

Draft Rules laid before the Assembly under Article 36(5) and (6) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, for Approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2015 No.

LEGAL AID AND ADVICE

The Criminal Legal Aid (Disclosure of Information) Rules (Northern Ireland) 2015

Made - - - - *2015*
Coming into operation *April 2015*

The Department of Justice makes the following Rules in exercise of the powers conferred by Articles 36(3) and 38A of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(1), and now vested in it(2).

Citation and commencement

1. These Rules may be cited as the Criminal Legal Aid (Disclosure of Information) Rules (Northern Ireland) 2015 and shall come into operation on ...April 2015.

Interpretation

2. In these Rules—

“criminal aid certificate” and “free legal aid” have the respective meanings given under Part 3 of the Order;

“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(3);

“the Order” means the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.

Restriction of disclosure of information

3.—(1) This rule applies to information which is furnished—

(1) [S.I. 1981/228 \(N.I. 8\)](#). Article 38A was inserted by section 6 of, and paragraph 1(6) of Schedule 2 to, the Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014. Paragraph 1(4) of Schedule 2 to the 2014 Act also inserted new provisions at Article 36(5) and (6) of the 1981 Order
(2) [S.I. 1982/159](#) and [S.I. 2010/976](#)
(3) [2014 c. 11 \(N.I.\)](#)

- (a) to the Department or any court, tribunal or other person or body on whom functions are imposed or conferred by or under Part 3 of the Order, and
 - (b) in connection with the case of a person seeking or receiving representation under a criminal aid certificate.
- (2) Information as described in paragraph (1) may be disclosed—
- (a) in accordance with the law of Northern Ireland or a court order;
 - (b) for the purpose of the Department instituting, or otherwise for the purpose of, proceedings before a court;
 - (c) for the purpose of enabling or assisting the Director to discharge any functions imposed or conferred on the Director by or under Part 3 of the Order;
 - (d) for the purpose of enabling or assisting the Department to discharge any functions imposed or conferred on the Department by or under Part 3 of the Order;
 - (e) for the purpose of enabling or assisting any court, tribunal or other person or body to discharge any functions imposed or conferred by or under Part 3 of the Order;
 - (f) subject to paragraph (3), for the purpose of the investigation or prosecution of any offence (or suspected offence) under the law of Northern Ireland or any other jurisdiction; or
 - (g) for the purpose of facilitating the proper performance by any tribunal of disciplinary functions.
- (3) The Director and the Department must not disclose any information for the purposes of the investigation or prosecution of an offence (or a suspected offence) under the law of Northern Ireland or any other jurisdiction which—
- (a) relates to the defence of a person who has made an application for free legal aid (whether or not a criminal aid certificate is granted to that person); and
 - (b) may be used for the purposes of the prosecution of that person in that case.
- 4.—(1) Article 38A of the Order does not prevent the disclosure of information after the end of the restricted period if—
- (a) the disclosure is by a person who is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000⁽⁴⁾; and
 - (b) the information is not held by the public authority on behalf of another person.
- (2) For the purposes of paragraph (1), “the restricted period” means the period of one hundred years starting at the end of the calendar year in which a record containing information was first created and held by the Department.

(4) 2000 c. 36

Sealed with the Official Seal of the Department of Justice on 2015



Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for the disclosure of information which is furnished to the Department of Justice (including the Director of Legal Aid Casework and staff in the Legal Services Agency, Northern Ireland) or any court, tribunal or other person or body in connection with the case of a person seeking or receiving representation under a criminal aid certificate granted under Part 3 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.