
STATUTORY INSTRUMENTS

1981 No. 228

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981

PART III

FREE LEGAL AID IN CRIMINAL PROCEEDINGS

Free legal aid on appeal to the county court

30.—(1) Where a person who has been convicted of an offence or sentenced for an offence by a magistrates' court desires to appeal to a county court against the conviction or the sentence, but has not sufficient means to enable him to obtain legal aid for the purpose, he may make an application for free legal aid to the court by which he was convicted or sentenced, or to any magistrates' court ^{F1}..., and where a person so convicted or sentenced has given notice of appeal to a county court, the other party to the appeal, if he has not sufficient means to enable him to obtain legal aid for the purpose of resisting the appeal, may make an application for free legal aid to any magistrates' court ^{F1}....

(2) An application made under paragraph (1) may be made either—

- (a) in person to the court; or
- (b) by letter addressed to the clerk of petty sessions ^{F2}..., setting out the facts of the case and the grounds of the application.

(3) If on an application made under paragraph (1) it appears to the court that—

- (a) the means of the applicant are insufficient to enable him to obtain legal aid; and
- (b) it is desirable in the interests of justice that the applicant should have free legal aid in the preparation and conduct of his appeal, or, as the case may be, in resisting the appeal;

the court may grant in respect of him a criminal aid certificate.

(4) Where, on an application made under paragraph (1), the magistrates' court has refused to grant a criminal aid certificate the applicant may make an application for the same purpose to the court to which the appeal lies either—

- (a) in person to that court; or
- (b) by letter addressed to the chief clerk and setting out the facts of the case and the grounds of the application;

and the court shall have the like power exercisable on the like grounds of granting a criminal aid certificate as the magistrates' court.

(5) Without prejudice to paragraph (4), an application for free legal aid under this Article may be made in person to the court before which the appeal is heard by an applicant who has not made the previous application to a magistrates' court or clerk of petty sessions which is required under this Article; and if the court before which the appeal is heard is satisfied that there were adequate reasons for the applicant not making a previous application as aforesaid it shall deal with his application as if duly made under paragraph (4).

Changes to legislation: *Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Section 30 is up to date with all changes known to be in force on or before 09 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) In paragraph (5) the expression “adequate reasons” includes lack of knowledge by the applicant of the law or procedure.

(7) A person in respect of whom a criminal aid certificate has been granted under this Article shall be entitled, subject to paragraph (8), to have a solicitor and counsel assigned to him in the manner prescribed by rules made under Article 36.

(8) Where before the court to which the appeal lies a party may be heard by a solicitor, the court granting the criminal aid certificate may direct that a solicitor only shall be assigned.

(9) A person in respect of whom a criminal aid certificate has been granted shall be entitled to free legal aid—

- (a) in giving notice of appeal to a county court, and in matters preliminary thereto;
- (b) in the preparation and conduct of his appeal or, as the case may be, in resisting the appeal;
- (c) in applying for a case to be stated for the opinion of the Court of Appeal, and in matters preliminary thereto.

(10) Paragraph (9)(a) and (c) shall apply in relation to work reasonably undertaken and properly done by the solicitor assigned to the person to whom a criminal aid certificate has been granted, being work done within the ordinary time for giving the notice of appeal or, as the case may be, making the application for the case to be stated.

(11) Paragraph (9)(a), (b) and (c) shall, where counsel is assigned to the person to whom a criminal aid certificate has been granted, include the obtaining by the solicitor assigned to that person of the counsel's opinion as to the appeal or application or matters connected therewith.

(12) This Article shall, with the necessary modifications, apply to—

- (a) an appeal under [^{F3}Article 141(1) of the Magistrates' Courts (Northern Ireland) Order 1981] as if the appeal were an appeal against a conviction; and
- (b) an appeal under [^{F4}Article 51(4) of the Mental Health (Northern Ireland) Order 1986] as if the appeal were an appeal against sentence.

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| F1 | Words in art. 30(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 85(2)(a), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F2 | Words in art. 30(2)(b) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 85(2)(b), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F3 | 1981 NI 26 |
| F4 | 1986 NI 4 |

Changes to legislation:

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Section 30 is up to date with all changes known to be in force on or before 09 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Order power to amend conferred by [2011 c. 24 \(N.I.\) Sch. 5 para. 5\(a\)](#)
- Act rev.in pt. by [1996 c. 25 s.79Sch.4 paras.19\(2\)36](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 28(7)(c) inserted by [2011 c. 24 \(N.I.\) s. 83\(2\)\(a\)](#)
- art. 29(2A) inserted by [2015 c. 9 \(N.I.\) Sch. 2 para. 3](#)
- art. 29(2A) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\), Sch. 2 para. 3](#) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(c\)](#)