

Do I have to pay fees?

A Guide for Court and Tribunal Users
on Exemption and Remission of Fees

serving the community through the administration of justice

This document will be made available in a wide range of alternative formats. Requests should be made to Finance Branch.

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Introduction

If you are taking civil proceedings or if you are being taken to court in a civil action, 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 a list of NICTS fees from any court or tribunal office or from our website **www.justice-ni.gov.uk/courts-and-tribunals**

In some situations help may be available in 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 an exemption or remission and how to go about applying for these.

If you have paid a fee and believe that you should have applied for an exemption or remission, you still can, by claiming a refund. There is more about refunds on page 15 under “Retrospective Applications”.

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

You may need more than one form because you must fill in a separate form for each fee for which you would like exemption or remission.

If you would like more information, please contact your local court or tribunal office. Remember that court staff 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 exemption or remission if you do **not** already qualify for legal aid.

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

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 a fee if you receive:

- Income Support;
- Guarantee Credit under the State Pension Credit Act (Northern Ireland) 2002;
- Income based Jobseeker's Allowance;
- Working Tax Credit and your gross annual income is less than the current cut-off¹ 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).
- Universal Credit

Your gross income is your income before income tax and other money is 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 'severe disability element'.

¹ 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.

Applications from individuals who are in receipt of income-related Employment and Support Allowance will be dealt with as a remission. See page 8 of this booklet.

You will not qualify for exemption if you are receiving:

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

Information provided by you will be submitted to the Department for Communities for verification.

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 asked to pay the whole fee, you may be advised to apply for a remission.

If you have been refused exemption and you need to pay another fee later on in the proceedings and your circumstances have changed, you may apply again.

Remission Applications

Remission applications will be dealt with by the:

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 you feel that you would suffer hardship if you did pay it, you may apply for a discretionary remission of the court fee.

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.

Applicants in receipt of income-related Employment and Support Allowance are entitled to a full remission of the court fee. Such applications can be dealt with by the Civil Processing Centre or any local court office.

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

Special considerations for minors and persons under disability

If a person under 18 years old (a minor) is a party in a civil action, he/she 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 a court fee. However, it is unlikely that an exemption will apply as the minor will not be receiving a passporting 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 the NICTS will need evidence for the information you have given in sections 3 and 4 of the form. If you do not provide the details or the evidence, 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 instance, a divorce petition or a small claims application.

Sections 2a to 2i are about you and benefits you may be receiving.

Sections 3 to 5 are about your income and expenditure. In order to come to a decision on whether you qualify for remission, the NICTS needs information on your financial circumstances. Therefore you will be required to provide evidence (in the form of pay slips, bank or mortgage statements) for information you have provided.

Section 6 is a declaration by you that all the information you have provided is true to the best of your knowledge. Providing false information can lead to prosecution.

When you have completed Form ER1

Take the form in person, or post it to your nearest court or tribunal 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.

You must enclose with the form:

- the papers in the court case that you would like the court office to process- for instance, a divorce petition or a small claims application;
- the evidence to back up the details that you have given in sections 3 to 5 of Form ER1 - the evidence may be an original document or a photocopy of it.

If you take Form ER1 to the court or tribunal 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.

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

What will happen next?

Your application will usually be dealt with within 5 working days of receiving all the required information, 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 - for instance, to stop an eviction or if a time limit for doing something is about to be reached.

If the NICTS has allowed your application and you do not have to pay a fee, it will process the papers for the case. If it has not allowed your application, 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 sent back with the letter.

If you do not agree with the decision and you applied for remission, you may appeal. If you were refused exemption, you may apply for remission.

If you decide to pay the fee

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

- cash;
- cheque;
- postal order; or
- debit or credit card.

If you pay by cheque or postal order, please make it 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. That may mean that you have to pay additional costs. The NICTS will always seek to recover costs in relation to dishonoured cheques.

Retrospective Applications

If you have paid a court or tribunal 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 you paid the fee on. The original stamped document or copy of the stamped document 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 have the details that would have allowed NICTS to consider your application if it had been made on the day when you paid the fee.

When your form has been dealt with

NICTS will send you a letter giving the decision. It may have decided that you should have paid the whole fee, a smaller fee or no fee. If the NICTS has decided that you should have paid no fee or a smaller fee, it will refund the fee you paid or part of it.

If you think the decision was wrong

You may appeal against being refused remission. There is no appeal against being refused exemption.

About appeals

If you applied for remission and you think the NICTS decision 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 why you do not agree with the decision.

If you would like to give more details about your income and expenditure or circumstances, or give other additional evidence, you may send the extra details or evidence with your letter.

NICTS must receive your letter of appeal within 14 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 14 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 deal with your application.

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