
STATUTORY INSTRUMENTS

2003 No. 435

Access to Justice (Northern Ireland) Order 2003

[^{F1}PART 2

CIVIL LEGAL SERVICES AND CRIMINAL DEFENCE SERVICES]

Civil legal services

Civil legal services

- 10.—[^{F1}(1) For the purposes of this Order “civil legal services” means—
- (a) in relation to any time after the coming into operation of Article 21, advice, assistance and representation, other than advice, assistance or representation which the Department is required to fund as criminal defence services; and
 - (b) in relation to any time before the coming into operation of Article 21, advice, assistance and representation other than representation in proceedings for the purposes of which free legal aid may be given under Part 3 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.]
- (2) The Lord Chancellor may by order provide that “civil legal services” is to include services (other than advice, assistance and representation) which—
- (a) are specified in the order,
 - (b) fall within any of the descriptions specified in paragraph (3), and
 - (c) are not services which the [^{F2}Department] is required to fund as criminal defence services.
- (3) The descriptions of services referred to in paragraph (2) are—
- (a) the provision of general information about the law and legal system and the availability of legal services,
 - (b) the provision of help by the giving of advice as to how the law applies in particular circumstances,
 - (c) the provision of help in preventing, or settling or otherwise resolving, disputes about legal rights and duties,
 - (d) the provision of help in enforcing decisions by which such disputes are resolved, and
 - (e) the provision of help in relation to legal proceedings not relating to disputes.
- (4) An order under paragraph (2) may make provision, including provision amending this Order—
- (a) about financial matters relating to services specified in the order (including, in particular, provision about eligibility, contributions, charges, remuneration and costs);
 - (b) modifying the application of Articles 11 to 20 in relation to such services.

Changes to legislation: Access to Justice (Northern Ireland) Order 2003, Cross Heading: Civil legal services is up to date with all changes known to be in force on or before 09 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) Every person who exercises any function relating to civil legal services shall have regard to the desirability of exercising it, so far as is reasonably practicable, so as to—

- (a) promote improvements in the quality of those services and in the ways in which they are made accessible to those who need them,
- (b) secure that the services provided in relation to any matter are appropriate having regard to its nature and importance, and
- (c) achieve the swift and fair resolution of disputes without unnecessary or unduly protracted proceedings in court.

F1 Art. 10(1) substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(2)(d)(ii), **Sch. 2 para. 6(9)** (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 10)

F2 Word in art. 10(2) substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(2)(d)(ii), **Sch. 2 para. 6(10)** (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 10)

Commencement Information

I1 Art. 10 in operation at 1.4.2015 by [S.R. 2015/194](#), art. 2, **Sch.** (with art. 3)

[^{F3}Funding of civil legal services by Department

11.—(1) Civil legal services shall be funded by the Department out of moneys appropriated for that purpose by Act of the Assembly.

(2) In funding civil legal services the Department shall aim to obtain the best possible value for money.]

F3 Art. 11 substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(2)(d)(ii), **Sch. 2 para. 6(11)** (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 11)

Commencement Information

I2 Art. 11 in operation at 1.4.2015 by [S.R. 2015/194](#), art. 2, **Sch.** (with art. 3)

Services which may be funded

12.—(1) The [^{F4}Department] shall set priorities in its funding of civil legal services, and the priorities shall be set—

^{F5}(a)

(b) after taking into account the need for such services.

(2) The [^{F6}Department] may fund civil legal services by—

- (a) entering into contracts with persons or bodies for the provision of services by them,
- (b) making payments to persons or bodies in respect of the provision of services by them,
- (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, services,
- (d) establishing and maintaining bodies to provide, or facilitate the provision of, services,
- (e) making grants or loans to individuals to enable them to obtain services,
- (f) itself providing services, or

(g) doing anything else which it considers appropriate for funding services, but this paragraph is subject to Article 41.

[^{F7}(3) The Department may by order make provision about the payment of remuneration by the Department to persons who provide civil legal services.]

(4) The [^{F8}Department] may fund different civil legal services, or civil legal services provided by different means—

- (a) in relation to different areas in Northern Ireland, and
- (b) in relation to different descriptions of cases.

(5) [^{F9}Except as provided by Article 12A, the Department] may not fund as civil legal services any of the services specified in Schedule 2.

(6) Regulations may amend Schedule 2 by adding new services or omitting or varying any services; and regulations under this paragraph may, in particular, describe the services which are not to be funded as civil legal services by reference to—

- (a) the court or tribunal before which proceedings are to take place,
- (b) the issues involved, or
- (c) the capacity in which a person seeking a service is concerned.

(7) If the effect of regulations amending Schedule 2 under paragraph (6) is that no advice or assistance of any description is to be funded as regards any area, then, so long as Schedule 2 so provides, Article 14(2)(b), 3(b), (6) and (7), and the words “advice, assistance and” in Article 10(1), shall not have effect.

Paras. (8)-(11) rep. by 2005 NI 19

- F4** Word in art. 12(1) substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(12\)\(a\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 12)
- F5** Art. 12(1)(a) repealed (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(12\)\(a\), Sch. 3 Pt. 1](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 12)
- F6** Word in art. 12(2) substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(12\)\(b\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 12)
- F7** Art. 12(3) substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(12\)\(c\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 12)
- F8** Word in art. 12(4) substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(12\)\(d\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 12)
- F9** Words in art. 12(5) substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(12\)\(e\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 12)

Commencement Information

- I3** Art. 12(1)-(7) in operation at 1.4.2015 by [S.R. 2015/194, art. 2, Sch.](#) (with [art. 3](#))

[^{F10}Exceptional funding

12A.—(1) The Department is to fund the provision of any of the services specified in Schedule 2 to an individual if paragraph (2) or (4) is satisfied.

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- (2) This paragraph is satisfied if the Director—
- (a) has determined that the individual satisfies the requirements of regulations under Article 13 in relation to the services, and
 - (b) has made an exceptional case determination in relation to the individual and the services, (and has not withdrawn either determination).
- (3) An exceptional case determination is a determination—
- (a) that it is necessary to make the services available to the individual under this Order because failure to do so would be a breach of—
 - (i) the individual's Convention rights (within the meaning of the Human Rights Act 1998), or
 - (ii) any rights of the individual to the provision of legal services that are [F11]rights (as modified from time to time) which form part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018], or
 - (b) that it is appropriate to do so, in the particular circumstances of the case, having regard to any risk that failure to do so would be such a breach.
- (4) This paragraph is satisfied if—
- (a) the services consist of representation in proceedings at an inquest under the Coroners Act (Northern Ireland) 1959 into the death of a member of the individual's family,
 - (b) the Director has made a wider public interest determination in relation to the individual and the inquest, and
 - (c) the Director has determined that the individual satisfies the requirements of regulations under Article 13 in relation to the services,
- (and neither determination has been withdrawn).
- (5) A wider public interest determination is a determination that, in the particular circumstances of the case, the provision of representation for the individual for the purposes of the inquest is likely to produce significant benefits for a class of person, other than the individual and the members of the individual's family.
- (6) For the purposes of this Article an individual is a member of another individual's family if—
- (a) they are relatives (whether of the full blood or half blood or by marriage or civil partnership),
 - (b) they are cohabitantes (as defined in Article 3(1) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998), or
 - (c) one has parental responsibility for the other.
- (7) Articles 14 to 20 do not apply to civil legal services funded under this Article unless they are applied (with or without modification) by an exceptional case determination or a wider public interest determination.]

F10 Art. 12A substituted (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), s. 12(2)(d)(ii), **Sch. 2 para. 6(13)** (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, **art. 12A**)

F11 Words in art. 12A(3)(a)(ii) substituted (31.12.2020) by The Civil Legal Aid (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/505), regs. 1(1), **2(2)** (with regs. 8, 9) (as amended by S.I. 2020/1493, regs. 1(1), 7(2)-(4)): 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I4 Art. 12A in operation at 1.4.2015 by S.R. 2015/194, art. 2, Sch. (with art. 3)

Individuals for whom services may be funded

13.—(1) The [F12Department] may only fund civil legal services for an individual if his financial resources are such that, under regulations, he is an individual for whom the services may be funded by the [F12Department] .

(2) Regulations may provide that, in prescribed circumstances and subject to any prescribed conditions, services of a prescribed description may be funded by the [F12Department] for individuals without reference to their financial resources.

(3) Regulations under this Article may include provision requiring the furnishing of information.

F12 Word in art. 13(1)(2) substituted (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), s. 12(2)(d)(ii), Sch. 2 para. 6(14) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 13)

Commencement Information

I5 Art. 13 in operation at 1.4.2015 by S.R. 2015/194, art. 2, Sch. (with art. 3)

Decisions about provision of funded services

14.—(1) The services which the [F13Department] may fund as civil legal services are those which the [F13Department] considers appropriate (subject to Article 12(5) and the priorities set under Article 12(1)).

(2) Any decision as to whether to fund civil legal services for an individual shall—

(a) in the case of representation, be taken—

(i) by the [F14Director] , or

(ii) in prescribed circumstances, by such person as may be prescribed;

(b) in the case of advice and assistance, be taken by the person from whom the advice or assistance is sought.

[F15(2A) A grant of representation for an individual for the purposes of proceedings—

(a) shall not be made unless the individual shows there are reasonable grounds for taking, defending or being a party to the proceedings; and

(b) may be refused if, in the particular circumstances of the case, it appears unreasonable that representation should be granted.

(2B) Guidance given to the Director under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 may, in particular, include guidance as to the criteria according to which any decision is to be taken by the Director under paragraph (2A).]

(3) The grant of representation for the purposes of proceedings includes any such advice and assistance as to an appeal—

(a) as may be specified by the [F16Director] , or

(b) as may be prescribed in relation to representation granted by virtue of paragraph (2)(a)(ii).

(4) The [F17Department] may fund representation for an individual for a limited period, for the purposes of specified proceedings only, or for the purposes of limited aspects of proceedings, and

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may amend, withdraw or revoke the representation, or vary or remove any limitation imposed on the representation.

(5) Without prejudice to the generality of paragraph (4), the grant of representation may be limited under that paragraph as regards the persons who may represent the individual to representation only in pursuance of a contract made with the [F17Department] .

(6) Regulations may—

- (a) prohibit the giving of advice or assistance without the approval of the [F18Director] to the extent that the costs of giving it exceed such limit as may be prescribed;
- (b) prohibit the funding of advice or assistance by the [F19Department] except where it is provided by a person in pursuance of a contract made with the [F19Department] .

(7) No decision may be taken under this Article to fund advice and assistance for an individual in connection with any proceedings at a time when he has been granted a right to representation in respect of those proceedings under any provision of this Part (but this does not affect paragraph (3) or any assistance included in representation).

F13 Word in art. 14(1) substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(15\)\(a\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 14)

F14 Word in art. 14(2)(a)(i) substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(15\)\(b\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 14)

F15 Art. 14(2A)(2B) inserted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(15\)\(c\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 14)

F16 Word in art. 14(3)(a) substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(15\)\(d\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 14)

F17 Word in art. 14(4)(5) substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(15\)\(e\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 14)

F18 Word in art. 14(6)(a) substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(15\)\(f\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 14)

F19 Word in art. 14(6)(b) substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(15\)\(g\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 14)

Commencement Information

I6 Art. 14 in operation at 1.4.2015 by [S.R. 2015/194, art. 2, Sch.](#) (with art. 3)

[F20Regulations as to procedures for funding decisions

15. The Department may make regulations as to the procedures for the making of decisions about the funding by the Department of civil legal services, including—

- (a) provision about the form and content of applications for funding,
- (b) provision imposing conditions which must be satisfied by an individual applying for funding,
- (c) provision requiring applicants to be informed of the reasons for any decision to refuse an application,

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- (d) provision for the giving of information to individuals whose applications are refused about alternative ways of obtaining or funding services, and
- (e) provision establishing procedures for reviews of decisions about funding and for the giving of information about those procedures.]

F20 Art. 15 substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(2)(d)(ii), [Sch. 2 para. 6\(16\)](#) (with ss. 2(3), 9, [Sch. 1 para. 3\(3\)](#)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 15)

Commencement Information

I7 Art. 15 in operation at 1.4.2015 by [S.R. 2015/194](#), art. 2, [Sch.](#) (with art. 3)

Procedure relating to funding code

^{F21}**16.**

F21 Art. 16 repealed (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(2)(d)(ii), [Sch. 2 para. 6\(17\)](#), [Sch. 3 Pt. 1](#) (with ss. 2(3), 9, [Sch. 1 para. 3\(3\)](#)) (Art. 16 never came into operation)

Terms of provision of funded services

17.—(1) An individual for whom civil legal services are funded by the [^{F22}Department] shall not be required to make any payment in respect of the services except where regulations otherwise provide.

(2) Regulations may provide that, in prescribed circumstances, an individual for whom civil legal services are so funded shall—

- (a) pay a fee of such amount as is fixed by or determined under the regulations,
- (b) if his financial resources are, or relevant conduct is, such as to make him liable to do so under the regulations, pay the cost of the services or make a contribution in respect of the cost of the services of such amount as is so fixed or determined, or
- (c) if the services relate to a dispute and he has agreed to make a payment (which may exceed the cost of the services) only in specified circumstances, make in those circumstances a payment of the amount agreed, or determined in the manner agreed, by him;

and in sub-paragraph (b) “relevant conduct” means conduct in connection with the services (or any application for their funding) or in, or in connection with, any proceedings in relation to which they are provided.

(3) The regulations may include provision for any amount payable in accordance with the regulations to be payable by periodical payments or one or more capital sums, or both.

(4) The regulations may also include provision for the payment by an individual of interest (on such terms as may be prescribed) in respect of—

- (a) any loan made to him by the [^{F22}Department] in connection with civil legal services,
- (b) any payment in respect of the cost of services required by the regulations to be made by him later than the time when the services are provided, or
- (c) so much of any payment required by the regulations to be made by him which remains unpaid after the time when it is required to be paid.

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(5) The regulations shall include provision for the repayment to an individual of any payment made by him in excess of his liability under the regulations.

(6) The regulations may—

- (a) include provision requiring the furnishing of information, and
- (b) make provision for the determination of the cost of services for the purposes of the regulations.

(7) Except so far as regulations otherwise provide, where civil legal services have been funded by the [F22Department] for an individual, sums expended by the [F22Department] in funding the services (except to the extent that they are recovered under Articles 18 to 20), and other sums payable by the individual by virtue of regulations under this Article, shall constitute a first charge—

- (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to him in respect of the matter in connection with which the services are provided, and
- (b) on any property (of whatever nature and wherever situated) which is recovered or preserved by him (whether for himself or any other person) in connection with that matter, including any property recovered or preserved in any proceedings and his rights under any compromise or settlement arrived at to avoid or bring to an end any proceedings.

(8) Regulations may make provision about the charge, including—

- (a) provision as to whether it is in favour of the [F22Department] or the body or person by whom the services were provided, and
- (b) provision about its enforcement.

F22 Word in art. 17 substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(18\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 17)

Commencement Information

I8 Art. 17 in operation at 1.4.2015 by [S.R. 2015/194, art. 2, Sch.](#) (with art. 3)

Costs orders against assisted parties

18.—(1) Except in prescribed circumstances, costs ordered against an individual in relation to any proceedings or part of proceedings funded for him shall not exceed the amount (if any) which is a reasonable one for him to pay having regard to all the circumstances, including—

- (a) the financial resources of all parties to the proceedings, and
- (b) their conduct in connection with the dispute to which the proceedings relate;

and for this purpose proceedings, or a part of proceedings, are funded for an individual if civil legal services relating to the proceedings or part are funded for him by the [F23Department] .

(2) In assessing for the purposes of paragraph (1) the financial resources of an individual for whom civil legal services are funded by the [F23Department] , his clothes and household furniture and the tools and implements of his trade shall not be taken into account, except so far as may be prescribed.

F23 Word in art. 18 substituted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(2\)\(d\)\(ii\), Sch. 2 para. 6\(19\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 18)

Commencement Information

19 Art. 18 in operation at 1.4.2015 by S.R. 2015/194, art. 2, Sch. (with art. 3)

Costs of successful unassisted parties

19.—(1) This Article applies to proceedings—

- (a) to which an individual, for whom civil legal services relating to the proceedings, or to a part of the proceedings, are funded by the [F24Department] , is a party, and
- (b) which are finally decided in favour of a party for whom such services are not so funded (“the unassisted party”).

(2) In any proceedings to which this Article applies the court by which the proceedings were so decided may, subject to paragraphs (3) and (4), make an order for the payment by the [F24Department] to the unassisted party of the whole or any part of the costs incurred by him in the proceedings.

(3) Before making an order under this Article, the court shall consider what orders should be made for costs against the party for whom civil legal services relating to the proceedings, or to a part of the proceedings, are funded by the [F24Department] and for determining his liability in respect of such costs.

(4) An order under this Article in respect of any costs may only be made if—

- (a) an order for costs would be made in the proceedings apart from this Order;
- (b) as respects the costs incurred in a court of first instance, those proceedings were instituted by the party for whom civil legal services relating to the proceedings, or to a part of the proceedings, are funded by the [F24Department] and the court is satisfied that the unassisted party will suffer financial hardship unless the order is made; and
- (c) in any case, the court is satisfied that it is just and equitable in all the circumstances of the case that provision for the costs should be made out of public funds.

(5) Without prejudice to any other provision restricting appeals from any court, no appeal shall lie against an order under this Article, or against a refusal to make such an order, except on a point of law.

(6) In this Article “costs” means costs as between party and party, and includes the costs of applying for an order under this Article.

(7) For the purposes of this Article proceedings shall be treated as finally decided in favour of the unassisted party—

- (a) if no appeal lies against the decision in his favour,
- (b) if an appeal lies against the decision with leave, and the time limited for applications for leave expires without leave being granted, or
- (c) if leave to appeal against the decision is granted or is not required, and no appeal is brought within the time limited for appeal,

and where an appeal against the decision is brought out of time the court by which the appeal (or any further appeal in those proceedings) is determined may make an order for the repayment by the unassisted party to the [F24Department] of the whole or any part of any sum previously paid to him under this Article in respect of those proceedings.

(8) Where a court decides any proceedings in favour of the unassisted party and an appeal lies (with or without leave) against that decision, the court may, if it thinks fit, make or refuse to make an order under this Article forthwith, but if an order is made forthwith it shall not take effect—

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- (a) where leave to appeal is required, unless the time limited for applications for leave to appeal expires without leave being granted;
- (b) where leave to appeal is granted or is not required, unless the time limited for appeal expires without an appeal being brought.

(9) Where a party begins to receive civil legal services after the proceedings have been instituted, or ceases to receive such services before they are finally decided, or otherwise receives such services in connection with part only of the proceedings, the reference in paragraph (2) to the costs incurred by the unassisted party in the proceedings shall be construed as a reference to so much of those costs as is attributable to that part.

(10) For the purposes of this Article “court” includes a tribunal.

F24 Word in art. 19 substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(2)(d)(ii), **Sch. 2 para. 6(20)** (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 19)

Commencement Information

I10 Art. 19 in operation at 1.4.2015 by [S.R. 2015/194](#), art. 2, **Sch.** (with art. 3)

Regulations about costs in funded cases

20.—(1) Subject to Articles 18 and 19, regulations may make provision about costs in relation to proceedings in relation to which, or to a part of which, civil legal services are funded for any of the parties by the [F25Department] .

(2) The regulations may, in particular, make provision—

- (a) specifying the principles to be applied in determining the amount of any costs which may be awarded against a party for whom civil legal services are funded by the [F25Department] ,
- (b) limiting the circumstances in which, or the extent to which, an order for costs may be enforced against such a party,
- (c) as to the cases in which, and extent to which, such a party may be required to give security for costs and the manner in which it is to be given,
- (d) requiring the payment by the [F25Department] of the whole or part of any costs incurred by a party for whom civil legal services are not funded by the [F25Department] ,
- (e) specifying the principles to be applied in determining the amount of any costs which may be awarded to a party for whom civil legal services are funded by the [F25Department] ,
- (f) requiring the payment to the [F25Department] , or the person or body by which the services were provided, of the whole or part of any sum awarded by way of costs to such a party, and
- (g) as to the court, tribunal or other person or body by whom the amount of any costs is to be determined and the extent to which any determination of that amount is to be final.

F25 Word in art. 20 substituted (18.11.2014) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(2)(d)(ii), **Sch. 2 para. 6(21)** (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, art. 20)

Commencement Information

I11 Art. 20 in operation at 1.4.2015 by [S.R. 2015/194](#), art. 2, **Sch.** (with art. 3)

[^{F26}Appeal panels

- 20A.**—(1) The Department must by regulations make provision for—
- (a) the constitution and procedure of appeal panels; and
 - (b) appeals to such a panel against prescribed decisions taken in the exercise of functions conferred or imposed on the Director by or under Articles 12A to 20.
- (2) The regulations may in particular—
- (a) provide for an appeal panel to consist of—
 - (i) a presiding member, selected in the prescribed manner from a list of persons appointed by the Department to act as presiding members of appeal panels; and
 - (ii) a prescribed number of other members, selected in the prescribed manner from a list of persons appointed by the Department to act as other members of appeal panels;
 - (b) prescribe qualifications for appointment to a list mentioned in sub-paragraph (a);
 - (c) provide for disqualifying prescribed persons or persons of prescribed descriptions for membership of an appeal panel;
 - (d) provide for two or more appeal panels to sit at the same time;
 - (e) provide for appeal panels to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;
 - (f) provide for the decision on an appeal to be taken without hearing any oral representations, except in such cases as may be prescribed;
 - (g) provide for the powers of an appeal panel on determining an appeal;
 - (h) require an appeal panel to give reasons in writing for its decision on an appeal;
 - (i) provide for a decision of the appeal panel on an appeal to be final;
 - (j) provide that all matters relating to the procedure of an appeal panel on an appeal which are not specifically regulated by the regulations are to be determined by the presiding member;
 - (k) contain such other provision as appears to the Department necessary or expedient for the efficient and effective working of the appeal panels.
- (3) The Department—
- (a) may make payments to the members of an appeal panel of amounts or at rates not exceeding such amounts or rates, and on such conditions, as the Department may determine;
 - (b) shall arrange for the provision to appeal panels of such facilities, staff and assistance as the Department considers appropriate;
 - (c) shall meet any other costs properly incurred by such panels.]

F26 Art. 20A inserted (18.11.2014) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014](#) (c. 11), s. 12(2)(d)(ii), [Sch. 2 para. 6\(22\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3))

Changes to legislation:

Access to Justice (Northern Ireland) Order 2003, Cross Heading: Civil legal services is up to date with all changes known to be in force on or before 09 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 2(ic)(id) inserted by [2023 c. 37 s. 56\(8\)](#)
- Sch. 4 para. 10(b)(c) coming into force by [S.R. 2015/194 art. 2Sch.](#) (This amendment is not be applied - relevant text is not available on [legislation.gov.uk](#))
- art. 14(2AA) inserted by [2023 c. 37 s. 56\(7\)](#)
- art. 27A inserted by [2011 c. 24 \(N.I.\) s. 84\(2\)](#)
- art. 27A(1)(2) word substituted by [2014 c. 11 \(N.I.\) Sch. 2 para. 6\(28\)](#)
- art. 46(5A) inserted by [2011 c. 24 \(N.I.\) s. 84\(4\)](#)