
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 195

**The Civil Legal Services (General)
Regulations (Northern Ireland) 2015**

PART 4

REPRESENTATION (LOWER COURTS)

Applications for certificates

35.—(1) Where it appears to the supplier that an individual requires representation in respect of any of those proceedings listed in paragraph 2(d), (g) or (hh) of Schedule 2 to the Order, an application for a certificate under this Part may be submitted to the Director.

(2) Subject to regulations 6 and 7, an application for a certificate under this Part shall be made by an applicant in person to the supplier from whom the representation is sought.

(3) The applicant shall furnish the supplier with the information and supporting documentary evidence necessary to enable the Director to determine—

- (a) the nature of the proceedings in relation to which the certificate is sought and the circumstances in which representation is required; and
- (b) whether the requirements of regulation 37(1) are met.

(4) The applicant shall, if required by the Director, attend for an interview or supply such further information or documents as may be required.

(5) Subject to paragraph (6), where the applicant has failed to comply with a requirement under paragraph (4), the Director may treat the application as withdrawn.

(6) An application may not be treated as withdrawn under paragraph (5) unless the Director has notified the applicant and the supplier that the application may be treated as withdrawn unless the applicant complies with a requirement under paragraph (4) within a specified period.

(7) Unless an exemption applies under regulation 4 of the Financial Regulations, the applicant shall furnish the supplier with the information necessary to enable the supplier to determine—

- (a) the applicant's disposable income;
- (b) the applicant's disposable capital;
- (c) whether the applicant is in receipt of any benefit or allowance referred to in regulation 5 of the Financial Regulations; and
- (d) the applicant's maximum contribution.

(8) The information required by this regulation shall be furnished on a form or forms approved by the Department or such other manner as the Director may accept as sufficient in the circumstances of the case.

Determination of financial eligibility and contributions

36.—(1) Unless an exemption applies under regulation 4 of the Financial Regulations, the supplier to whom an application for a certificate under this Part is made shall—

- (a) assess the disposable income and disposable capital of the applicant and, where appropriate, of any individual whose financial resources may be treated as those of the applicant, in accordance with the Financial Regulations; and
- (b) determine and collect the maximum contribution, if any, payable by the applicant in accordance with the provisions of the Financial Regulations.

(2) Unless an exemption applies under these Regulations or regulation 4 of the Financial Regulations, a supplier shall not provide representation under this Part to any individual until either the form or forms referred to in regulation 35(8) has been signed by the applicant or, where appropriate, the form or forms referred to, in regulation 6(2) has been signed on behalf of the applicant and in any case until the supplier has determined the matters referred to in paragraph (1).

Determination of applications for certificates and authorities

37.—(1) Subject to paragraph (2), an application for a certificate under this Part shall not be granted unless—

- (a) it is made in respect of the proceedings referred to in regulation 35(1); and
- (b) it is shown that there are reasonable grounds for taking, defending or being a party to the proceedings to which the application relates.

(2) A certificate under this Part may be refused if, in the particular circumstances of the case, it appears to the Director—

- (a) to be unreasonable that a certificate should be granted; or
- (b) that only a trivial advantage would be gained by the applicant in taking, defending or being a party to the proceedings to which the application relates, or, owing to the simple nature of the proceedings, a supplier would not ordinarily be employed.

(3) Subject to paragraph (4), it shall be a condition of every certificate issued under this Part that the prior authority of the Director shall be required—

- (a) to obtain a report or opinion of an expert;
- (b) to tender expert evidence;
- (c) to obtain a report or an opinion of a person (other than an expert);
- (d) to tender such evidence as is referred to in sub-paragraph (c);
- (e) to obtain a transcript or recordings of any proceedings; or
- (f) to perform an act which is either unusual in its nature or involves unusually large expenditure.

(4) The Director may give general authority (subject to a maximum fee payable) to suppliers in any particular class of case, including—

- (a) to obtain a report or opinion of one or more experts or to tender expert evidence;
- (b) to employ a person to provide a report or opinion (other than as an expert); or
- (c) to obtain a transcript or recordings of any proceedings.

Refusal of a certificate or authority

38.—(1) If the Director refuses an application for a certificate under this Part, the Director shall notify the applicant and the supplier, and shall state the reasons for such refusal.

(2) If the Director refuses an application for an authorisation under regulation 37(3), the Director shall notify the supplier, and shall state the reasons for such refusal.

(3) Where notification is given under paragraph (1) or (2), the Director shall inform the applicant and the supplier, or supplier only, as applicable, of the right of review under regulation 14.

Notification of issue of certificate

39.—(1) Where a certificate under this Part has been issued and the assisted party is (or becomes) a party to proceedings, the supplier shall, as soon as practicable, notify any other party to the proceedings and the court in which the proceedings are pending.

(2) Where a certificate issued under this Part is suspended, discharged or revoked, the supplier shall notify any other party to the proceedings and the court in which the proceedings are pending.

Representation at request of, or agreement with, the court

40.—(1) Subject to paragraph (2), a certificate under this Part shall not be required to receive such representation given by a supplier to any party to proceedings (whether criminal or civil) before a magistrates' court, where the representation is given in compliance with a request which is made to the supplier by the court or given in accordance with a proposal which is made by the supplier and approved by the court and which (in either case)—

- (a) is so made or approved at a time (whether at or after the beginning of the proceedings) when the supplier is present within the precincts of the court; but
- (b) is not made or approved at a time when the party to proceedings is in receipt of a certificate issued under these Regulations or a certificate issued under Part 3 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(1) in respect of the same proceedings.

(2) Representation without a certificate under this regulation may only be given, provided that the cost of such representation does not exceed the limit prescribed under regulation 32.