
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 200

The Civil Legal Services (Statutory Charge)
Regulations (Northern Ireland) 2015

PART 2

OPERATION OF THE STATUTORY CHARGE

Calculation of the statutory charge

3.—(1) Where any money or property is recovered for a client in a relevant dispute or proceedings, the amount of the statutory charge shall be the aggregate of—

- (a) any unpaid contributions payable by the client under Part 3 of the Financial Regulations; and
- (b) if the total contribution is less than the funded sum, a sum equal to the deficiency

(2) For the purposes of this regulation, the sums referred to in paragraph (1)(b) shall be defined as the net cost of the funded services paid or payable by the Department less any costs recovered by the Department from another party under Part 3 of these Regulations.

(3) Where the client receives representation (higher courts) in connection with a dispute or proceedings for which advice and assistance or representation (lower courts) was also granted, the amount of the statutory charge includes the sums expended by the Department in funding advice and assistance or representation (lower courts), where made available, in connection with the same proceedings or dispute.

Exemptions from the statutory charge

4.—(1) The statutory charge does not apply to any of the following property recovered by a client in relevant proceedings, or in any compromise or settlement of a relevant dispute—

- (a) any periodical payment of maintenance, whether recovered under any of the legislative provisions referred to in paragraph (4) or otherwise;
- (b) any sum or sums ordered to be paid under—
 - (i) Articles 27B(4) or 27C of the Matrimonial Causes (Northern Ireland) Order 1978(1);
 - (ii) Article 7 of the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979(2); or
 - (iii) the Family Homes and Domestic Violence (Northern Ireland) Order 1998(3);
- (c) the threshold amount of any money or the value of any property recovered by virtue of an order made or deemed to be made under any of the enactments specified in paragraph (4);

(1) S.I. 1978/1045 (N.I. 15)
(2) S.I. 1979/924 (N.I. 8)
(3) S.I. 1998/1071 (N.I. 6)

- (d) one-half of any redundancy payment within the meaning of Part 12 of the Employment Rights (Northern Ireland) Order 1996(4); or
- (e) any sum, payment or benefit which, by virtue of any provision of or made under an enactment, cannot be assigned or charged.

(2) In paragraph (1)(a) “maintenance” means money or money’s worth paid towards the support of a spouse or former spouse, civil partner or former civil partner, child or any other person for whose support the payer has previously been responsible or has made payments.

(3) In paragraph (1)(c) “the threshold amount” means—

- (a) the first £2,500 recovered, where the funded services comprised advice and assistance or representation (lower courts);
- (b) the first £3,000 recovered, where the funded services comprised representation (higher courts).

(4) The enactments referred to in paragraph (1)(c) are—

- (a) Articles 25(1)(c) or (f), 25(2), 26, 29(6)(c) or (f), or 37 of the Matrimonial Causes (Northern Ireland) Order 1978;
- (b) Articles 4 or 8 of the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979;
- (c) section 17 of the Married Women’s Property Act 1882(5);
- (d) Articles 4(1)(b) or (d), 8(1) or (5) or 22(2) of the Domestic Proceedings (Northern Ireland) Order 1980(6); and
- (e) Article 15(1) of, together with paragraphs 2, 3, 6, 8 and 11 of Schedule 1 to, the Children (Northern Ireland) Order 1995(7).

(5) The statutory charge does not apply to—

- (a) a client’s personal clothing or household furniture; or
- (b) the tools or equipment of their trade,

except where the Department considers there are exceptional circumstances, having regard in particular to the value or quantity of the items concerned.

(6) Where, by virtue of regulation 5, the statutory charge is in favour of a supplier, it does not apply to any dwelling of the client.

Statutory charge in favour of the Department or the supplier

5.—(1) The statutory charge is in favour of the Department except in the circumstances described in paragraph (2).

(2) Where—

- (a) the statutory charge relates to advice and assistance or representation (lower courts), and
- (b) regulation 3(3) does not apply,

the charge is in favour of the supplier.

Authority to waive the statutory charge

6.—(1) This regulation applies only where the statutory charge is in favour of the supplier.

(4) S.I. 1996/1919 (N.I. 16)

(5) 1882 c. 75

(6) S.I. 1980/563 (N.I. 5)

(7) S.I. 1995/755 (N.I. 2)

(2) The Department may grant the supplier authority to waive all or part of the amount of the statutory charge where its enforcement would—

- (a) cause grave hardship or distress to the client; or
- (b) be unreasonably difficult because of the nature of the property.

Application of regulations 8 and 9

7. Regulations 8 and 9 apply only in relation to a statutory charge in favour of the Department.

Operation of the statutory charge where certificate revoked or discharged

8.—(1) Where a certificate has been revoked or discharged under the General Regulations, Article 17(7) of the Order shall apply to any money or property recovered as a result of the client continuing to pursue the relevant dispute or take, defend or be a party to the relevant proceedings.

(2) In paragraph (1), “client” means the person whose certificate has been revoked or discharged, or, as the case may be, the client’s personal representatives, trustee in bankruptcy or the Official Receiver.

Operation of the statutory charge on money in court

9.—(1) Paragraph (2) applies where any money recovered by a client in any proceedings is ordered to be paid into or remain in court and invested for the benefit of the client.

(2) Where this paragraph applies—

- (a) the statutory charge applies only to such amount of that money as, in the opinion of the Department, will be necessary to safeguard the Department’s interests; and
- (b) the Department must notify the court in writing of the amount to which the statutory charge applies.