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EX160A

Court fees - Do you have to pay them?

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to pay them?

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Introduction

Her Majesty's Courts Service (HMCS) is committed to ensuring access to justice is protected for those less well-off.

When court cases are started in England and Wales, some of the work completed by the court or Probate Registry will attract a fee.

This guidance is designed to let you know, given your circumstances, if you qualify for a remission or have to pay a fee.

The fee remission system is made up of three parts. Remissions 1 and 2 provide a full remission of the court fee if you are in receipt of a means-tested benefit or your gross annual income is below a certain amount. Remission 3 provides a part remission or contribution toward the fee if you would suffer financial hardship if you had to pay.

Read this guidance carefully before completing form EX160. This booklet contains all the information you need to understand your entitlements and what evidence the court or Probate Registry need to process your request.

A separate EX160 application with supporting evidence, must be completed for each process you send to the court.

Court staff can refuse any evidence submitted which fails to satisfy the information provided or does not appear genuine. Court staff can ask for further evidence to be submitted.

If you refuse to provide the additional evidence, the application will be refused and the court fee will become payable in full.

If you would like more information, contact a Customer Service Officer at court. Court staff can assist you on court procedures and help you complete the form **but they cannot tell you what to write or give you legal advice.**

Please note, where this leaflet and form refer to a court, court fee, court staff or court manager, this also includes Probate Registries, probate fees, probate registry staff and registry managers.

Information relevant to all Remissions

Prisoners: If you are currently serving a prison sentence, or on remand or in custody at one of Her Majesty's Prisons, Remand Centres, or Young Offenders Institutes, you will only be eligible to apply under remission 3. You are required to provide a copy of your Prisoner's Income and Expenditure Statement, along with evidence of any other income and expenditure.

Vexatious litigants and litigants bound by a Civil Restraint Order:

If you are a vexatious litigant, or bound by a civil restraint order, you cannot apply for a fee remission in the first instance. All applications for permission will attract the full fee which must be paid. For vexatious litigants, applications for permission must be directed to the High Court. If the application is successful, you can make a retrospective application for a fee remission within 6 months, and if approved, obtain a refund in full or in part. A sealed court order giving permission must be provided as evidence.

Foreign Nationals: If you reside outside England or Wales, and are starting or already involved in legal proceedings in England or Wales, you can apply under remissions 2 or 3. All monetary amounts must be shown in pounds sterling and all evidence must be in English or accompanied by a certified translation into English. Welsh courts can also accept evidence, or certified translations in Welsh. Remission 1 only applies if you are in receipt of a means-

tested benefit and reside within the United Kingdom, Republic of Ireland, Channel Islands or Isle of Man.

Certified documents for legally represented or assisted applicants

Each remission requires you to provide documentary evidence to prove the information you declare as true on the EX160 application for fee remission. If you are legally represented or in receipt of legal advice or Legal Help, you can get your documentary evidence certified. You must provide original documents to your legal representative who can photocopy the documents and stamp them as being certified as true copies. Such documents must be accompanied with an original letter on headed notepaper, from your legal representative with their contact details. Certified documents will still be subject to checks being made by a Court Officer. The Court Officer can challenge or refuse any evidence submitted, certified or not, which fails to satisfy the remission criteria or the information provided does not appear genuine.

Applicants in receipt of Legal Aid

If you have a certificate of funding from the Legal Services Commission (in family cases that means Family Help Higher or Legal Representation), you cannot apply for a fee remission. The solicitor acting for you under your certificate will deal with any court fees on your behalf.

Applicants using MCOL or PCOL

Any applicant using either online service will not be able to apply for a fee remission.

Completing Form EX160

Section 1: About the Case

Case or Claim Number: This is normally found in the top right hand corner on a court document. If you are issuing a new case, you will not have a case or claim number so leave this blank.

Title or number of form: Enter the information about the form you want the court to issue. e.g. Application notice or N244 etc.

A separate EX160 application with supporting evidence, must be completed for each form you send to the court.

Name of Claimant/Petitioner:

The person(s) who starts the case or action.

For applications made in Probate proceedings, enter the name of the deceased and date of death.

Name of Defendant/Respondent:

The person(s) who responds to or defends the case or action.

Section 2: Your Details

Title, Surname/Family Name and

First Name: Tick the box appropriate to you. If 'other', state the title by which you are known. Enter your full name including any middle names.

Address and postcode: Enter your full postal address at which you permanently reside and can be contacted. A 'care of' address is not permitted.

Date of Birth: Enter in DD/MM/YYYY, e.g. 01/07/1963

Section 3: Full Remission based on permitted benefits -

Remission 1

This remission is available to you if you provide evidence that you currently receive any one of the following five means-tested benefits:

- Income Support
- Income based Jobseeker's Allowance
- State Pension Guarantee Credit
- Working Tax Credit **but not in receipt of** Child Tax Credit
- Income-related Employment and Support Allowance

Warning:

Applicants are not permitted to use or allow to be used, their benefit entitlement to gain a full remission for any other party or person.

If you are in receipt of one of the five means-tested benefits, tick the appropriate box. You must provide evidence in the form of:

- An official letter or entitlement notice from the appropriate benefit provider (details on page 19 - Useful Contacts) dated no more than **1 month old**. It must contain your title, full name, address and postcode and confirm current receipt of the benefit.

If you receive State Pension Guarantee Credit or Working Tax Credit your evidence letter must be dated within the last year and refer to the current financial year.

Go to section 6.

Warning:

To prevent delay, applicants must make sure they have all required evidence, correct and within date, before arriving at court or sending the application in the post.

Failure to provide evidence will result in the application being refused and the full fee being payable.

If you are not in receipt of one of the five means-tested benefits, tick 'none of these' and go to section 4. This includes applicants who, by themselves or jointly with a partner, are in receipt of both Working Tax Credit and Child Tax Credit together or Child Tax Credit on it's own.

Information that applies to both Remissions 2 and 3

Bank Statements

Applicants applying for remissions 2 and 3 must provide the last 3 months bank statements from all their current accounts showing credit of all income and all other regular credits and debits. Failure to provide bank statements will result in your application being refused.

Excluded Benefit List

The following benefits are excluded from any calculation of gross annual income under remission 2 and net monthly income under remission 3:

- ✗ Attendance Allowance
- ✗ Back to Work Bonus
- ✗ Budgeting Loan
- ✗ Carer's Allowance
- ✗ Cold Weather Payment
- ✗ Community Care Grant
- ✗ Constant Attendance Allowance
- ✗ Council Tax Benefit
- ✗ Crisis Loans
- ✗ Direct Payments made under Community Care, Services for Carer and Children's Services
- ✗ Disability Living Allowance
- ✗ Exceptionally Severe Disablement Allowance
- ✗ Financial support under an agreement for the care of a foster child
- ✗ Funeral Payment
- ✗ Housing Benefit
- ✗ Independent Living Fund Payments
- ✗ Severe Disablement Allowance

Sources of Income and Evidence List

Gross annual income for remission 2 and net monthly income for remission 3 must be declared from any and all sources.

You are a single person, you must provide evidence to support all your income.

You are part of a couple, you must provide evidence to support your and your partner's income – whether you, or you and your partner, are involved in the court proceedings.

You must provide your last 3 months bank statements (and those of your partner if applying as part of a couple) **in addition to** the evidence detailed as follows: **(this list is not exhaustive)**

Paid Employment:

You must provide original wage slips from all jobs. You must also declare any cash-in-hand work.

- Paid monthly: last 3 months wage slips no more than 4 months old; or
- Paid weekly: last full month of wage slips no more than 6 weeks old.

Self Employment:

You must provide:

- Most recent tax return (Self Assessment); and
- Most recent HMRC Self Assessment Tax Calculation; and
- Current proof of income.

People living with you:

If you receive money from any persons living with you in payment of rent, board, contribution to the household etc, you must provide:

- A letter from the person paying money to reside at your address confirming the arrangement, the amount paid and dated within the last month.

Pensions (excluding sole receipt of State Pension Guarantee Credit):

If you receive income from a state, private or occupational pension, you must provide:

- Current notification, letter or statement confirming current pension payments.

Benefit payments:

If you are in receipt of any benefit payments **excluding** those listed on page 7, you must provide:

- A benefit entitlement notice or letter, dated within the last month confirming how much is currently being received and how often.

Rental income from any and all properties:

If you receive income from the rent of properties, you must provide:

- Tenancy agreement or lease relating to each property showing the rents currently being paid and frequency.

Child maintenance payments:

If you receive child maintenance payments, you must provide an original copy of the document(s) that shows the amount paid and how often it's paid, in respect of each child that maintenance is received for. The evidence must show current payments:

- Sealed court order; or
- Child Support Agency assessment; or
- Signed Voluntary Agreement (signed by both parents).

Stocks, shares, bonds or any other financial arrangement:

If you receive income from stocks, shares or any other financial arrangement where income is obtained, you must provide:

- Current statements showing the arrangement and how much income is obtained.

Any other income:

If you receive income by any other means not listed here, such as selling goods privately or publicly, including sales on the Internet, you must produce current official documentary evidence. The evidence must show the amount of income received, by what method and how often.

Warning:

To prevent delay, applicants must make sure they have all required evidence, correct and within date, before arriving at court or sending the application in the post.

Failure to provide evidence will result in the application being refused and the full fee being payable.

Section 4: Full Remission based on gross annual income -

Remission 2

This remission is available to you if your gross annual income does not exceed the limits set out in the tables below. To qualify, you must provide evidence of your name, address, dependant children, whether you are single or part of a couple and your gross annual income.

Warning:

Any applicant with **NO** income must apply under remission 3.

Children: Tick Yes or No. If yes, state the number of children who are both financially dependant on you and living with you. Evidence is required to prove the existence of all dependant children. You must provide:

- Current Child Benefit notification; **and**, if in receipt of Child Tax Credit;
- Child Tax Credit Award notification dated within the last year and referring to the current financial year.

Both Child Benefit and Child Tax Credit must be included as income under benefits in your calculation for gross annual income.

Status: Tick either single or part of a couple.

Note:

If you are a party involved in proceedings for divorce, dissolution or annulment, you are considered a single person for the purpose of Remission 2 and 3.

A single person is defined as one person, living as a single person, relying on their own income, with or without dependant children.

A couple is defined as two people, living as a couple residing at the same address, upon whose joint income they rely, with or without dependant children, regardless of whether you, or you and your partner, are involved in the court proceedings.

You must only complete the income boxes below the status box you have ticked. You must provide:

- An official document confirming your title(s), full name(s) and address of the applicant(s).

Gross Annual Income: This is your total single or joint income from any and all sources for the current year, **before any deductions** such as Income Tax, have been made. Look at the income source and evidence list on page 8. You must provide evidence to prove your gross annual income for each source. Income received from a source not stated on the list must be included under 'any other income'.

Calculating your Gross Annual Income

Add together all your elements of income (and your partner's if applying as part of a couple) and place the total in the box. Next, check your gross annual income against the limits set out in the tables below. The number of dependant children you have will determine your gross annual income limit.

You are applying as a single person:

Check the table below to see if your gross annual income is within the limit appropriate to your situation:

Number of Children	Total Gross Annual Income Limits
None	£13,000
One	£15,930
Two	£18,860
Three	£21,790
Four	£24,720

You are applying as part of a couple:

Check the table below to see if your joint gross annual income is within the limit appropriate to your situation:

Number of Children	Total Joint Gross Annual Income Limits
None	£18,000
One	£20,930
Two	£23,860
Three	£26,790
Four	£29,720

Additional Children: Whether you are applying as a single person or part of a couple, if you have more than four children, add £2,930 for each extra child thereafter to the figure for four children.

E.g. If you are part of a couple with five children, you will add £2,930 to £29,720. So your joint gross annual income must not exceed £32,650.

If the gross annual income exceeds the limits set out in the tables above, tick the declaration and go to section 5.

If the gross annual income does not exceed the limits set out in the tables above, tick the declaration and go to section 6.

Warning:

To prevent delay, applicants must make sure they have all required evidence, correct and within date, before arriving at court or sending the application in the post.

Failure to provide evidence will result in the application being refused and the full fee being payable.

Section 5: Part Remission based on a means test -

Remission 3

This remission is available to you if you do not qualify for remissions 1 or 2. You may be entitled to a remission following a means test based on your income and expenditure. The court fee, in whole or in part may be payable if your disposable income is over a certain amount.

Note:

If you are a party involved in proceedings for divorce, dissolution or annulment, you are considered a single person for the purpose of Remission 2 and 3.

A single person is defined as one person, living as a single person, relying on their own income, with or without dependant children.

A couple is defined as two people, living as a couple residing at the same address, upon whose joint income they rely, with or without dependant children, regardless of whether you, or you and your partner, are involved in the court proceedings.

Monthly Income

Net Monthly Income: This is your total income from any and all sources for the month, **after any deductions** such as Income Tax, have been made. Look at the income source and evidence list on page 8.

You are a single person. Enter your income figures under the applicant column **ONLY**. You must provide evidence in support of each source you receive income from.

You are part of a couple. Enter your income figures using the applicant column and the partner column. Remember you and your partner may receive income from different sources. You and your partner must provide evidence in support of each source you receive income from.

Evidence must be provided for a partner and all dependant children. See page 9 and 10 for required evidence.

Total Monthly Income: Add together all the figures you have entered and put the total in the box. If applicable, do the same for your partner's total monthly income.

Monthly Expenses

There are 5 permitted expenses under remission 3 and these are set out below.

If applying as a single person, enter your figures for monthly expenditure and provide evidence in support of the amount you pay for each one listed. Do not enter any other figure for the **fixed allowances** other than the figures detailed below.

If applying as part of a couple, enter your **total joint** monthly expenditure and provide evidence in support of the amount you and your partner pay. Remember you and your partner may have different expenses and separate

evidence must be provided for each. Do not enter any other figure for the **fixed allowances** other than the figures detailed below.

Monthly housing costs: The total you pay for a mortgage, rent or board per month. This figure does not include any council tax payments or any other utility bill payments. The evidence provided must be current, and shows the amount and frequency.

- Mortgage statement
 - if a mortgage is on a flat, the housing costs will include extra costs for ground rents and service charges; (this includes the total mortgages the applicant has on properties they own in addition to their main dwelling); or
- Tenancy Agreement for rented premises; or
- Rent book signed by the landlord; or
- Receipts from board payments; or
- Rent statement from landlord.

Monthly Fixed Allowances: These are fixed allowances given to you for:

- **Partner:** £159 a month. Do not enter this figure if you are applying as a single person.
- **Dependant Children:** £244 a month per child. Do not enter this figure if you do not have dependant children.

- **General Living Expenses:**

£315 a month. Do not enter this figure if you have no monthly housing cost.

These allowances do not apply to you if you are a prisoner.

Monthly Child Maintenance: If you pay child maintenance, you must provide an original copy of the document(s) that shows the amount paid and how often it's paid, in respect of each child that maintenance is paid for. The evidence must show current payments:

- Sealed court order; or
- Child Support Agency assessment; or
- Signed Voluntary Agreement (signed by both parents).

Monthly Child Care Expenses: If you have dependant children, you may pay for childcare. This can include: nursery, child minder or pre or after school care.

Childcare costs do not include school fees.

- Receipts from a nursery; or
- Proof of payments to a pre-school or after-school club; or
- Receipts from a child minder.

Monthly Payments under a Court

Order: If you have a court order or judgment (excluding orders for child maintenance) against you which requires you to make payments, state here how much you pay each month. Evidence required is:

- A sealed court order giving the payment details, and
- Receipts of payments made to a claimant or the court.

Total Monthly Expenses: Add together all the figures you have entered and put the total in the box. The total amount will be either your single monthly expenditure or yours and your partner's joint monthly expenditure.

Warning:

To prevent delay, applicants must make sure they have all required evidence, correct and within date, before arriving at court or sending the application in the post.

Failure to provide evidence will result in the application being refused and the full fee being payable.

What happens next: An officer of the court will calculate your disposable income based on the figures you have provided.

The Court Officer's Decision:

The Court Officer will tell you how much of a contribution you must pay, whether in full, part or none at all. You can appeal if you do not agree with the Court Officer's decision. Details of how to appeal are on page 15.

Section 6: Refunds

You can apply for a refund if you have paid a court fee within the **last 6 months** and think you could have applied for a remission at the time. You can only apply for a refund at the court where you paid the fee.

You must provide evidence that you paid the fee, by way of:

- A court receipt; or receipted documents, giving details of the fee and the date paid is no more than 6 months old.
- Evidence for the remission you are applying for that would have allowed the court to accept it on the day you paid the fee. Benefit letters and other evidence should be dated for the period you paid the fee and not the date you apply for the refund.

This does not apply to you if you are a vexatious litigant or a litigant bound by a Civil Restraint Order, as set out on page 5.

If you are applying for a refund, tick the 'Yes' box and go to section 7.

If you are not applying for a refund, tick the 'No' box and go to section 7.

Section 7: Declaration

All applicants must complete and carry out the request contained in the declaration.

Failure or refusal to do so will result in the EX160 application being refused. Tick all three boxes and go to section 8.

Section 8: Statement of Truth

All applicants must sign and date the statement of truth to confirm all the information provided is true.

Only the applicant can sign and date the statement of truth.

No third party information or signature is allowed except where an EX160 is completed on behalf of a minor.

The application will be refused if:

- Section 8 is unsigned; or
- Any figures entered on the EX160 are found to be false; or
- You fail or refuse to provide evidence to support your application.

If, after approval of the application, information contained in the EX160 is found to be false, the court can:

- Have the order or process which was obtained, revoked;
- Demand the court fee in full.

The Procedure

Your EX160 application will be processed within 5 working days of receipt, unless it is an emergency application. For more details on Emergency Applications see page 15 of this booklet.

If the Court Officer allows a full remission, the papers in the case will be processed.

If the Court Officer allows a part remission you will be informed of the contribution you should pay. Payment should be made within 7 days. The papers relating to your case will not be processed until the fee is received.

If the Court Officer refuses the application, the EX160 and supporting evidence will be returned to you telling you the reason why and stating the court fee payable.

If you do not agree with the Court Officer's decision, you can appeal.

How to appeal

What you need to do:

- Appeal in writing to the Court Manager; and
- Appeal by the date specified in the Court Officer's refusal letter (this will be approximately 14 days from the date you receive the letter); and
- Set out your grounds for appeal; and
- Enclose your evidence and any further evidence which was not available to the original officer at the time of refusal.

The Court Manager will consider your appeal and notify you of the decision within 10 working days.

- If the appeal is allowed, the Court Officer will process the EX160 and court papers.
- If the appeal is refused, the Court Manager will tell you the reasons why. You can appeal a final time to the Area Director whose name and address will be supplied.

You must follow the same procedure as set out above. The Area Director's decision is final. Alternatively, you can pay the court fee, the amount of which will be set out in the Court Manager's letter.

Emergency Applications

The Court Manager has the power to grant a full or part remission without supporting evidence on emergency matters only if:

- your evidence is not available at the time the application is being made; and
- you do not have the money to pay the court fee; and
- the interests of justice will be compromised if a delay occurs.

The Court Manager is the only person who can make the decision that an application is an emergency and their decision is final.

Matters which could be considered an emergency can include applications involving:

- Children;
- Domestic Violence;
- Injunctive provisions;
- Suspending an imminent eviction;
- Extending a time limit about to run out.

If your application is considered an emergency and you do not have the required evidence or the money to pay the court fee, you will be asked to give an undertaking.

Undertakings

An undertaking is a promise made to the court to do something within a specified time.

The undertaking will state that you promise to:

- Supply the court with the appropriate evidence to support the EX160; or
- Pay the court fee.

This promise must be completed within 5 days of the undertaking being given.

Before giving an undertaking, you must be certain you can comply with it.

Failure to comply with an undertaking carries sanctions which are very serious. Failure to comply with an undertaking within the time limit can result in:

- Having the case stopped;
- Having your claim/defence struck out;
- Having the order which was obtained, revoked.

Exceptional Circumstances

If you are not eligible for Remissions 1, 2 or 3, you may not have to pay a court fee if you have suffered an unexpected event, which has seriously affected your financial position. If you can prove this circumstance is exceptional, the Court Manager has the power to grant a full or part remission.

The Court Manager is the only person who can make the decision based on the information provided at the time the court fee is due. The Court Manager's decision is final and cannot be appealed.

You cannot use an exceptional circumstance to make a retrospective fee remission application.

Multiple Party or Class Action applicants

Where there are two or more claimants or defendants involved in the same case, they will be jointly liable for any court fees payable during the case. Each claimant or defendant will be entitled to apply for fee remission in full or in part. If one or more claimant or defendant gets a remission in full or in part, the remaining claimants or defendants (if any) will become jointly liable for the fee.

If two or more claimants or defendants gain a part remission under remission 3, their contribution amounts will be added together.

Example 1: Four claimants of the same case issue a claim. Three of them would qualify for a remission. The fourth claimant doesn't qualify for any remission so would have to pay the issue fee in full.

Example 2: Four claimants of the same case issue a claim. Two of them receive a full remission under remissions 1 and 2. The other two claimants apply under remission 3 and have to pay a contribution. Their contributions are added together as payment in part of the fee.

Useful contacts

Citizens Advice Bureau

Go to the CAB website below to find out your nearest branch or check the Yellow Pages.

www.citizensadvice.org.uk

Community Legal Advice

Tel: 0845 3454345

www.communitylegaladvice.org.uk

Department of Work and Pensions

www.dwp.gov.uk

Her Majesty's Courts Service

Go to the HMCS website below to find out the address and contact details of your nearest court

www.hmcourts-service.gov.uk

Her Majesty's Revenue and Customs

Tel: 0845 3003900

www.hmrc.gov.uk

Jobcentre Plus

Tel: 0845 6060234

www.jobcentreplus.gov.uk

The Pension Service

Tel: 0845 6060265

www.pensionservice.gov.uk

Things to remember

- You must make sure you have all the required evidence, correct and within date, before you attend court or send the application in the post.
- Court Officers cannot give legal advice. For free legal information, help and advice, contact Community Legal Advice or Citizens Advice Bureau (details opposite). You can also go to a Law Centre or Consumer Advice Centre, check the Yellow Pages for details.
- Seek advice from Royal Mail before sending original documents in the post. The court is not responsible for original documents it does not receive.
- Applications for fee remissions will not be approved without the required documentary evidence except when the application is deemed an emergency.
- Courts accept payment by cash, postal orders or cheques, which should be made payable to HMCS. Some magistrates' courts accept debit cards, check with your local court office.
- If you pay by cheque and it is dishonoured, the court will take steps to recover the money. Non-payment will result in your case being stayed or even struck out.