
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 195

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

PART 5

REPRESENTATION (HIGHER COURTS)

Applications for certificates

41.—(1) Where it appears to the supplier that an individual requires representation in respect of any proceedings listed in paragraph 2 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 or an assessing authority to determine—

- (a) the nature of the proceedings in relation to which a certificate under this Part is sought and the circumstances in which representation is required;
- (b) whether the requirements of regulation 43(1) are met; and
- (c) unless an exemption applies under regulation 4 of the Financial Regulations—
 - (i) the applicant's disposable income;
 - (ii) the applicant's disposable capital;
 - (iii) whether the applicant is in receipt of any benefit or allowance referred to in regulation 5 of the Financial Regulations; and
 - (iv) the applicant's maximum contribution.

(4) The applicant shall, if required by the Director or an assessing authority, 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the applicant has failed to comply with a requirement under paragraph (4), the Director may treat the application as withdrawn.

(6) An application may not be treated as withdrawn under paragraph (5) unless the Director has notified the applicant and the supplier that the application may be treated as withdrawn unless the applicant complies with a requirement under paragraph (3) within a specified period.

(7) 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.

Status: Point in time view as at 01/04/2015.

Changes to legislation: The Civil Legal Services (General) Regulations (Northern Ireland) 2015, PART 5 is up to date with all changes known to be in force on or before 25 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)

Determination of financial eligibility and contributions

42.—(1) Unless the Director has previously refused the application (and there has been no change in circumstances) or an exemption applies under regulation 4 of the Financial Regulations, the Director shall submit so much of the application as is relevant to an assessing authority to assess the applicant's disposable income and disposable capital.

(2) The Director shall fix the method by which any contribution shall be paid in accordance with regulation 63 of the Financial Regulations.

Determination of applications for certificates

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

- (a) it is shown that there are reasonable grounds for taking, defending or being a party to the proceedings to which the application relates; and
- (b) the applicant has signed an undertaking to pay any required contribution.

(2) An application for a certificate under this Part may be refused if, in the circumstances of the case, it appears to the Director—

- (a) to be unreasonable that a certificate should be granted;
- (b) to be more appropriate that an application for a certificate should be made under Part 4; or
- (c) 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.

Conduct of proceedings and authorities

44.—(1) Subject to paragraph (2), it shall be a condition of every certificate issued under this Part that the prior authority of the Director shall be required—

- (a) to apply to the court for leave to add any further party to the proceedings;
- (b) to apply to the court for leave to lodge any interlocutory appeal; or
- (c) to apply to the court to set up or set off any right or claim having the same effect as a cross action (other than a counterclaim or set off arising out of the same transaction and capable of being pleaded as a defence), or to reply to any right or claim so set up or so set off by any other party;
- (d) to obtain a report or an opinion of an expert;
- (e) to tender expert evidence;
- (f) to obtain a report or an opinion of a person (other than an expert);
- (g) to tender such evidence as referred to in sub-paragraph (f);
- (h) to obtain a transcript or recordings of any proceedings; or
- (i) to perform an act which is either unusual in its nature or involves unusually large expenditure.

(2) 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.

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(3) Where it appears to the supplier necessary for the proper conduct of proceedings funded under this Part for any act to be done which is unusual in nature or involves unusually large expenditure, the supplier shall apply to the Director for authority to take any such step, and no payment for any such step shall be made in the absence of such authority.

Notification of issue of certificate

45.—(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.

Refusal of a certificate or authority

46.—(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 authority under regulation 44, 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 and any right of appeal under Part 2 of the Appeal Regulations.

Representation at request of, or agreement with, the court

47.—(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 county 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 ^{M1} 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.

Marginal Citations

M1 [S.I. 1981/228 \(N.I. 8\)](#)

Status:

Point in time view as at 01/04/2015.

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