less.

3.—(1) An applicant must apply to the Lord Chancellor for a fee remission at the time when the fee would otherwise be payable.

(2) Where the Lord Chancellor refuses a fee remission, the fee must be paid within such period as may be notified in writing by the Lord Chancellor to the applicant or applicants as the case may be.

Reduction of fees

4. Where a person is not liable to pay a fee by virtue of paragraph 2, the following provisions apply—

- (a) where more than one person is the applicant and at least one of those persons is liable to pay a fee, the fee shall be reduced rateably in accordance with the number of persons who would have been liable but for paragraph 2; and
- (b) where more than one person is the applicant and at least one person is liable to pay a portion of a fee by virtue of article 7 or 8, such proportion shall be reduced rateably in accordance with the number of persons who would have been liable but for paragraph 2.

(a) See sections 8 and 9 of the Access to Justice Act 1999 (c. 22) for the Funding Code. See section 4 of Part 2 to the Funding Code for the certificate. The Funding Code has been repealed by section 39(1) and paragraph 51(a) of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) but certificates issued under the Code continue to have effect.

(b) 1999 c. 22.
 (c) S.I. 2012/3098.
 (d) 2012 c. 10.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the matters dealt with in the Property Chamber of the First-tier Tribunal for which fees are payable. It lists the types of proceedings which attract a fee, identifies the point at which the fee is payable, the person liable to pay such fee and the amount of the fee.

The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036) transferred into the unified tribunal structure the functions of (amongst others) residential property tribunals and leasehold valuation tribunals in relation to England. The effect of this Order is that the circumstances which attracted fees in those tribunals will attract fees in the Property Chamber, though the amount of the fees has been increased by the rate of inflation since the fees were last increased for those types of proceedings. The original fees are detailed in the Explanatory Memorandum to this Order which is published on the website of the Office of Public Sector Information.

This Order also provides for fees to be remitted in certain circumstances and for fees to be reduced rateably where one or more of the applicants is granted a fee remission.

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STATUTORY INSTRUMENTS

2013 No. 1179

TRIBUNALS AND INQUIRIES, ENGLAND

The First-tier Tribunal (Property Chamber) Fees Order 2013

£5.75

E6662 05/2013 136662T 19585

ISBN 978-0-11-153962-0



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