

2010 No. 9

LEGAL AID AND ADVICE

Legal Aid (Scope) Regulations (Northern Ireland) 2010

Made - - - - *21st January 2010*

Coming into operation - *15th February 2010*

To be laid before Parliament

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by Articles 10(2), 22 and 27 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a) and now vested in him(b).

Citation and commencement

1. These Regulations may be cited as the Legal Aid (Scope) Regulations (Northern Ireland) 2010 and shall come into operation on 15th February 2010.

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

2. The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 is amended as follows.

3. In Part 1 of Schedule 1—

(a) after paragraph 2A insert—

“**2B.** Proceedings in the Crown Court for the variation or discharge of an order under Article 7 or 7A of the Protection from Harassment (Northern Ireland) Order 1997.”;

(b) in paragraph 3, after sub-paragraph (k) insert—

“(1) proceedings for the variation or discharge of an order under Article 7 or 7A of the Protection from Harassment (Northern Ireland) Order 1997.”;

(c) for paragraph 6A substitute—

“**6A.** Proceedings before the First-tier Tribunal under—

(i) Schedule 2 to the Immigration Act 1971;

(ii) section 40A of the British Nationality Act 1971;

(iii) Part 5 of the Nationality, Immigration and Asylum Act 2002;

(iv) regulation 26 of the Immigration (European Economic Area) Regulations 2006.”;

(d) after paragraph 6A insert—

(a) S.I. 1981/228 (N.I. 8); Article 27 is an interpretation provision and is recited because of the meaning assigned to the word “regulations”.

(b) S.I. 1982/159

“**6B.** Proceedings before the Upper Tribunal arising out of proceedings within paragraph 6A.

6C. Proceedings before the Special Immigration Appeals Commission.”.

4. In Part II of Schedule 1, omit paragraphs 8 and 9.

Saving Provision

5. The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 shall continue to apply to proceedings to which paragraphs 2 to 8 and 13(1)(b), (c) and (2) (in relation to sub-paragraphs (1)(b) to (e)) of Schedule 4 to the Transfer of Functions of the Asylum and Immigration Tribunal Order 2010(a) apply, until the proceedings are finally determined, as if the repeals in regulation 4 had not been made.

Signed by authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

Dated 21st January 2010

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 1 (proceedings for which legal aid may be given under Article 9) to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.

The effect of these amendments are to bring within the scope of legal aid applications, in either the Crown Court or the Magistrates' Courts, to vary or discharge restraining orders made under Article 7 or 7A of the Protection from Harassment (Northern Ireland) Order 1997 (regulation 3(a) and (b)).

The Regulations also make consequential amendments arising from the abolition of the Asylum and Immigration Tribunal and the transfer of its functions to the First-tier Tribunal (regulation 3 (c) and (d)).

Part II (excepted proceedings) of Schedule 1 to the Order is amended to omit two forms of onward appeal from the Asylum and Immigration Tribunal. For those proceedings, the Northern Ireland Legal Services Commission, rather than the High Court or the Tribunal, will now have the power to grant legal aid funding (regulations 4 and 5).

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