

Changes to legislation: Access to Justice (Northern Ireland) Order 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 21 March 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

SCHEDULES

SCHEDULE 2

Article 12(5)

CIVIL LEGAL SERVICES: EXCLUDED SERVICES

Commencement Information

I1 Sch. 2 in operation at 1.4.2015 by S.R. 2015/194, art. 2, Sch. (with art. 3)

1. [^{F1}The Department] may not fund services consisting of the provision of advice (beyond the provision of general information about the law and the legal system and the availability of legal services) or assistance in relation to—

- (a) conveyancing,
- (b) boundary disputes,
- (c) the making of wills,
- (d) matters of trust law,
- (e) defamation or malicious falsehood,
- (f) matters of company or partnership law, or
- (g) other matters arising out of the carrying on of a business.

F1 Words in Sch. 2 para. 1 substituted (1.4.2015) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), s. 12(1), Sch. 2 para. 6(41)(a) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)

Commencement Information

I2 Sch. 2 para. 1 in operation at 1.4.2015 by S.R. 2015/194, art. 2, Sch. (with art. 3)

2. [^{F2}The Department] may not fund services consisting of representation in any proceedings, except, subject to paragraph 4, such proceedings as are specified in sub-paragraphs (a) to (j)—

- (a) proceedings in—
 - (i) the [^{F3}Supreme Court] in the exercise of its jurisdiction in relation to any appeal from Northern Ireland,
 - (ii) ^{F4}.....
 - (iii) the Court of Appeal,
 - (iv) the High Court, or
 - (v) any county court,

(b) proceedings before any person to whom a case is referred (in whole or in part) in any proceedings within sub-paragraph (a),

[^{F5}(ba) proceedings in the Crown Court for the variation or discharge of an order under Article 7 or 7A of the Protection from Harassment (Northern Ireland) Order 1997;

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- (bb) proceedings in the Crown Court for the variation or discharge of a witness anonymity order under section 91 or 92 of the Coroners and Justice Act 2009;]
- (c) proceedings in the Crown Court under the Proceeds of Crime Act 2002^{F6} to the extent specified in paragraph 3,
- (d) proceedings in a court of summary jurisdiction—
 - (i) for or relating to an order under the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945^{F7} or the Domestic Proceedings (Northern Ireland) Order 1980^{F8} or the Family Homes and Domestic Violence (Northern Ireland) Order 1998^{F9} [F10 or Schedule 16 to the Civil Partnership Act 2004],
 - (ii) under section 22 of the Maintenance Orders Act 1950^{F11} or section 13 of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966^{F12},
 - (iii) under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972^{F13} relating to a maintenance order made by a court of a country outside the United Kingdom,
 - (iv) such as are referred to in paragraph (i) and are brought by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972,
 - (v) which are debt or ejection proceedings within the meaning of Part VI of the Magistrates' Courts (Northern Ireland) Order 1981^{F14}, other than proceedings under Article 62(2) of that Order,
 - (vi) under section 97, 143 or 144(1) of the Children and Young Persons Act (Northern Ireland) 1968^{F15} or the Children (Northern Ireland) Order 1995^{F16},
 - (vii) under Article 101 of the Health and Personal Social Services (Northern Ireland) Order 1972^{F17} or section 101 of the Social Security Administration (Northern Ireland) Act 1992^{F18},
 - (viii) which are appeals under Article 22 of the Child Support (Northern Ireland) Order 1991^{F19}, so far as such appeals are to be made to a court of summary jurisdiction by virtue of Article 2 of the Child Support Appeals (Jurisdiction of Courts) Order (Northern Ireland) 1993^{F20},
 - (ix) under Article 28 of the Child Support (Northern Ireland) Order 1991,
Sub para. (x) rep. by 2003 c. 42
 - (xi) for an order or direction under paragraph 3, 5, 6, 9 or 10 of Schedule 1 to the Anti-Terrorism, Crime and Security Act 2001^{F21, F22} . . .
 - (xii) for an order or direction under section [F23 195M,][F24 215A,] 295, 297, [F25 297E, 297F,] 298, 301 or 302 of the Proceeds of Crime Act 2002, ^{F26}...
 - [F27(xiii) under section 89, 90, 97, 100, 104, 108, 109, 114, 118, 123, 125 or 126 of the Sexual Offences Act 2003,]
 - [F28(xiv) for the discharge or variation of an order under section 195M of the Proceeds of Crime Act 2002, or
 - (xv) which relate to a direction under section 215D of the Proceeds of Crime Act 2002,]
 - [F29(xvi) for the variation or discharge of an order under Article 7 or 7A of the Protection from Harassment (Northern Ireland) Order 1997,
 - (xvii) for an order or the variation, renewal or discharge of an order under paragraph 5 or 10 of Schedule 5 to the Counter-Terrorism Act 2008,

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- (xviii) for the discharge of an investigation anonymity order under section 80 of the Coroners and Justice Act 2009,
- (xix) for the variation or discharge of a witness anonymity order under section 91 or 92 of the Coroners and Justice Act 2009;]
- ^{F30}(xx)
- [^{F31}(xxi) under paragraph 8 of Schedule 1 to the Counter-Terrorism and Security Act 2015;]
- [^{F32}(xxii) under Article 44 or 45 of the Police and Criminal Evidence (Northern Ireland) Order 1989;
- (xxiii) under paragraph 29 or 36 of Schedule 8 to the Terrorism Act 2000;
- (xxiv) under Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;]
- [^{F33}(xxv) under paragraph 2, 6 or 7 of Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015;
- (xxvi) under section 57, 60 or 61 of the Justice Act (Northern Ireland) 2015;]
- (e) proceedings in any devolution issue (within the meaning of Schedule 10 to the Northern Ireland Act 1998, Schedule 8 to the Government of Wales Act 1998^{F34} or Schedule 6 to the Scotland Act 1998^{F35}) before any court in Northern Ireland,
- (f) proceedings brought by an individual before the Proscribed Organisations Appeal Commission,
- (g) proceedings before the Mental Health Review Tribunal,
- (h) proceedings in the Lands Tribunal for Northern Ireland,
- [^{F36}(hh) proceedings under Article 3 or 4 of the Anti-social Behaviour (Northern Ireland) Order 2004;]
- [^{F37}(i) proceedings before ^{F38}... the Special Immigration Appeals Commission,]
- [^{F39}(ia) proceedings before the First-tier Tribunal under—
- [^{F40}(i) Schedule 10 to the Immigration Act 2016;]
- (ii) section 40A of the British Nationality Act 1981;
- (iii) Part 5 of the Nationality, Immigration and Asylum Act 2002; or
- (iv) regulation 26 of the Immigration (European Economic Area) Regulations 2006,
- (ib) proceedings before the Upper Tribunal arising out of proceedings within sub-paragraph (ia),]
- (j) proceedings in the Enforcement of Judgments Office in connection with any proceedings mentioned in sub-paragraphs (a) to (i).
- [^{F41}(ja) proceedings before the Parole Commissioners for Northern Ireland;
- (jb) proceedings before the Care Tribunal under Article 11, 12, 42 or 43 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 or regulation 10 of the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007;
- (jc) proceedings under Part 13A of the Prison and Young Offenders Centre Rules (Northern Ireland) 1995.]
- (k) ^{F42}

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- F2** Words in Sch. 2 para. 2 substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(41)(a)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F3** Words in Sch. 2 para. 2(a)(i) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, Sch. 9 para. 84; S.I. 2009/1604, **art. 2(a)(d)**
- F4** Sch. 2 para. 2(a)(ii) repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 146, 148, Sch. 18 Pt. 5; S.I. 2009/1604, **art. 2(f)**
- F5** Sch. 2 para. 2(ba)(bb) inserted (7.1.2013) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), **ss. 86(2)**, 111(3); S.R. 2012/449, art. 2(b)
- F6** 2002 c. 29
- F7** 1945 c.14 (NI)
- F8** 1980 NI 5
- F9** 1998 NI 6
- F10** 2004 c. 33
- F11** 1950 c. 37
- F12** 1966 c. 35 (NI)
- F13** 1972 c. 18
- F14** 1981 NI 26
- F15** 1968 c. 34 (NI)
- F16** 1995 NI 2
- F17** 1972 NI 14
- F18** 1992 c. 8
- F19** 1991 NI 23
- F20** SR 1993/104
- F21** 2001 c. 24
- F22** 2003 c. 42
- F23** Word in Sch. 2 para. 2(d)(xii) inserted (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), **Sch. 7 para. 96(2)(a)**; S.I. 2016/147, art. 3(i)
- F24** Word in Sch. 2 para. 2(d)(xii) inserted (7.1.2013) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), **ss. 86(3)**, 111(3); S.R. 2012/449, art. 2(b)
- F25** Words in Sch. 2 para. 2(d)(xii) inserted (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), **Sch. 7 para. 112**; S.I. 2016/147, art. 3(j)
- F26** Word in Sch. 2 para. 2(d)(xii) repealed (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), **Sch. 8 Pt. 4**; S.I. 2016/147, art. 3(k)
- F27** 2003 c. 42
- F28** Sch. 2 para. 2(d)(xiv)(xv) inserted (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), **Sch. 7 para. 96(2)(b)**; S.I. 2016/147, art. 3(i)
- F29** Sch. 2 para. 2(d)(xvi)-(xix) inserted (7.1.2013) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), **ss. 86(4)**, 111(3); S.R. 2012/449, art. 2(b)
- F30** Sch. 2 para. 2(d)(xx) omitted (31.12.2020) by virtue of [The Civil Legal Aid \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/505\)](#), regs. 1(1), **2(3)** (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)
- F31** Sch. 2 para. 2(d)(xxi) inserted (13.2.2015) by [Counter-Terrorism and Security Act 2015 \(c. 6\)](#), **ss. 1(3)**, 52(1)
- F32** Sch. 2 para. 2(d)(xxii)-(xxiv) inserted (1.10.2016) by [The Civil Legal Services \(Scope\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/202\)](#), regs. 1, **3**
- F33** Sch. 2 para. 2(d)(xxv)(xxvi) inserted (1.12.2016) by [The Civil Legal Services \(Scope\) \(No. 2\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/416\)](#), regs. 1, **2**
- F34** 1998 c. 38
- F35** 1998 c. 46
- F36** Sch. 2 para. 2(hh) inserted (8.6.2008) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(3)(a), **84(1)**
- F37** 2004 c. 19

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- F38** Words in Sch. 2 para. 2(i) repealed (7.1.2013) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 86(5), 111(3), **Sch. 8 Pt. 3**; S.R. 2012/449, art. 2(b)
- F39** Sch. 2 para. 2(ia)(ib) inserted (7.1.2013) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 86(6), 111(3); S.R. 2012/449, art. 2(b)
- F40** Sch. 2 para. 2(ia)(i) substituted (15.1.2018) by The Immigration Act 2016 (Consequential Amendments) (Immigration Bail) Regulations 2017 (S.I. 2017/1242), reg. 1, **Sch. para. 3**
- F41** Sch. 2 para. 2(ja)-(jc) inserted (1.10.2016) by The Civil Legal Services (Scope) Regulations (Northern Ireland) 2016 (S.R. 2016/202), regs. 1, 4
- F42** Sch. 2 para. 2(k) repealed (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(b), 102(2), **Sch. 6 Pt. 2**

Commencement Information

- I3** Sch. 2 para. 2 in operation at 1.4.2015 by S.R. 2015/194, art. 2, **Sch.** (with art. 3)

3.—(1) These are the proceedings under the Proceeds of Crime Act 2002 referred to in paragraph 2(c)—

- (a) proceedings which relate to a direction under section 202(3) ^{F43}. . . as to the distribution of funds in the hands of a receiver;
- (b) applications under section 210 relating to action taken or proposed to be taken by a receiver;
- (c) applications under section 211 to vary or discharge an order under any of sections 196 ^{F44} to 199] for the appointment of or conferring powers on a receiver;
- ^{F45}(ca) proceedings which relate to a direction under section 215D;]
- (d) applications under section 220 or 221 for the payment of compensation;
- (e) applications under sections 351(3), 362(3), 369(3) or 375(2) to vary or discharge certain orders made under Part 8.

(2) But sub-paragraph (1) does not authorise the funding of the provision of services to a defendant (within the meaning of Part 4 of the Proceeds of Crime Act 2002) in relation to—

- (a) proceedings mentioned in ^{F46}head (a)] of that sub-paragraph, or
- (b) an application under section 221 of that Act for the payment of compensation if the confiscation order was varied under section 179.

- F43** Words in Sch. 2 para. 3(1)(a) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), ss. 74(2), 92, 94(1), Sch. 8 para. 163(2), **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(c)(d) (subject to arts. 3-14)
- F44** Words in Sch. 2 para. 3(1)(c) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), ss. 74(2), 94(1), **Sch. 8 para. 163(3)**; S.I. 2008/755, art. 2(1)(a) (subject to arts. 3-14)
- F45** Sch. 2 para. 3(ca) inserted (1.3.2016) by virtue of Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 96(3)**; S.I. 2016/147, art. 3(i)
- F46** Words in Sch. 2 para. 3(2)(a) substituted (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **85(1)**

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- I4** Sch. 2 para. 3 in operation at 1.4.2015 by S.R. 2015/194, art. 2, **Sch.** (with art. 3)

4. Subject to paragraph 5, the following services may not be funded by the ^{F47}Department] as civil legal services, even where they fall within the descriptions specified in paragraphs 2(a) to ^{F48}(jc)] —

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- (a) representation in proceedings in respect of which representation may be granted as a criminal defence service;
- (b) representation wholly or partly in respect of defamation;
- (c) representation in relator actions;
- (d) representation in relation to election petitions under the Representation of the People Act 1983^{F49} or the Electoral Law Act (Northern Ireland) 1962^{F50};
- (e) representation in proceedings (other than proceedings referred to in paragraph 2(j)) for the recovery of a debt (including liquidated damages) which is admitted where the only question to be brought before the court is as to the time and mode of payment of that debt;
- (f) representation in proceedings incidental to any proceedings mentioned in sub-paragraphs (a) to (e).

- F47** Word in Sch. 2 para. 4 substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(1\), Sch. 2 para. 6\(41\)\(b\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F48** Word in Sch. 2 para. 4 substituted (1.10.2016) by [The Civil Legal Services \(Scope\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/202\), regs. 1, 5](#)
- F49** 1983 c. 29
- F50** 1962 c. 14 (NI)

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- I5** Sch. 2 para. 4 in operation at 1.4.2015 by [S.R. 2015/194, art. 2, Sch.](#) (with art. 3)

5. Notwithstanding paragraph 4, the making of a counterclaim for defamation in proceedings for which representation may be granted shall not of itself affect any right of a defendant to the counterclaim to representation in the proceedings and representation may be granted to enable him to defend such counterclaim.

Commencement Information

- I6** Sch. 2 para. 5 in operation at 1.4.2015 by [S.R. 2015/194, art. 2, Sch.](#) (with art. 3)

[^{F51}6. The Department may not fund services consisting of the provision of advice, assistance or representation to any [^{F52}children's court guardian] for the purposes of any proceedings under the Children (Northern Ireland) Order 1995.]

- F51** Sch. 2 para. 6 inserted (1.10.2016) by [The Civil Legal Services \(Scope\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/202\), regs. 1, 6](#)
- F52** Words in Sch. 2 para. 6 substituted (13.2.2023) by [Adoption and Children Act \(Northern Ireland\) 2022 \(c. 18\), ss. 137\(4\)\(a\), 160\(1\); S.R. 2023/12, art. 2](#)

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Changes and effects yet to be applied to :

- [Sch. 2 para. 6 words inserted by 2022 c. 18 \(N.I.\) Sch. 3 para. 67](#)

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\(4\)](#)