STATUTORY RULES OF NORTHERN IRELAND

2005 No. 111 (C. 10)

ACCESS TO JUSTICE

The Access to Justice (Northern Ireland) Order 2003 (Commencement No. 3, Transitional Provisions and Savings) Order (Northern Ireland) 2005

Made - - - -	*8th March 2005*
Coming into operation	*9th March 2005*

The Lord Chancellor, in exercise of the powers conferred on him by Articles 1(2) and 48(1) of the Access to Justice (Northern Ireland) Order 2003(**1**) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and interpretation

1. This Order may be cited as the Access to Justice (Northern Ireland) Order 2003 (Commencement No. 3, Transitional Provisions and Savings) Order (Northern Ireland) 2005.

2. In this Order:

"the appointed day" means the day appointed by the Lord Chancellor, under Article 1(2) of the 2003 Order and all other powers enabling him in that behalf, for the revocation of Article 4 of this Order;

"the 1981 Order" means the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**2**);

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

Commencement

3. Subject to Articles 4 and 5 of this Order, paragraph 6(3) of Schedule 4 to the 2003 Order shall come into operation on 9th March 2005.

Transitional provisions and savings

4. Until the appointed day, paragraph 6(3) of Schedule 4 to the 2003 Order shall be modified so that Article 37 of the 1981 Order reads as follows:

(**1**) S.I.2003/435 (N.I. 10)
(**2**) S.I. 1981/228 (N.I. 8)

"(1) The Lord Chancellor in exercising any power to make rules as to the amounts payable under this Part to counsel or a solicitor assigned to give legal aid in respect of proceedings before a court other than the Crown Court, and any person by whom any amount so payable is determined in respect of a particular case before such a court, shall have regard to the principle of allowing fair remuneration according to the work reasonably undertaken and properly done.

(2) The Lord Chancellor in exercising any power to make rules as to the amounts payable under this Part to counsel or a solicitor assigned to give legal aid in respect of proceedings before the Crown Court, and from 4th April 2005 any person by whom any amount so payable is determined in respect of a particular case before that Court, shall have regard, among the matters which are relevant, to –

(a) the time and skill which work of the description to which the rules relate requires;

(b) the number and general level of competence of persons undertaking work of that description;

(c) the cost to public funds of any provision made by the rules; and

(d) the need to secure value for money,

but nothing in this paragraph shall require him to have regard to any fees payable to solicitors and counsel otherwise than in accordance with this paragraph."

5.—(1) Subject to paragraph (2), nothing in the provision commenced by this Order or in the transitional provisions of this Order shall have effect in relation to any work carried out under a criminal aid certificate granted under Article 29 of the 1981 Order before 4th April 2005.

(2) Where counsel or a solicitor has claimed payment under rules made under Article 36(3) of the 1981 Order after the coming into operation of this Order ("the new rules") in relation to any work carried out under a criminal aid certificate granted under Article 29 of the 1981 Order before 4th April 2005, his claim shall be determined and paid in accordance with the new rules.

6. Until the appointed day, for the avoidance of doubt, any rules made under Article 36(3) of the 1981 Order before the coming into operation of this Order shall remain in force notwithstanding the making of this Order.

Signed by authority of the Lord Chancellor

Baroness Ashton of Upholland
Parliamentary Under-Secretary of State,
Department for Constitutional Affairs

Dated 8th March 2005