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STATUTORY INSTRUMENTS

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**2003 No. 435**

**Access to Justice (Northern Ireland) Order 2003**

**PART IV**

**SUPPLEMENTARY**

**Application to Crown**

**45.** This Order binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

**Orders, regulations and directions**

**46.—(1)** Any direction given by the Lord Chancellor to the Commission under Part II may be varied or revoked.

(2) No directions may be given by the Lord Chancellor to the Commission under Part II in relation to individual cases.

(3) The Lord Chancellor shall either—

- (a) publish, or
- (b) require the Commission to publish,

any directions given by him under Part II.

(4) Any order or regulations made by the Lord Chancellor under this Order may contain such incidental, supplemental, consequential, saving or transitional provisions as the Lord Chancellor thinks fit; and, without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954<sup>(1)</sup>, any power conferred by this Order to make regulations or orders includes power to make different provision for different areas.

(5) No order shall be made under Article 4(4), 5, 10(2), 11(9)(b), 15(7), 29(3) or 38(3) and no regulations shall be made under Article 12(6), 18(1), 20(2)(b) or (d), 28, 30(2)(a) or (5), 32(1), 36 or 39(3) unless a draft of the order or regulations has been laid before, and approved by resolution of, each House of Parliament.

(6) Any other order or regulations under this Order, other than an order under Article 1(2) or 48 or paragraph 2(6) of Schedule 3, shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946<sup>(2)</sup> shall apply accordingly.

**Remuneration orders**

**47.—(1)** When making any remuneration order the Lord Chancellor shall have regard, among the matters which are relevant, to—

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(1) 1954 c. 33 (N.I.)  
(2) 1946 c. 36.

- (a) the time and skill which the provision of services of the description to which the order relates requires;
  - (b) the number and general level of competence of persons providing those services;
  - (c) the cost to public funds of any provision made by the regulations; and
  - (d) the need to secure value for money.
- (2) Before making any remuneration order, the Lord Chancellor—
- (a) shall consult the Lord Chief Justice, the Law Society, the General Council of the Bar of Northern Ireland and, if the remuneration order relates to criminal defence services, the Director of Public Prosecutions, and
  - (b) may undertake such other consultation as appears to him to be appropriate.
- (3) When the Lord Chancellor is making provision in a remuneration order which prescribes fees which are to be paid to persons or bodies in respect of the provision of services by them, nothing in paragraph (1) requires him to have regard to any fee payable, otherwise than in accordance with a remuneration order, in respect of the provision of such services.
- (4) In paragraphs (1) to (3) “remuneration order” means an order under Article 12(3), 23(3) or 24(3) which relates to the payment by the Commission of remuneration—
- (a) for the provision of services by persons or bodies in individual cases, or
  - (b) by reference to the provision of services by persons or bodies in specified numbers of cases.
- (5) Until the Attorney General is a person appointed under section 22(2) of the Justice (Northern Ireland) Act 2002(3), the reference in paragraph (2) to the Director of Public Prosecutions shall be construed as a reference to the Attorney General.

### **Transitional provisions and savings**

- 48.**—(1) The Lord Chancellor may by order make such transitional provisions and savings as he considers appropriate in connection with the coming into operation of any provision of this Order.
- (2) Schedule 3 (transitional provisions and savings) shall have effect.
- (3) Nothing in Schedule 3 limits paragraph (1) or the operation of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954.

### **Minor and consequential amendments and repeals**

- 49.**—(1) The statutory provisions specified in Schedule 4 shall be amended as specified in that Schedule.
- (2) The statutory provisions specified in Schedule 5 are hereby repealed to the extent specified in column 3 of that Schedule.