Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Civil Legal Services (Remuneration) Order (Northern Ireland) 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2015 No. 201

ACCESS TO JUSTICE

The Civil Legal Services (Remuneration) Order (Northern Ireland) 2015

Made - - - -	*31st March 2015*
Coming into operation	*1st April 2015*

The Department of Justice makes the following Order in exercise of the powers conferred by Articles 12(3) and 47 of the Access to Justice (Northern Ireland) Order 2003 [F1], and now vested in it [F2].

In accordance with Article 47(2)(a) of the 2003 Order, the Department has consulted with the Lord Chief Justice, the Law Society and the General Council of the Bar of Northern Ireland.

In accordance with Article 47(1) of the 2003 Order, the Department has had regard to the matters specified in that provision.

F1 S.I. 2003/435 (N.I. 10)
F2 S.I. 2010/976

Citation, commencement and revocations

1.—(1) This Order may be cited as the Civil Legal Services (Remuneration) Order (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

(2) Subject to paragraph (3), the instruments set out in Schedule 1 to this Order shall be revoked to the extent shown in that Schedule.

(3) Nothing in the provisions revoked by this Order shall take effect in relation to any of the circumstances to which the Article 3(1)(a) to (d) of the Access to Justice (2003 Order) (Commencement No. 7, Transitional Provisions and Savings) Order (Northern Ireland) 2015 [F3] applies.

F3 S.R. 2015 No. 194 (C. 13)

Interpretation

2. In this Order, unless the context otherwise requires—

"advice", "assistance" and "representation" have the respective meanings given by Article 2(2) of the 2003 Order;

"certificate" means a certificate granted under the General Regulations;

"civil legal services" has the meaning given by Article 10 of the 2003 Order;

"costs" means, in the case of a solicitor, the remuneration and disbursements payable under Article 12(3) of the 2003 Order and, in the case of counsel, the remuneration payable under that provision;

"counsel" means counsel authorised by the Director under regulation 31 of the General Regulations and selected to act for an assisted person;

"the Department" means the Department of Justice;

"the Director" means the Director of Legal Aid Casework designated by the Department under section 2 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 [F4];

"disbursements" means travelling and witness expenses and other out of pocket expenses incurred by a solicitor in providing civil legal services;

"fee-earner" means a solicitor or any clerk who regularly does work for which it is appropriate to make a direct charge to the client;

"the Financial Regulations" mean the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015 [F5];

"the General Regulations" mean the Civil Legal Services (General) Regulations (Northern Ireland) 2015 [F6];

"the 2003 Order" means the Access to Justice (Northern Ireland) Order 2003;

"representation" (higher courts) and representation (lower courts) have the respective meanings given by regulation 2 of the General Regulations;

"representative" means a solicitor or counsel.

F4 2014 c. 11 (N.I.)
F5 2015 S.R. No. 196
F6 2015 S.R. No. 195

Application

3. This Order shall apply for the determination of the remuneration payable to representatives in respect of providing civil legal services—

(a) where the application for advice and assistance under the General Regulations is signed on or after 1st April 2015; or

(b) where the work is done under a certificate granted under the General Regulations on or after 1st April 2015.

Service of notices and documents

4.—(1) Any document that is required to be sent to the Department under this Order may be sent—

(a) by post or by personal delivery to an address specified by the Department; or

(b) by electronic mail.

(2) Any notice or document that is required to be sent to a representative under this Order may be sent—

(a) by post to the postal address given by the representative as their address for service; or

(b) by electronic mail.

General

5.—(1) Subject to paragraph (2), the remuneration payable to representatives in respect of work done providing civil legal services to which this Order applies shall be determined by the Department in accordance with this Order and having regard to such directions and guidance as may be issued by the Department.

(2) Paragraph (1) shall not apply to:

(a) proceedings in the county court, where the costs payable to the representative has been taxed by a district judge;

(b) proceedings in the High Court or Court of Appeal, where the costs payable to the representative has been taxed by the taxing master;

(c) proceedings in the Supreme Court, where the costs payable to the representative has been assessed by the Registrar to the Supreme Court.

Interim payments

6.—(1) Paragraphs (1) to (8) of this Article apply only to—

(a) work which is being funded by way of advice and assistance; or

(b) proceedings which are being funded by way of representation (lower courts).

(2) A solicitor may submit a claim to the Department for payment of a disbursement for which the solicitor has incurred liability in accordance with the provisions of this Article.

(3) A claim for payment may be made where—

(a) the disbursement falls within any guidance issued by the Department in respect of advice and assistance or representation (lower courts), or the solicitor has obtained prior authority from the Director under the General Regulations to incur the expenditure;

[[F7](b) subject to paragraph (3A), the total liability for such disbursement exceeds £500; and**]**

(c) the solicitor has **[**[F8]incurred**]** such liability.

[[F9](3A) For the purposes of this Article, where a liability has been incurred as a result of the joint instruction of an expert, sub-paragraph (3)(b) shall be deemed to be satisfied provided that the total cost as between those jointly instructing that expert exceeds £500.**]**

(4) Without prejudice to Article 10(4), a claim under paragraph (2) shall not exceed £2,500 or the maximum fee authorised under the prior authority, whichever is the greater.

(5) A claim for payment under paragraph (2) may be made at any time before the solicitor submits a claim for remuneration under Article 8(2).

(6) A claim under paragraph (2) shall be submitted to the Department in such form and manner as it may direct and shall be accompanied by the authority to incur the expenditure (if applicable) and any invoices or other documents in support of the claim.

(7) The Department shall allow the disbursement, subject to the limit in paragraph (4), if it appears to have been reasonably incurred and discharged in accordance with the guidance or prior authority.

(8) Where the Department allows the disbursement, it shall notify the solicitor and authorise payment to the solicitor accordingly.

(9) Paragraphs (10) and (11) of this Article apply only to a case which is being funded by way of representation (higher courts).

(10) A **[**[F10]representative**]** acting for an assisted person may apply to the Department for the payment of a sum on account of costs incurred or to be incurred in connection with the proceedings to which the certificate relates.

(11) On considering the application, the Department may authorise an interim payment to the **[**F11representative**]** of the amount applied for or of such other sum as the Department considers appropriate in the circumstances pending the assessment by the Department or, as the case may be, the taxation of such costs.

(12) Articles 13 to 15 (redetermination etc.) shall not apply to a payment under this Article.

F7 Art. 6(3)(b) substituted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **3(1)(a)**

F8 Word in art. 6(3)(c) substituted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **3(1)(b)**

F9 Art. 6(3A) inserted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **3(2)**

F10 Word in art. 6(10) substituted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **3(3)**

F11 Word in art. 6(11) substituted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **3(3)**

Interim disbursements and final determination of costs

7.—(1) On a final determination of costs, Articles 8(2) and (6)(e) and 10 shall apply notwithstanding that a payment has been made under Article 6.

(2) Where the amount found to be due under Article 10 in respect of a disbursement is less than the amount paid under Article 6 ("the interim disbursement"), the Department shall deduct the difference from the sum otherwise payable to the solicitor on the determination of costs, and where the amount due under Article 10 exceeds the interim disbursement, the Department shall add the difference to the amount otherwise payable to the solicitor.

Claims for costs by representatives

8.—(1) Subject to Article 5(2), claims for remuneration by representatives shall be made and determined in accordance with the provisions of this Article and Schedule 2 to 5 to this Order, as applicable.

(2) Claims for disbursements by solicitors shall be made and determined in accordance with the provisions of Article 10.

F12(3) . . . . . .

(4) Subject to Article 17, no claim by a **[**F13representative**]** for costs in respect of work provided by way of civil legal services shall be entertained unless it is submitted within three months from the date on which the advice and assistance was given or, as applicable, the conclusion of the proceedings to which the certificate relates.

(5) Subject to paragraph (6), a claim for costs shall be submitted to the Department in such form and manner as it may direct and shall be accompanied by any receipts or other documents in support of any disbursement claimed.

(6) A claim in respect of a case to which Schedule 4 applies shall—

(a) summarise, where appropriate, the items of work done by the representative or other fee-earner in respect of which fees are claimed;

(b) state the dates on which the items of work were done, the time taken where appropriate, the sums claimed and whether the work was done for more than one assisted person;

(c) specify, where appropriate, the representative or other fee-earner who undertook each of the items of work claimed;

(d) give particulars of any work done in relation to more than one claim or set of proceedings; and

(e) specify any disbursements claimed, the circumstances in which they were incurred and the amounts claimed in respect of them.

(7) Where there are any special circumstances which should be drawn to the attention of the Department, the **[**F14representative**]** shall specify them.

(8) The **[**F15representative**]** shall supply such further particulars, information and documents as the Department may require.

F12 Art. 8(3) omitted (1.7.2019) by virtue of The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **4(1)**

F13 Word in art. 8(4) substituted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **4(2)**

F14 Word in art. 8(7) substituted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **4(2)**

F15 Word in art. 8(8) substituted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **4(2)**

Determination of representatives' remuneration

9.—(1) The Department shall consider the claim, any further particulars, information or documents submitted by the **[**F16representative**]** under Article 8 and any other relevant information and shall allow such work as appears to it to have been reasonably undertaken and properly done.

(2) The Department shall allow remuneration for work allowed by it under this Article in accordance with the provisions of Schedule 2 to 5 to this Order, as applicable.

F16 Word in art. 9(1) substituted (1.7.2019) by The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 (S.R. 2019/119), arts. 1, **5**

Determination of solicitors' disbursements

10.—(1) Subject to the provisions of this Article, the Department shall allow such disbursements claimed under Article 8 as appear to it to have been actually and reasonably incurred.

(2) No question as to the propriety of any step or act in relation to which prior authority has been obtained under this Order shall be raised on any determination of costs, unless the solicitor knew or ought reasonably to have known that the purpose for which the authority was given had failed or had become irrelevant or unnecessary before the costs were incurred.

(3) Where costs are reasonably incurred in accordance with and subject to the limit imposed by a prior authority given under this Order, no question shall be raised on any determination of costs as to the amount of the payment to be allowed for the step or act in relation to which the authority was given.

(4) Where costs are incurred in taking any steps or doing any act for which authority may be given under this Order, without such authority having been given or in excess of any fee so authorised, payment in respect of those costs may nevertheless be allowed on a determination of costs.