

Draft Regulations laid before the Assembly under Article 46(5) of the Access to Justice (Northern Ireland) Order 2003, for Approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2015 No.

ACCESS TO JUSTICE

The Civil Legal Services (Disclosure of Information) Regulations (Northern Ireland) 2015

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

The Department of Justice makes the following Regulations in exercise of the powers conferred by Articles 32(1) and 34(1) of the Access to Justice (Northern Ireland) Order 2003⁽¹⁾, and now vested in it⁽²⁾.

Citation and commencement

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

Interpretation

2. In these Regulations—

“civil legal services” has the meaning given by Article 10 of the Order;

“criminal aid certificate” and “free legal aid” have the respective meanings given under Part 3 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981⁽³⁾;

“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⁽⁴⁾;

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

“supplier” means any person or other body who provides civil legal services funded by the Department to an individual.

(1) [S.I. 2003/435](#). Articles 32 and 34 of the 2003 Order were amended by section 6 of, and paragraph 6(31) and (33) of Schedule 2 to, the Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014

(2) [S.I. 2010/976](#)

(3) [S.I. 1981/228 \(N.I. 8\)](#)

(4) [2014 c. 11 \(N.I.\)](#)

Restriction of disclosure of information

- 3.—(1) This regulation applies to information which is furnished—
- (a) to the Department or any court, tribunal or other person or body on whom functions are imposed or conferred by or under Articles 12A to 20A of the Order, and
 - (b) in connection with the case of an individual seeking or receiving civil legal services funded by the Department.
- (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 Articles 12A to 20A of the Order;
 - (d) for the purpose of enabling or assisting the Department to discharge any functions imposed or conferred on it by or under Articles 12A to 20A 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 Articles 12A to 20A 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 32(1) 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⁽⁵⁾; 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” is 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.

Position of service providers and other parties etc.

5. The Director may require a supplier to provide to any person authorised by the Director to request it, such information or documentation as the Director may from time to time require for the purpose of discharging the Director’s functions under Articles 12A to 20A of the Order.

6. Where—

- (a) information or documentation is required in accordance with regulation 5, and

(5) 2000 c. 36

(b) such information or documentation relates to any service provided to an individual who is or was in receipt of services funded by the Department,

the relationship between or rights of the supplier and the individual, or any privilege arising out of such relationship, does not preclude the supplier from disclosing such information or documentation.

7. For the purpose of providing information in order to enable the Director to discharge any functions imposed or conferred on the Director by or under Articles 12A to 20A of the Order, any party may disclose to any person authorised by the Director to receive them, communications in relation to the proceedings concerned sent to or by the supplier, whether or not they are expressed to be “without prejudice”.

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



Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations 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 an individual seeking or receiving civil legal services under Articles 12A to 20A of the Access to Justice (Northern Ireland) Order 2003 (regulations 3 and 4).

The Regulations also require the provision of information from suppliers to the Director of Legal Aid Casework, and waive the rules of privilege and confidentiality regarding the disclosure of information relating to the cases of clients or former clients funded by the Department (regulations 5 to 7).