
STATUTORY INSTRUMENTS

1981 No. 228

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

PART III

FREE LEGAL AID IN CRIMINAL PROCEEDINGS

Expenses of free legal aid and making of rules

36.—(1) In any case where a criminal aid certificate has been granted in respect of any person, the expenses properly incurred in pursuance of that certificate including the fees of a solicitor and, where counsel has been assigned, of counsel, shall be defrayed out of moneys provided by [^{F1}the Assembly], subject nevertheless to any rules made under this Article and to any directions as to the vouching of payments and the keeping of accounts, records or receipts which may be given by the Treasury.

(2) If upon the trial before the Crown Court of a person in respect of whom a criminal aid certificate has not been granted, his defence is undertaken by counsel or solicitor or both at the request of the judge, the cost thereof may be paid as if a criminal aid certificate had been granted to that person.

(3) The [^{F2} Lord Chancellor], after consultation with the Lord Chief Justice, the Attorney General, and, where appropriate the Crown Court Rules Committee, the County Court Rules Committee and the Magistrates' Courts Rules Committee, and with the approval of the Treasury, may make rules generally for carrying this Part into effect and such rules shall in particular prescribe—

- (a) the form of criminal aid certificates;
- (b) the manner in which counsel and solicitors are to be assigned in pursuance of such certificates;
- [^{F3}(bb) the form for the purpose of Article 28A(2)(a);]
- (c) the form for the purpose of Article 32(1); and
- (d) the rates or scales of payment of any fees, costs or other expenses which are payable under this Part.

[^{F4}(4) Except as provided by paragraph (5), rules under this Article are subject to negative resolution.

(5) The rules to which paragraph (6) applies shall not be made unless a draft of the rules has been laid before, and approved by resolution of, the Assembly.

(6) This paragraph applies to—

- (a) rules made under this Article which contain any provision made by virtue of Article 31 (as substituted by section 80 of the Justice Act (Northern Ireland) 2011);

Changes to legislation: *Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Section 36 is up to date with all changes known to be in force on or before 04 March 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*

- (b) rules made under this Article which contain any provision made by virtue of Article 36A (as substituted by Schedule 2 to the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014);
- (c) rules made under this Article which contain any provision made by virtue of Article 36B (as substituted by Schedule 2 to the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014);
- (d) rules made under this Article which contain any provision made by virtue of Article 38A (as inserted by Schedule 2 to the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014).]

- F1** Words in art. 36(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 130(3)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F2** SI 1982/159
- F3** 2002 c. 26
- F4** Art. 36(4)-(6) substituted for art. 36(4) (1.4.2015) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), s. 12(1), **Sch. 2 para. 1(4)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)

Modifications etc. (not altering text)

- C1** Art. 36(1): functions of Treasury or Minister for the Civil Service transferred to Department of Finance and Personnel (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **15(4)(e)** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**
- C2** Art. 36(3): functions of Treasury or Minister for the Civil Service transferred to Department of Finance and Personnel (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **15(4)(e)** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

Changes to legislation:

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Section 36 is up to date with all changes known to be in force on or before 04 March 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.

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Changes and effects yet to be applied to :

- art. 36(4)-(6) substituted for art. 36(4) by [2011 c. 24 \(N.I.\) s. 80\(4\)](#)

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\(9\)\(c\)](#)