STATUTORY RULES OF NORTHERN IRELAND

2015 No. 199

ACCESS TO JUSTICE

The Civil Legal Services (Cost Protection) Regulations (Northern Ireland) 2015

Laid before the Assembly in draft

Made - - - -	*26th March 2015*
Coming into operation	*1st April 2015*

The Department of Justice makes the following Regulations in exercise of the powers conferred by Articles 18(1) and 20(1) and (2)(b) of the Access to Justice (Northern Ireland) Order 2003(**1**), and now vested in it(**2**).

In accordance with Article 46(5) of that Order, a draft of this rule has been laid before and approved by a resolution of the Assembly.

Citation and commencement

1. These Regulations may be cited as the Civil Legal Services (Cost Protection) Regulations (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

Interpretation

2. In these Regulations—

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

"certificate" means a certificate issued under the Civil Legal Services (General) Regulations (Northern Ireland) 2015(**3**) certifying a decision to fund representation for the client, and "emergency certificate" means a certificate issued under those Regulations certifying a decision to fund representation for the client in a case of emergency;

"client" means an individual who receives funded services;

"costs order" means an order that a party pay all or part of the costs of proceedings;

(**1**) S.I. 2003/435 (N.I. 10). Articles 18 and 20 of the 2003 Order were amended by section 6 of, and paragraph 6(19) and (21) of Schedule 2 to, the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 – 2014 c. 11 (N.I.)
(**2**) S.I. 2010/976
(**3**) S.R. 2015 No. 195

"cost protection" means the limit on costs awarded against a client set out in Article 18(1) of the Order;

"court" includes any tribunal having the power to award costs in favour of, or against, a party;

"funded proceedings" means proceedings (including prospective proceedings) in relation to which the client receives funded services or, as the case may be, that part of proceedings during which the client receives funded services;

"funded services" means services which are provided directly for a client and funded for that client by the Department of Justice as part of civil legal services under Articles 10 to 20 of the Order;

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

"proceedings" include proceedings in any tribunal which is a court, as defined, in this regulation;

"unassisted party" has the meaning given by Article 19(1)(b) of the Order.

Periods during which cost protection applies

3.—(1) Subject to paragraph (3), where the client receives advice and assistance, but later receives representation, cost protection shall apply both in respect of—

(a) the costs incurred by the unassisted party before the commencement of proceedings which, as regards the client, are funded proceedings by virtue of the client's receipt of advice and assistance; and

(b) the costs incurred by the unassisted party in the course of proceedings which, as regards the client, are funded proceedings by virtue of the client's receipt of representation.

(2) Subject to paragraph (3), cost protection shall apply only to costs incurred by the unassisted party in relation to proceedings which, as regards the client, are funded proceedings, and—

(a) where work is done before the issue of a certificate, cost protection shall (subject to paragraphs (1) and (4)) apply only to costs incurred after the issue of the certificate;

(b) where funding is withdrawn by discharging the client's certificate, cost protection shall apply only to costs incurred before the date when funded services under the certificate ceased to be provided.

(3) Where funding is withdrawn by revoking the client's certificate, cost protection shall not apply either in respect of work done before or after the revocation.

(4) Cost protection shall apply to work done immediately before the grant of an emergency certificate if—

(a) no application for such a certificate could be made because the office to which the application would ordinarily be made was closed; and

(b) the client's solicitor applies for an emergency certificate at the first available opportunity, and the certificate is granted.

Effect of these Regulations

4. Nothing in these Regulations shall be construed, in relation to proceedings where one or more parties are receiving, or have received, funded services, as requiring a court to make a costs order where it would not otherwise have made a costs order.