

STATUTORY INSTRUMENTS

2003 No. 435

Access to Justice (Northern Ireland) Order 2003

[^{F1}PART 2

CIVIL LEGAL SERVICES AND CRIMINAL DEFENCE SERVICES

[^{F1}Functions of the Department: general]

F1 Pt. II heading substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014](#) (c. 11), s. 12(1), **Sch. 2 para. 6(3)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)

[^{F2}Exercise of functions of the Department under this Part

- 3.** The Department shall exercise its functions under this Part for the purpose of—
- (a) securing (within the resources made available, and priorities set, in accordance with this Part) that individuals have access to civil legal services that effectively meet their needs, and promoting the availability to individuals of such services; and
 - (b) securing that individuals involved in criminal investigations or relevant proceedings have access to such criminal defence services as the interests of justice require.]

F2 Art. 3 substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014](#) (c. 11), s. 12(1), **Sch. 2 para. 6(3)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)

Membership of the Commission

^{F3}**4.**

F3 Art. 4 repealed (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014](#) (c. 11), s. 12(1), Sch. 2 para. 6(4), **Sch. 3 Pt. 1** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)(f)

Power to replace Commission with two bodies

^{F4}**5.**

F4 Art. 5 repealed (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014](#) (c. 11), s. 12(1), Sch. 2 para. 6(4), **Sch. 3 Pt. 1** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)(f) (Art. 5 never came into operation)

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Planning

6.—(1) The [F5Department] shall inform itself about—

- (a) the need for, and the provision of, civil legal services and criminal defence services, and
- (b) the quality of the services provided.

(2) [F6The Department] shall plan what can be done towards meeting that need by the performance by [F6the Department and the Director of their relevant functions] .

(3) The [F7Department] may co-operate with such authorities and other bodies and persons as it considers appropriate in facilitating the planning of what can be done by them to meet that need by the use of any resources available to them.

[F8(3A) In this Article and Article 7 “relevant functions” means—

- (a) in relation to any time after the coming into operation of Article 21, functions under this Order; and
- (b) in relation to any time before the coming into operation of Article 21, functions under this Order and under Part 3 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.]

F9(4)

F9(5)

- F5** Word in art. 6(1) substituted (1.4.2015) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(1\), Sch. 2 para. 6\(5\)\(a\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F6** Words in art. 6(2) substituted (1.4.2015) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(1\), Sch. 2 para. 6\(5\)\(b\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F7** Word in art. 6(3) substituted (1.4.2015) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(1\), Sch. 2 para. 6\(5\)\(c\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F8** Art. 6(3A) inserted (1.4.2015) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(1\), Sch. 2 para. 6\(5\)\(d\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F9** Art. 6(4)(5) repealed (1.4.2015) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(1\), Sch. 2 para. 6\(5\)\(e\), Sch. 3 Pt. 1](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)(f)

Commencement Information

I1 Art. 6 in operation at 1.4.2015 by [S.R. 2015/194, art. 2, Sch.](#) (with art. 3)

Powers of Commission

7.—(1) Subject to the provisions of this Part and Article 41, the [F10Department] may do anything which it considers—

- (a) is necessary or appropriate for, or for facilitating, the discharge of its [F11relevant functions] , or
- (b) is incidental or conducive to the discharge of [F12those] functions.

(2) In particular, the [F13Department shall have power under paragraph (1)] —

- (a) to enter into any contract,
- (b) to make grants (with or without conditions),
- (c) to make loans,
- (d) to invest money,

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- (e) to promote or assist in the promotion of publicity relating to [F14relevant functions] ,
- (f) to undertake any inquiry or investigation which it may consider appropriate in relation to the discharge of any of [F14relevant functions] , F15 ...

F15(g)

(3) Paragraphs (1) and (2) do not confer on the [F16Department] power to borrow money.

F17(4)

F17(5)

(6) In considering any question as to the remuneration of persons or bodies providing civil legal services or criminal defence services (whether in individual cases, or by reference to the provision of such services in specified numbers of cases), the [F18Department or the Director] shall have regard, among the matters which are relevant, to—

- (a) the time and skill which the provision of services of the description to which the question relates requires;
- (b) the number and general level of competence of persons providing those services;
- (c) the cost to public funds of the remuneration of persons or bodies providing those services; and
- (d) the need to secure value for money.

(7) Where the [F19Department] sets fees which are to be paid to persons or bodies in respect of the provision of services by them, nothing in paragraph (6) requires it to have regard to any fee payable, otherwise than in accordance with this Order, in respect of the provision of such services.

- F10** Word in art. 7(1) substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(6)(a)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F11** Words in art. 7(1)(a) substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(6)(a)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F12** Word in art. 7(1)(b) substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(6)(a)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F13** Words in art. 7(2) substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(6)(b)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F14** Words in art. 7(2)(e)(f) substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(6)(b)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F15** Art. 7(2)(g) and word repealed (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), Sch. 2 para. 6(6)(b), **Sch. 3 Pt. 1** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)(f)
- F16** Word in art. 7(3) substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(6)(c)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F17** Art. 7(4)(5) repealed (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), Sch. 2 para. 6(6)(d), **Sch. 3 Pt. 1** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)(f)
- F18** Words in art. 7(6) substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(6)(e)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F19** Word in art. 7(7) substituted (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(6)(f)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)

Commencement Information

- I2** Art. 7(6)(7) in operation at 1.4.2015 by S.R. 2015/194, art. 2, **Sch.** (with art. 3)

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Guidance

F208.

F20 Art. 8 repealed (1.4.2015) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), Sch. 2 para. 6(7), **Sch. 3 Pt. 1** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)(f)

Northern Ireland law and foreign law

9.—(1) The [^{F21}Department] may not fund—

- (a) civil legal services, or
- (b) criminal defence services,

relating to any law other than that of Northern Ireland, unless any such law is relevant for determining any issue relating to the law of Northern Ireland.

(2) But the Lord Chancellor may, if it appears to him necessary to do so for the purpose of fulfilling any obligation imposed on the United Kingdom by any international agreement, by order specify that such civil legal services or criminal defence services as are specified in the order, relating to the application of such other law as may be so specified, may be funded by the [^{F21}Department] .

(3) For the purposes of the application of paragraph (2) in the case of an obligation to provide for the transmission to other countries of applications for public funding of legal services under their laws, the reference to civil legal services or criminal defence services relating to the application of other laws includes a reference to advice or assistance for the purposes of making and transmitting such an application.

F21 Word in art. 9(1)(2) substituted (1.4.2015) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), **Sch. 2 para. 6(8)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)

Commencement Information

I3 Art. 9 in operation at 1.4.2015 by [S.R. 2015/194](#), art. 2, **Sch.** (with art. 3)

Changes to legislation:

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

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

- Sch. 2 para. 2(ic)(id) inserted by [2023 c. 37 s. 56\(8\)](#)
- Sch. 4 para. 10(b)(c) coming into force by [S.R. 2015/194 art. 2Sch.](#) (This amendment is not be applied - relevant text is not available on [legislation.gov.uk](#))
- art. 14(2AA) inserted by [2023 c. 37 s. 56\(7\)](#)
- art. 27A inserted by [2011 c. 24 \(N.I.\) s. 84\(2\)](#)
- art. 27A(1)(2) word substituted by [2014 c. 11 \(N.I.\) Sch. 2 para. 6\(28\)](#)
- art. 46(5A) inserted by [2011 c. 24 \(N.I.\) s. 84\(4\)](#)