



Northern Ireland

**Courts and
Tribunals Service**

www.justice-ni.gov.uk/courts-and-tribunals

Do I have to pay court fees?

A Guide for Court Users on Exemption and
Remission of Fees



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Introduction

If you are taking civil or family court proceedings, or if you are being taken to court, the Northern Ireland Courts and Tribunals Service (NICTS) will need to carry out some work for which you may have to pay a fee.

You may obtain an up-to-date list of all NICTS fees from any court office or from our website

www.justice-ni.gov.uk/courts-and-tribunals

In some situations help may be available for paying fees when a person:

- receives financial assistance through legal aid; or
- receives a specified benefit; or
- is experiencing hardship.

This booklet tells you whether you may be eligible for help with paying court fees and how to apply for this help.

If you have already paid a fee and now realise you could have applied for help, you still may, by claiming a refund. There is more about refunds and how to apply on page 14 ('Retrospective Applications').

Please read this leaflet fully before applying for help with court fees - you will need to complete Form ER1 which is available from any court office or the NICTS website.

You may need to complete more than one form as you must submit a separate form for each individual fee for which you would like help with.

If you would like more information, please contact your local court office. Remember that court staff are not legally qualified and cannot give you legal advice about your case.

Civil Legal Aid

Depending on your financial circumstances you may be entitled to legal aid which will help with the cost of your case including the fees payable to the court.

You can only apply for help with court fees if you are not in receipt of legal aid for the purposes of the proceedings.

To find out more about legal aid contact your solicitor or the Legal Services Agency Northern Ireland.

Legal Services Agency NI

2nd Floor

Waterfront Plaza,

8 Laganbank Road,

Belfast, BT1 3BN

Tel 028 9040 8888

www.justice-ni.gov.uk/topics/legal-aid

Am I eligible for help with court fees?

Help is available for court fees for those who cannot afford to pay them, with the following exceptions:

- Help is not available for fees relating to requests for copy documents, inspections, searches and certificates of the results of the search; and
- If you are a **vexatious litigant**¹ you cannot apply for help on an application to the High Court for permission to issue proceedings. However, if the application to the High Court is successful and you are granted leave to proceed, you can make a retrospective application (see page 14) for help with the court fee.

What help is available?

Whether you can get help with court fees is dependent on your individual circumstances. There are two types of assistance available:

- **Exemption** – available where the applicant is in receipt of a qualifying benefit (see page 7); and
- **Remission** – available where the payment of a court fee would involve hardship (see page 9).

1 Vexatious litigants are individuals who persistently take legal action against others in cases without any merit and are forbidden from starting civil cases in courts without prior permission from a High Court Judge

Exemption

How do I qualify for exemption?

With the exception of Probate and Patients fees, where only remission can be applied for, you will be exempt from paying most court fees if you receive:

- Universal Credit;
- Income Support;
- Guarantee Credit under the State Pension Credit Act (Northern Ireland) 2002;
- Income based Jobseeker's Allowance;
- Income related Employment and Support Allowance;
or
- Working Tax Credit and your gross annual income is less than the current cut-off² and either -
 - i) Child Tax Credit is paid to you, or a claim has been made jointly by you and your partner; or
 - ii) The Working Tax Credit has a Disability Element or Severe Disability Element (or both).

Your gross annual income is your income before income tax and other deductions are taken away. HM Revenue & Customs will send you an award notice that shows your gross annual income. If it is more than the current gross annual income cut-off, the court may suggest that you apply for remission. If you receive Working Tax Credit, the award notice will show if you receive a 'disability element' or a 'severe disability element'.

2 Please ask the court officer dealing with exemptions what the current income cut-off is

When applying for exemption under Working Tax Credit, you will need to include a copy of the current award notice with your Form ER1.

The information on qualifying benefits that you provide will be verified with other Government Departments or Agencies.

You will not qualify for exemption if you are receiving:

- legal aid; or
- funding from an insurance company, trade union or other source.

When your exemption application has been dealt with

It may be decided that you are:

- exempt from paying the court fee; or
- not exempt from paying the court fee.

If you are not exempt from paying the court fee, you may be advised to apply for a remission.

If you are not exempt from paying the court fee, and you need to pay another fee later on in the proceedings, you may apply again if your circumstances have changed.

Remission

Remission applications will be dealt with by:

Civil Processing Centre,
Laganside Courthouse,
Oxford Street,
Belfast, BT1 3LL

You can send your application directly to the Civil Processing Centre or through your local court office.

How do I qualify for remission?

If you are not exempt from paying a fee but feel that you would suffer hardship if you did pay it, you may apply for a remission of most court fees.

It may be decided that you do not have to pay a court fee, or that you may pay a smaller fee. This is called remission.

When your remission application has been dealt with

It may be decided that you:

- should pay no fee;
- may pay a smaller fee; or
- must pay the whole fee.

If your application for remission is refused, and you need to pay another fee later on in the proceedings, you may apply again if your circumstances have changed.

Special considerations for minors and persons under disability

If a person under 18 years old (a minor) is a party in a civil action, they must have any legal papers submitted on their behalf by an adult who will be named as their guardian. Depending on severity, a person under disability may also require a guardian.

In the event of legal aid not being granted, the guardian may apply on behalf of the minor for exemption or remission of most court fees. However, it is unlikely that an exemption will apply as the minor will not be receiving a qualifying benefit. In these circumstances the application should be made to seek remission of the fee.

It is important to note that this procedure only applies to cases where the child is a party to the litigation (e.g. named as the plaintiff on a civil bill), and not the subject of it (e.g. in relation to custody in family proceedings).

Completing Form ER1

Please give all the details that Form ER1 asks for and remember that NICTS will need evidence for the information that you include on the form. If you do not provide the details and the evidence required, your application for exemption or remission may be delayed or refused. Until a decision has been made about your application, the case will not continue unless something has to be dealt with urgently.

Sections 1a to 1e are about the case. Section 1d asks you to give the title or number of the form that you would like the court office to process - for example, a divorce petition or a small claims application.

Sections 2a to 2j are about you and benefit or funding that you may be receiving.

Sections 3 and 4 are about your income and expenditure. In order to come to a decision on whether you qualify for remission, NICTS needs information on your financial circumstances. Therefore you will be required to provide evidence, such as current pay slips or bank/mortgage statements, to support the information that you have provided.

Section 5 is your declaration that all the information which you have provided is true to the best of your knowledge and belief. NICTS may share specific information with other Government Departments or Agencies to help reduce or prevent crime and to investigate fraud. Providing false information can lead to prosecution.

When you have completed Form ER1

Take the application form in person, or post it to your nearest court office. If your case is ongoing, you should ensure that the form goes to the office that is dealing with your case. If you are applying for remission you can also send your application directly to the Civil Processing Centre.

Your application for help with paying court fees should include the Form ER1 and:

- the papers in the court case that you would like the court office to process. For example, a divorce petition or a small claims application; and
- the evidence to back up the details that you have given in sections 3 and 4 of Form ER1. The evidence may be an original document or a photocopy of it.

If you take Form ER1 to the court office in person, the office staff will copy the evidence and return original documents to you. The court office will not charge you for these copies.

If you post Form ER1 to the court office, please send a copy of the evidence unless the court has asked specifically for the original document to be provided.

If you intend to post original documents, please ask the post office for advice on how best to send them. NICTS cannot be responsible for your documentation if it does not receive it.

What will happen next?

Your application will usually be dealt with within 5 working days of receiving all of the information required, and before any of the papers in the court case are processed. However, your application will be dealt with at once if something needs to be done urgently.

If NICTS grants your application and you do not have to pay the fee, you will be notified by letter and your case will be progressed. If your application is refused or if the fee has been reduced so that you must pay a smaller fee, a letter will be sent to you giving:

- the amount of the fee that you must pay; and
- the reason for the decision.

The papers for your case will also be returned to you with this letter.

If you do not agree with the decision you may appeal (see page 15).

If you decide to pay the fee

If you are refused exemption or remission you may pay the fee by:

- debit or credit card;
- cash;
- cheque/postal order made payable to
“Northern Ireland Courts and Tribunals Service”.

If you pay by cheque and it is dishonoured, the application and the case will be stopped until payment has been made. This may mean that you have to pay additional costs. NICTS will always seek to recover costs in relation to dishonoured cheques.

Retrospective applications

If you have paid a court fee without applying for exemption or remission and either did not know that you could apply, or if you thought that your circumstances did not allow you to apply, you may still apply retrospectively for exemption or remission and ask for a refund of the fee or part of it.

Applying retrospectively for an exemption or remission

If you are applying for exemption or remission of a fee you have already paid, you must complete Form ER1, answering 'yes' to section 1e and providing the date on which you paid the fee. The original fee-stamped document, or copy of it, must be provided.

NICTS must receive your application on Form ER1 within 6 months of the date you paid the fee. The evidence provided by you must include the details that would have allowed NICTS to consider your application if it had been made on the date on which you paid the fee.

Your application will then be processed in accordance with the section, 'When you have completed Form ER1' (see page 12).

How to appeal

If your application for an exemption has been refused, you are not entitled to appeal the decision. However, you may be advised to apply for a remission.

If your application for remission has been refused and you think that the decision by NICTS was wrong, you may appeal to the Appeals Officer.

If you decide to appeal, please send a letter to the Civil Processing Centre along with your original application. In the letter state that you wish to appeal and detail why you do not agree with the decision.

It may help your appeal if you can provide more information about your income, expenditure, circumstances, or give other additional evidence. You should submit the extra information or evidence with your letter.

NICTS must receive your letter of appeal within 10 working days, beginning on the day when you received the letter refusing your application for remission.

The Appeals Officer will send you a letter giving the result of your appeal within 10 working days, beginning on the day when your letter of appeal along with all relevant information is received. If applicable, the result of the appeal will be used to progress your original application.

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