

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT CIVIL PROCEEDINGS AND
MAGISTRATES' COURTS FEES
(AMENDMENT) ORDER 2025

Wednesday 12 March 2025

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The Committee consisted of the following Members:

Chair: SIR EDWARD LEIGH

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|---|--|
| † Athwal, Jas (<i>Ilford South</i>) (Lab) | † Sewards, Mark (<i>Leeds South West and Morley</i>) (Lab) |
| † Atkinson, Catherine (<i>Derby North</i>) (Lab) | † Simons, Josh (<i>Makerfield</i>) (Lab) |
| † Babarinde, Josh (<i>Eastbourne</i>) (LD) | Smart, Lisa (<i>Hazel Grove</i>) (LD) |
| † Creasy, Ms Stella (<i>Walthamstow</i>) (Lab/Co-op) | † Thompson, Adam (<i>Erewash</i>) (Lab) |
| † Dakin, Sir Nicholas (<i>Parliamentary Under-Secretary of State for Justice</i>) | Williamson, Sir Gavin (<i>Stone, Great Wyrley and Penkridge</i>) (Con) |
| † Davies, Paul (<i>Colne Valley</i>) (Lab) | † Wood, Mike (<i>Kingswinford and South Staffordshire</i>) (Con) |
| † Dearden, Kate (<i>Halifax</i>) (Lab/Co-op) | |
| † Hall, Sarah (<i>Warrington South</i>) (Lab/Co-op) | Paul Owen, <i>Committee Clerk</i> |
| † Mullan, Dr Kieran (<i>Bexhill and Battle</i>) (Con) | |
| † Rand, Mr Connor (<i>Altrincham and Sale West</i>) (Lab) | † attended the Committee |
| † Rankin, Jack (<i>Windsor</i>) (Con) | |

Third Delegated Legislation Committee

Wednesday 12 March 2025

[SIR EDWARD LEIGH *in the Chair*]

Draft Civil Proceedings and Magistrates' Courts Fees (Amendment) Order 2025

2.30 pm

The Parliamentary Under-Secretary of State for Justice (Sir Nicholas Dakin): I beg to move,

That the Committee has considered the draft Civil Proceedings and Magistrates' Courts Fees (Amendment) Order 2025.

It is a pleasure to serve under your chairmanship, Sir Edward. This draft order makes a technical amendment to three court and tribunal fees to ensure they can continue to be charged at their current level by His Majesty's Courts and Tribunals Service. This forms part of a wider set of amendments to 27 fees, the latest estimated costs of which have fallen below their current value. The 24 fees not included in this affirmative instrument will be reduced by a negative instrument that will shortly be laid before Parliament.

No one will be required to pay a higher fee as a result of the changes made by this draft order. It simply changes the legislative power under which the three fees in question are set without amending the amount charged to HMCTS users. The amendments will protect at least £3.5 million a year in estimated income to help ensure that the courts and tribunals remain efficiently and effectively resourced, thereby reducing the overall cost to the taxpayer.

A properly funded and functioning HMCTS is critical to upholding the Lord Chancellor's statutory duty to protect access to justice. Fees are an essential source of funding for courts and tribunals, with over 300 fees charged for the various administrative and judicial services provided by HMCTS. In line with His Majesty's Treasury's "managing public money" principles, most court fees are set to recover no more than the underlying estimate of what it costs HMCTS to run the corresponding service. Others are set deliberately below the cost of service to ensure that access to justice is protected, such as proceedings concerning domestic abuse.

A minority of HMCTS fees are set under what is known as the enhanced power, via section 180 of the Anti-Social Behaviour, Crime and Policing Act 2014. Enhanced fees can lawfully over-recover their underpinning costs to cross-subsidise HMCTS services, for which low or no fees are payable. Following a substantial review of my Department's costing methodology in relation to court processes, the newly estimated costs of 27 fees were found to have fallen below previous estimates. The revised costing methodology is an improved, more nuanced model that relies on data sources that were not available in the previous methodology.

The powers under which the 27 fees are currently set allow them to recover a maximum of their underlying costs, which means that the fees must either be reduced to their estimated costs or kept as they are, albeit restated

under the 2014 Act as enhanced fees. In line with Treasury principles, it is prudent for the Act to be used sparingly when setting fees that over-recover their cost. The Department's position is therefore that the enhanced power should be reserved for fees that can generate substantial levels of income to cross-subsidise under-recovering parts of HMCTS, provided that doing so has a minimal impact on access to justice. That is why the majority of the 27 fees in question will be reduced, in line with their newly estimated costs, by an upcoming negative instrument, with only three enhanced by this affirmative instrument.

I will explain the services to which the three fees covered by this draft order are attached, and why the Department deems it appropriate that each should be enhanced for the purpose of cross-subsidisation. The first is the 50p fee charged for a council tax liability order. This fee is payable by local authorities to legally demand payment of council tax arrears. HMCTS receives a high volume of CTLO applications each year, which raises significant income to support the running of the courts and tribunals. In 2022-23, 2.1 million CTLOs resulted in £1.1 million of fee income. Enhancing the fee will not only ensure this crucial income is retained, but it will also remove the cost to the taxpayer of adjusting the fee in line with its regularly fluctuating cost.

The second fee is charged at £22 for a warrant of entry. Such warrants are mostly applied for by utility companies to gain legal access to private premises. Similar to CTLOs, high volumes of these warrants are issued each year, generating £7.2 million in fee income for HMCTS in 2022-23 alone. Reducing the fee to cost would place significant financial pressure on the Department at a particularly challenging time.

The third fee relates to ships or goods that are seized in the event of a breach and then sold off at auction. The admiralty court charges several fees, which are payable on the sale of a vessel or goods, but the amount payable varies depending on the value of the ship. The fee relevant to this instrument applies to ships valued over £100,000. Unlike the flat CTLO and warrant of entry fees, this fee is £1 for every £100 of a ship's value up to £100,000, and it increases by a further 50p for every £100 of the ship's value above £100,000, with a minimum fee of £205. Although this fee does not attract the same volume as applications for CTLOs or warrants of entry, it still provides an important source of income for HMCTS because some ships are sold for several million pounds, meaning that even low annual volumes can result in the generation of notable overall income.

I reiterate that this draft order merely maintains the status quo by not increasing the value of any of the three fees restated under the 2014 Act. As a result, there is no anticipated impact on users of the courts and tribunals. The negligible bearing this draft order will have on HMCTS users is echoed in the response to the previous Government's 2023 consultation on a series of updates to court and tribunal fees. The consultation included a proposal to enhance the CTLO fee, but the other two fees in question had not yet been identified as over-recovering at the time of the consultation.

Of those who responded to the proposal, 63% had no view and no further comments to share, and 17% agreed with the proposal, stating that enhancing the fee would not negatively impact users given that its current value

of 50p would be retained. The two respondents who disagreed had incorrectly assumed that the fee was being increased.

I reassure Members that the number of variations between costs and fee values being corrected by this draft order and the accompanying negative instrument is considered higher than usual. That is because of the revisions brought about by the Department's updated costing methodology. Although the costs underpinning HMCTS fees will be reviewed on an annual basis, I do not anticipate the need to amend this many fees each year, thanks to the improvements made by the new methodology. The three fees in question are charged in England and Wales only. This draft order will therefore have no effect on court fees in either Scotland or Northern Ireland.

This draft order can be seen as a corrective statutory instrument that simply delivers minor updates to the statute book for continuity purposes. As such, it does not bring about any practical changes to those affected by court and tribunal fees, and in fact ensures that the fees payable by the relevant court users remain the same. The amendments made by this draft order and its accompanying negative instrument represent the most pragmatic approach to keeping the Department's fees legislation up to date.

2.39 pm

Dr Kieran Mullan (Bexhill and Battle) (Con): It is a pleasure to serve under your chairmanship, Sir Edward. I appreciate the opportunity to speak to the draft order, which seeks to reform the setting of court fees in a number of areas, as the Minister has set out.

Court fees set under section 92 of the Courts Act 2003 may recover costs at only a reasonable predictive estimate of the cost of administration. As the Minister has explained, these reforms relate to three fees. First, fee 4.1 pertains to applications for council tax liability orders, which local authorities use to collect unpaid council tax. Secondly, fee 9.1 addresses applications for warrants of entry. These warrants are most frequently used by utility companies to gain access for disconnections, but they also serve a crucial role in safeguarding vulnerable individuals. Finally, fee 11.2 of the Civil Proceedings Fees Order 2008 covers the cost of selling seized ships or goods valued over £100,000 through High Court auctions.

The fees play an important role in financing the operations of HMCTS. For example, CTLO applications generated £1.1 million in 2022-23, while warrants of entry raised £7.2 million from approximately 327,000 applications. These reforms sit alongside a revised costing methodology introduced by the Ministry of Justice, which offers a

more detailed and accurate assessment of administrative costs. The change ensures that cost assessments better reflect operational realities and provides a clearer basis for determining whether adjustments are necessary.

Although we broadly support this draft order, we ask the Government to provide further reassurances in some key areas. As the Minister emphasised, the draft order does not change the value of fees, though it does establish a framework for future increases above costs. It is essential that any future adjustments are subject to appropriate scrutiny and do not disproportionately impact court users, particularly those on lower incomes. Enhanced fees must not become a barrier to justice. Although these fees are relatively low in nominal terms, they apply to high-volume processes and could affect a significant number of people. We ask the Government to commit to monitoring the impact of these fees to ensure they do not deter individuals or businesses from seeking redress.

The Government have stated that the future revenue from fees will be reinvested in the justice system. We seek assurances that the funds will be used directly to improve court efficiency, reduce delays and enhance digital infrastructure, rather than being absorbed into broader departmental budgets. I also encourage the Government to establish a periodic review process to assess whether these fees continue to be appropriate. Costs fluctuate, so regular reviews would ensure that fees remain fair and proportionate over time. We urge the Government to engage with stakeholders and to commit to regular reviews to ensure that court fees continue to serve their intended purpose without creating unintended barriers for court users.

We support this draft order, but we will remain vigilant in holding the Government accountable for its implementation.

2.41 pm

Sir Nicholas Dakin: I thank the hon. Member for Bexhill and Battle for his contribution. He is right that any future changes should have proper scrutiny, like the scrutiny we are providing today, and the Government are always willing to commit to monitoring the impact of such changes such as those made by the draft order. However, I note that these decisions maintain what is currently happening, rather than bringing about any change to charges. All the funds will go directly into the justice system, as he rightly encourages, and fees will always be kept under proper review.

Question put and agreed to.

2.42 pm

Committee rose.

