2007 No. 376

SUPREME COURT

The Supreme Court Fees (Amendment) Order (Northern Ireland) 2007

Made - - - -	*30th August 2007*
Coming into operation -	*24th September 2007*

The Lord Chancellor, in exercise of the powers conferred on him by section 116(1) and (1A) of the Judicature (Northern Ireland) Act 1978(**a**), after consultation with the Lord Chief Justice and with the concurrence of the Treasury, hereby makes the following Order:—

Citation and Commencement

1.—(1) This Order may be cited as the Supreme Court Fees (Amendment) Order (Northern Ireland) 2007 and shall come into operation on 24th September 2007.

(2) In this Order "the principal Order" means the Supreme Court Fees Order (Northern Ireland) 1996(**b**).

Amendments to the principal Order

2. After Article 8 of the principal Order insert the following new Articles—

"**Exemptions and refunds**

9.—(1) 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 any qualifying benefit, and

(b) is not in receipt of legal aid under Part II of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**c**) for the purposes of the proceedings.

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

(a) income support under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**d**);

(b) income-based jobseeker's allowance under the Jobseekers (Northern Ireland) Order 1995(**e**);

(**a**) 1978 c. 23 as amended by the Courts Act 2003 (c. 39)
(**b**) S.R. 1996 No. 100 as amended by S.R. 1997 No. 175, S.R. 1998 No. 406, S.R. 1999 No. 135, S.R. 2002 No. 341, S.R. 2004 No. 337 and S.R. 2005 No. 561
(**c**) S.I. 1981/228 (N.I. 8)
(**d**) 1992 c. 7
(**e**) S.I. 1995/2705 (N.I. 15)

(c) guarantee credit under the State Pension Credit Act (Northern Ireland) 2002(**a**);

(d) 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 married couple or an unmarried couple (as defined respectively in section 3(5) and (6) of the Tax Credits Act 2002(**b**)) 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 £16, 017 or less.

10.—(1) Subject to paragraph (2), where a fee has been paid at a time—

(a) when, under Article 9, it was not payable, the fee shall be refunded;

(b) where the Lord Chancellor, if he had been aware of all the circumstances, would have reduced the fee, the amount by which the fee would have been reduced shall be refunded; and

(c) where the Lord Chancellor, if he had been aware of all the circumstances, would have remitted the fee under Article 4(2), the fee shall be refunded.

(2) No refund shall be made under paragraph (1) unless the party who paid the fee applies within 6 months of paying the fee.

(3) The Lord Chancellor may extend the period of 6 months referred to in paragraph (2) if he considers that there is good reason for an application being made after the end of the period of 6 months.".

3. For the Schedule to the principal Order there shall be substituted the new Schedule set out in the Schedule to this Order.

(**a**) 2002 c. 14
(**b**) 2002 c. 21

Signed by the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

Dated 16th August 2007

We concur

Steve McCabe
Claire Ward
Two of the Lords Commissioners
of Her Majesty's Treasury

Dated 30th August 2007

SCHEDULE

Article 3

"SCHEDULE

Article 4

Section 1	Fees payable in every Department of the Supreme Court
Section 2	Fees payable in the Central Office
Section 3	Fees payable in the Office of the Lord Chief Justice
Section 4	Fees payable in the Bankruptcy and Companies Office
Section 5	Fees payable in the Taxing Office
Section 6	Fees payable in the Office of Care and Protection

SECTION 1

Fees payable in every Department of the Supreme Court

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
A. COMMENCEMENT OF A CAUSE OR MATTER		
1. On sealing –		
(*a*) a writ of summons, or	200.00	The filed copy
(*b*) an originating summons, except for the payment out of court of a sum not exceeding £1,500 or where a fee under section 6 is payable and where no other fee is specifically provided, or,	200.00	The filed copy
(*c*) a writ of summons or an originating summons under Order 88, or	150.00	The filed copy
(*d*) an originating notice of motion, except a notice of appeal to the High Court, or	200.00	The filed copy
(*e*) a petition, except where a fee under section 4 or 6 of this Schedule is payable	200.00	The filed copy

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
2. On sealing an originating summons —		
(*a*) on approval of a minor settlement	150.00	The filed copy
(*b*) under section 31 or 32(1) of the Administration of Justice Act 1970 for discovery before commencement of proceedings.	75.00	The filed copy
(*c*) On a third party notice	200.00	The filed copy
(*d*) On a counterclaim	200.00	The filed copy
3. On a notice of motion under Order 53 for judicial review where application for leave has been granted	200.00	The application
B. PROGRESS OF PROCEEDINGS		
Interlocutory applications		
4. On sealing a summons, a notice of appointment, or notice of motion	115.00	The notice or summons
5. (*a*) On an ex parte application to a Judge for an injunction	200.00	Ex parte docket or summons or affidavit in support of the application
(*b*) On an ex-parte application to a Judge for approval of a minor settlement	150.00	The ex parte docket
(*c*) On an application to a Master for payment out of monies invested on behalf of a minor	15.00	The application
(*d*) On an ex parte application before a (i) Master (ii) Judge	 150.00 200.00	 The ex parte docket

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
6. On an application to transfer an action to the commercial list	150.00	The application
Entering and setting down for trial in court		
7. On entering or setting down any cause or matter for trial, hearing or further consideration in court, except where it is otherwise provided for in this Schedule *(a)* Without a Jury	300.00	The setting down docket
(b) With a Jury	500.00	
8. (*a*) On setting down a cause on motion for judgment	300.00	The motion or summons
(*b*) where the motion is treated as the trial of the action, in addition to the fee paid on the notice of motion	300.00	The praecipe
9. On setting down other party pleadings	300.00	
Examination of witness before trial		
10. On the examination of a witness before trial	50.00	The order
Inquiries, trials and assessment of damages or interest by Master		
11. (*a*) On an inquiry, reference for trial or assessment of damages before a Master or Admiralty Registrar	150.00	The order, judgment or certificate
(*b*) On an assessment of interest before a Master	115.00	The judgment
12. On a decree, award, judgement, order or dismiss	75.00	The judgment
Appeals to Judge in Chambers		
13. On sealing a notice of appeal from a Master or Admiralty Registrar or District Judge to Judge in Chambers	200.00	The notice filed

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
Appeals to High Court		
14. On filing —		
(*a*) a notice of appeal to the High Court, or	200.00	The notice filed
(*b*) a case stated or a special case for the opinion of the High Court pursuant to statute and setting the appeal or case down for hearing, or	200.00	The case
(*c*) a notice of cross-appeal to the High Court, or	200.00	The notice filed
(*d*) a respondent's notice of appeal to the High Court	200.00	The notice filed
C. ENFORCEMENT OF JUDGMENTS		
Application in aid of enforcement		
15. On an application for an attachment of earnings order to secure maintenance payments	115.00	The affidavit in support of the application
Registration of Foreign and Commonwealth Judgments		
16. (*a*) Under Part II of the Administration of Justice Act 1920 or the Foreign Judgments (Reciprocal Enforcement) Act 1933 —		
(i) on an ex parte application to register an incoming judgment or order	50.00	The affidavit in support of the application
(ii) on providing a certified copy of a judgment or order for use abroad	75.00	The affidavit in support of the application

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
(*b*) Under the Maintenance Orders Act 1950 or the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 —		The affidavit in support of the application
(i) on an ex parte application to register an outgoing order	50.00	
(ii) on processing an incoming registration	50.00	The affidavit or order
(*c*) Under the Maintenance Orders (Facilities for Enforcement) Act 1920 —		
(i) on an ex parte application to register an outgoing order	50.00	The affidavit in support of the application
(ii) on processing an incoming registration	50.00	The affidavit or order
(*d*) Under the Maintenance Orders (Reciprocal Enforcement) Act 1972 on an ex parte application to register an outgoing order	50.00	The affidavit or statement in support of the application.
<u>Enforcement of Arbitration Award</u>		
17. On an application for leave to enforce an arbitration award	75.00	The application
D. MISCELLANEOUS PROCEEDINGS OR MATTERS		
<u>Copy Documents</u>		
18. (*a*) Copy document (5 sheets or less) not otherwise provided for	5.00	The requisition
(*b*) Additional copy per page	0.50	
(c) On a copy order/decree including certified or sealed	10.00	The requisition
(d) On a copy order/decree produced online	8.00	The requisition

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
19. For a certified copy of a written judgment	75.00	The requisition
Bills of Sale		
20. On filing —		
(*a*) Any document under the Bills of Sale (Ireland) Acts, 1879 and 1883, other than a fiat of satisfaction	30.00	The document filed
(*b*) fiat of satisfaction	30.00	The application
21. (*a*) For an official certificate of the result of a search in one name in any register or index under the custody of the Registrar of Bills of Sale	30.00	The requisition for search
(*b*) For every additional name if included in the same certificate	20.00	The requisition for search
Taking affidavits		
22. On taking an affidavit or an affirmation or a declaration	30.00	The affidavit, affirmation or declaration
Searches		
23. (*a*) On a search of court documents, except where item 21 or 33 applies	20.00	The requisition
(*b*) Additional fee where the search carried out by an officer of the court	10.00	The requisition
Writs of Subpoena		
24. On sealing a writ of subpoena per person	30.00	The requisition

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
Warrants of arrest		
25. On an application for a warrant of arrest under Article 5(3) of the Protection from Harassment (Northern Ireland) Order 1997	0.00	The application

SECTION 2

Fees payable in the Central Office

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
Review of Taxing Master's Decision		
26. On an application to a Judge to review the Taxing Master's decision.	200.00	The summons
Admiralty		
27. (*a*) On lodging with the Marshall an instrument under Order 75, rule 5(1)	200.00	The praecipe
(*b*) On the sale of a ship or goods —		
(i) for every £100 or fraction of £100 of the price up to £100,000	2.00	(Paid by transfer)
(ii) for every £100 or fraction of £100 of the price exceeding £100,000	1.00	(Paid by transfer)
(*c*) On entering a reference for hearing by the Registrar	200.00	The notice for hearing
(*d*) On retaining possession of a ship with or without cargo, or of a ship's cargo without a ship, per day	50.00	(Paid by transfer)
Court of Appeal		
28. (*a*) On filing a notice of appeal or case stated	500.00	The notice of appeal or requisition
(*b*) On filing a notice of cross-appeal or a respondent's notice under Order 59, rule 6(1)	375.00	The notice
(*c*) On any other application to the Court of Appeal	500.00	The notice

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
Transcript of Trial		
29. A transcript of the shorthand or stenographic notes or of a recording taken by mechanical means of the whole or any part of any proceedings in respect of which —		
(*a*) an appeal lies to the Court of Appeal, for each page	1.00	The requisition
(*b*) leave has been given by a Judge, -		
(i) in a criminal trial for each folio	0.78	The requisition
(ii) in a civil trial for each folio	0.68	The requisition
(iii) for each page of a second or subsequent transcript	1.00	The requisition
(*c*) On an audio recording produced on compact disc in any court proceedings – for each hour recorded or part thereof	25.00	The requisition

SECTION 3

Fees payable in the Office of the Lord Chief Justice

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
30. On presenting a memorial for appointment as commissioner for oaths or notary public	75.00	The memorial
31. For every certificate of such appointment	75.00	The certificate

SECTION 4

Fees payable in the Bankruptcy and Companies Office

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
UNDER THE COMPANIES (NORTHERN IRELAND) ORDER 1986 OR THE INSOLVENCY (NORTHERN IRELAND) ORDER 1989		
32. (*a*) On sealing a petition for the winding up of a company by the court or for an order under Article 452 or 453 of the Companies (Northern Ireland) Order 1986	150.00	The petition
(*b*) On sealing a bankruptcy petition:		
(i) if presented by a debtor or by the personal representative of a deceased debtor	115.00	The petition
(ii) if presented by a creditor or other person	150.00	The petition
(*c*) On sealing any other petition (one fee only is payable where more than one petition is presented in relation to a partnership)	150.00	The petition
(*d*) On the hearing of a public examination	150.00	The application

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
33. (*a*) On sealing any originating application	150.00	The application
(*b*) On sealing any other application	115.00	The application
The fees in Items 33 (*a*) and (*b*) are not payable on an application to set aside a statutory demand or an application by the Official Receiver when applying only in that capacity		
UNDER THE BANKRUPTCY ACTS (NORTHERN IRELAND) 1857 TO 1980		
34. On a request for a certificate to discharge bankruptcy	75.00	The application
35. On a petition for an Administration Order	150.00	The petition
MISCELLANEOUS		
36. (*a*) On any search in the office (including an inspection) other than by a bankrupt, director proposing a company voluntary arrangement, a debtor proposing an individual voluntary arrangement, or the Official Receiver when acting as such	20.00	The search docket
(*b*) Additional fee where the search is carried out by an officer of the court	10.00	The requisition
37. On an application for a deed poll	50.00	The requisition

SECTION 5

Fees payable in the Taxing Office

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
38. On an application for taxation under the Solicitors (Northern Ireland) Order 1976	115.00	The requisition
39. On the lodgement of a bill of costs	5% of original bill	The bill
NOTE Provided that where the bill is taxed credit for this fee is to be given against the final fee payable		
40. (*a*) On taxing a cash account between solicitor and own client under the Solicitors (Northern Ireland) Order 1976 — for every £50 or fraction of £50 of the amounts found to have been received and paid	0.30	The account
(*b*) On the taxation of a bill of costs —		
(i) where the amount allowed does not exceed £500	60.00	The bill
(ii) where the amount exceeds £500, for every £1 or fraction of £1 of the amount allowed	0.15	The bill
In addition to item 39*(b)* the Master may in any case require the bill of costs to be stamped before taxation with the whole or part of the amount of fees which would be payable if the bill were allowed by him at the full amount thereof (including in cases under the Solicitors (Northern Ireland) Order 1976, the fee payable in respect of the cash account)		
(*c*) On the withdrawal of a bill of costs which has been lodged for taxation	In addition to item 39*(b)* such fee (not exceeding the amount which would have been payable under	

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
	paragraph (*b*) if the bill had been allowed in full) as shall appear to the Master to be reasonable having regard to the amount of work done in the Office	
(*d*) On assessing costs in the Chancery Division for every £1 or fraction of £1 of the sum assessed	0.10	The bill
(*e*) On an application to the Taxing Master to review his decision	115.00	The written objection

SECTION 6

Fees payable in the Office of Care and Protection

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
WARDSHIP, ADOPTION AND PARENTAL ORDERS		
41. On an application by way of petition or originating summons for wardship, adoption or a parental order under section 30 of the Human Fertilisation and Embryology Act 1990	100.00	The filed copy
FAMILY LAW ACT		
42. On an application under section 27 of the Family Law Act 1986 for the registration of a custody order	75.00	The filed copy of the order
ENDURING POWERS OF ATTORNEY		
43. On an application for registration of an enduring power of attorney	115.00	The filed copy
44. On an application made pursuant to a direction of the Court under rule 4 of Order 109A	200.00	The filed copy
45. On an application for a search of the register of enduring powers of attorney	20.00	The requisition
PATIENTS' AFFAIRS		
Commencement Fee		
46. (1) On a first application for the appointment of a controller or other originating process, except where it appears that the patient's clear annual income is less than £1,000	200.00	The requisition
(2) On commencement pursuant to a request by a personal applicant, in addition to Fee (1)	200.00	The requisition

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
Annual administration fee		
47. On a certificate issued by the Office		
(a) Administration fee per annum where funds are operated out of court	250.00	
(b) Administration fee per annum where funds are held by Court Funds Office	350.00	
Transaction fee		
48. (1) On any order (or, as the case may be, on any approval given by the court under an order) made by the court in the exercise of powers conferred by -		
(i) Article 99(1) -		
(*b*) sale, exchange etc of property		
(*c*) (acquisition of property)		
(*d*) (settlement of gift of property)		
(*h*) (carrying out of contract) or		
(*k*) (exercise of powers as guardian or trustee) -		
of the Mental Health (Northern Ireland) Order 1986 ("the Order")		
(ii) Article 102 of the Order (vesting of stock in curator appointed outside Northern Ireland)		
(iii) Section 35(9) of the Trustee Act (Northern Ireland) 1958 (appointment of new trustee);	80.00 Or, in a "special case" ¼% of the pecuniary consideration as	The requisition

Column 1	Column 2	Column 3
Item	Fee £	Document to be endorsed
	defined in Note 3 if greater than 80.00	
(iv) Section 57(3) of the Trustee Act (Northern Ireland) 1958 (variation of trusts for benefit of patient), provided that no fee under this item shall be taken if the property is worth less than £50 and no such fee shall exceed £500		
(2) On the making by the court of any order or authority under Article 99(1) (*e*) of the Order (execution of will)	200.00	The requisition
Control fees		
49. On passing an account where an Officer of the court (including Official Solicitor) is appointed	500.00	

Column 1		Column 2	Column 3
	Item	Fee £	Document to be endorsed
50.	Winding-up fee on the death of a patient	275.00	The requisition
51.	On an application to purchase, sell or transfer house or land, release life interest or right of residence	150.00	The requisition
52.	Enduring Power of Attorney Account fee	150.00	The requisition
53.	Referral of patient to Office of Care and Protection including issue of enabling certificate and master's direction by certificate	75.00	The requisition
54.	On an application to appoint a new Controller	200.00	The requisition
55.	Master's subsequent direction by certificate, where no Controller Order or Short Procedure Order issued	75.00	The requisition
56.	Issue of a Controller ad interim Order or a short procedure order	75.00	The requisition
57.	On appointment of a Controller	115.00	The requisition

NOTES:

1. In relation to fee numbers 46 and 48 -

   (1) the annual administration fee shall be payable from the date of issue of the first application for the appointment of a controller or other originating process until the termination of the proceedings.

   (2) no administration fee may be taken where the proceedings are terminated before any order is made.

2. Fees number 45 and 46 are not payable where an officer of the court is acting as controller for the patient.

3. In relation to fee number 47 -

   (1) "special case" means an order made by the court -

      (*a*) under paragraph (*b*), (*c*), (*d*) and (*h*) of Article 99(1) of the Order;

      (*b*) relating to the sale or purchase by the patient in exercise of his powers as a tenant for life under the Settled Land Acts 1882 to 1890;

      (*c*) under section 57(3) of the Trustee Act (Northern Ireland) 1958.

   (2) In a special case, the standard fee payable shall be increased where there is readily ascertainable pecuniary consideration in the nature of capital arising to or provided by the patient (otherwise than by way of loan to, or repayment of a loan by the patient), no account being taken of the possible capitalisation of the value of rents or interest or other income payments.

   (3) Where a transaction is to be approved under an order mentioned in fee number 47, the fee shall be taken on the approval of the transaction and the Office shall issue a certificate stating the amount payable.

   (4) Except when the court otherwise directs, no fee shall be payable under fee number 47 upon the sale or purchase of personal chattels or any investment for the time being authorised by law for the investment of trust property or in securities quoted in any stock exchange in the United Kingdom.

4. (1) In relation to fee number 48, the clear annual income at the patient's disposal for the purpose of this fee does not include income which accrued and became payable to him more than six months prior to the date when the court's jurisdiction was first exercised in relation to him.

   (2) In relation to fee number 48, no annual fee shall be taken where the proceedings are terminated less than four weeks from the date of issue of the first application for the appointment of a controller.

5. In relation to fees number 45(2), 46, 47 and 48, no fee shall be payable on any income by way of a war pension or war injuries (civilian) pension in respect of -

(*a*) service in the armed forces of the Crown to which section 2 of the War Pensions Act 1920 applies; or

(*b*) service in the armed forces of the Crown after 2nd September 1939, or

(*c*) service before the 15th August 1945 to which the Pension (Polish Forces) Scheme 1964 applies; or

(*d*) detention, capture, war injury or war risk injury within the meaning of any scheme (other than that mentioned in paragraph (*c*) above) made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, or under that Act as amended and applied by the Pensions (Mercantile Marine) Act 1942; or

(*e*) war service injury within the meaning of the Personal Injuries (Civilians) Scheme 1983 as amended in the case of a civil defence volunteer to whom that Scheme applied."

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Supreme Court Fees Order (Northern Ireland) 1996 so as to:—

(a) introduce the following new fees in the Schedule:-
on a third party notice (Fee No.2(c));
on a counterclaim (Fee No.2(d));
on an application to transfer an action to the commercial list (Fee No.6);
on setting down other party pleadings (Fee No.9);
on a decree, award, judgement, order or dismiss (Fee No.12);
on a copy order/decree including certified, sealed and online (Fee Nos.18(c) and (d));
on any search carried out by an officer of the court (Fee Nos.23(b) and 36(b));
on any other application to the Court of Appeal not provided for (Fee No.28(c));
on an audio recording produced on compact disc in any court proceedings (Fee No.29(c));
on a request for a certificate to discharge bankruptcy (Fee No.34);
on a petition for an administration order (Fee No.35);
on an application for a deed poll (Fee No.37);
on the lodgement of a bill of costs (Fee No.38(b));
under Patients' Affairs (Fee Nos.49-56);

(b) increase a number of fees to be taken in proceedings in the Supreme Court; and

(c) to provide for exemptions from fees payable in the circumstances as outlined in Article 2 and refunds where appropriate.

A Regulatory Impact Assessment of the costs and benefits of this Order (and other Orders relating to court fees) was placed in the libraries of both Houses of Parliament and is available on the Court Service's web-site at www.courtsni.gov.uk.

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