

EXPLANATORY MEMORANDUM TO

The Civil Legal Services (General) (Amendment) Regulations (Northern Ireland) 2019

SR 2019 No. 13

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 15 of the Access to Justice (Northern Ireland) Order 2003 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This Statutory Rule makes amendments to the Civil Legal Services (General) Regulations (Northern Ireland) 2015, which make provision about the making and withdrawal of determinations that an individual qualifies for civil legal services under Articles 12(3), 13, 14(6), 15 and 34(1) of the Access to Justice (Northern Ireland) Order 2003.
- 2.2. The purpose of the Statutory Rule is to make technical amendments to allow for financial eligibility assessments in respect of certain applications for civil legal aid to be carried out by the Director of Legal Aid Casework and employees of and persons authorised by the Director for that purpose, in place of a person appointed by the Department for Communities ("DfC").

3. Background

- 3.1. The first Access to Justice Review Report, published in August 2011, recommended that consideration be given to legislating to bring the work of the Legal Aid Assessment Office "in house" within the Legal Services Agency Northern Ireland ("the Agency").
- 3.2. At present DfC has responsibility for carrying out financial eligibility assessments on behalf of the Agency under the Civil Legal Services (General) Regulations (Northern Ireland) 2015 and the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015, in applications for civil legal aid. This function is carried out by the Legal Aid Assessment Office.

4. Consultation

- 4.1. The Department issued a targeted consultation with the Law Society of Northern Ireland and the General Council of the Bar of Northern Ireland. In addition, in the continued absence of an Assembly and Ministers, the Department has consulted with the DfC and the Permanent Secretary of the DfC has approved this transfer.
- 4.2. No wider consultation took place on the Rules.

5. Equality Impact

- 5.1. An equality screening exercise was carried out. This indicated that a full equality impact assessment was not required under section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

- 6.1. These Rules were screened for their regulatory impact. The provisions contained in the Rules will impose no additional costs on businesses, charities or the voluntary sector. Accordingly, a full Regulatory Impact Assessment was not considered necessary.

7. Financial Implications

- 7.1. The provisions contained within these Regulations will have no financial implications.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department considers these Rules to be compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Not applicable.

11. Additional Information

- 11.1. The Department considers the progression of this Statutory Rule to be a function permitted pursuant to the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018. The implications of this Statutory Rule and the decision to proceed with it does not involve a major policy decision. The transfer of the work involved is not controversial and has been welcomed by the Law Society of Northern Ireland. There is a public interest in progressing this Statutory Rule, by implementing a recommendation of the first Access to Justice Review and there was Ministerial approval from the former Minister of Justice Claire Sugden in November 2016 to progress the transfer of this work. It is envisaged this will be a seamless transfer and may enhance the delivery of civil legal services which works towards Programme for Government Outcome 7: We have a safe community where we respect the law, and each other.