

SCHEDULES

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

Costs in Criminal Cases Act (Northern Ireland) 1968 (c. 10)

- 1.—(1) The Costs in Criminal Cases Act (Northern Ireland) 1968 shall be amended as follows.
- (2) In section 4(1) for paragraph (b) substitute—
- “(b) to pay to the Northern Ireland Legal Services Commission the whole or any part of the costs of criminal defence services funded by the Commission in respect of the appeal or application under the Access to Justice (Northern Ireland) Order 2002.”
- (3) In section 6—
- (a) for “Part III of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 or under section 28(2) of the Criminal Appeal (Northern Ireland) Act 1980” substitute “the Access to Justice (Northern Ireland) Order 2002”; and
- (b) in paragraph (b) for the words from “Lord Chancellor” to the end substitute “Northern Ireland Legal Services Commission the whole or any part of the costs of the criminal defence services funded by the Commission for the defendant or (as the case may be) the appellant”.

Solicitors (Northern Ireland) Order 1976 (N.I.12)

- 2.—(1) The Solicitors (Northern Ireland) Order 1976 shall be amended as follows.
- (2) In Article 3(2) (interpretation) after the definition of “client” insert—
- ““the Commission” means the Northern Ireland Legal Services Commission;”.
- (3) In Article 44(1) (applications and complaints to Solicitors Disciplinary Tribunal)—
- (a) in paragraph (d) (application by solicitor excluded from legal aid work)—
- (i) for “excluded from legal aid work” substitute “prohibited from providing civil legal services or criminal defence services funded by the Commission”; and
- (ii) for “terminating his exclusion” substitute “lifting the prohibition on his providing such services”; and
- (b) in paragraph (g) (complaints in connection with legal aid work)—
- (i) after “by the Society” insert “, the Commission or any other person”, and
- (ii) for paragraphs (i) and (ii) substitute “the provision of civil legal services or criminal defence services funded by the Commission; or”.
- (4) In Article 46(1) (procedure on application or complaint against solicitor by person other than the Law Society or lay observer) after “(f)” insert “, (g)”.
- (5) In Article 51(1) (orders of Solicitors Disciplinary Tribunal on inquiry) for sub-paragraph (i) (order terminating solicitor’s exclusion from legal aid work) substitute—

- “(i) the lifting of a prohibition on the solicitor providing civil legal services or criminal defence services funded by the Commission;”.
- (6) In Article 51B(1) (power of Solicitors Disciplinary Tribunal to make order excluding solicitor from legal aid work)—
- (a) for sub-paragraphs (a) and (b) substitute—
- “(a) make an order prohibiting the solicitor (either permanently or for a specified period) from providing civil legal services or criminal defence services funded by the Commission;
- (b) order that any costs otherwise payable in connection with such services provided by the solicitor—
- (i) under Article 17(1) of the Access to Justice (Northern Ireland) Order 2002,
- (ii) in accordance with an order made by a court under Article 32(2) of that Order,
- shall be reduced or cancelled.”, and
- (b) at the end insert “and the power of the Tribunal under this Article is without prejudice to any powers of the Commission under any regulations made under Article 37 of the Access to Justice (Northern Ireland) Order 2002 (register of persons providing civil legal services and criminal defence services under that Order).”.
- (7) In Article 51B(2) (no order to be made unless good reason arising out of conduct of solicitor) for sub-paragraphs (a) and (b) substitute—
- “(a) the conduct of the solicitor in connection with the provision for any person of civil legal services or criminal defence services funded by the Commission (including the provision of any such services in the capacity of agent for that person’s solicitor); or”.
- (8) In Article 51B(3) (power to order that other members of firm be excluded from legal aid work) for the words from “shall be excluded” to the end substitute “shall be prohibited (either permanently or for a specified period) from providing civil legal services or criminal defence services funded by the Commission”.
- (9) In Article 51B(4) (which makes provision about orders under paragraph (3)) for “excluding any person from legal aid work” substitute “prohibiting any person from providing civil legal services or criminal defence services funded by the Commission”.
- (10) In Article 51B(5) (certain provisions of Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 to have effect subject to an order under Article 51B(1)(b)) for “any of Articles 7, 8, 13(1) and 36(1) of the Order of 1981” substitute “Article 17 or 32 of the Access to Justice (Northern Ireland) Order 2002”.

Sex Discrimination (Northern Ireland) Order 1976 (N.I.15)

- 3.** In Article 75 of the Sex Discrimination (Northern Ireland) Order 1976 (charges to recover costs of assistance) in paragraph (4)—
- (a) for “under the Legal Aid, Advice and Assistance Order 1981” substitute “imposed by Article 17 of the Access to Justice (Northern Ireland) Order 2002”;
- (b) after “any provision in” insert “, or made under”; and
- (c) for “into the legal aid fund” substitute “to the Northern Ireland Legal Services Commission”.

European Communities (Services of Lawyers) Order 1978 (S.I.1978/1910)

4. In Part 1 of the Schedule to the European Communities (Services of Lawyers) Order 1978 (enactments relating to the provision of legal advice and assistance and legal aid) for the entry relating to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 substitute—

“Access to Justice (Northern Ireland) Order 2002”.

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

5.—(1) The Criminal Appeal (Northern Ireland) Act 1980 shall be amended as follows.

(2) Section 19 (legal aid) shall cease to have effect.

(3) In section 30(1) (interpretation of Part I) in the definition of “sentence” at the end insert “, but does not include any order under Article 32 of the Access to Justice (Northern Ireland) Order 2002”.

(4) Section 37 (legal aid) shall cease to have effect.

(5) Paragraph 1 of Schedule 1 (legal aid provisions applicable on retrial) shall cease to have effect.

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (N.I. 8)

6. In Article 37 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (remuneration of solicitors and counsel) for the words “to the principle of allowing fair remuneration according to the work reasonably undertaken and properly done” substitute—

“, among the matters which are relevant, to—

(a) the time and skill which work of the description to which the rules relate requires;

(b) the number and general level of competence of persons undertaking work of that description,

(c) the cost to public funds of any provision made by the rules, and

(d) the need to secure value for money,

but paragraph (b) shall not require him to have regard to any fees payable to solicitors and counsel otherwise than under this Part.”

Telecommunications Act 1984 (c. 12)

7. In section 52(5) of the Telecommunications Act 1984 (charges to recover costs of assistance in legal proceedings subject to legal aid charges) for paragraph (c) substitute—

“(c) any charge imposed by Article 17(7) of the Access to Justice (Northern Ireland) Order 2002 and any provision in, or made under, Part II of that Order for the payment of any sum to the Northern Ireland Legal Services Commission.”

Child Abduction and Custody Act 1985 (c. 60)

8. In section 11 of the Child Abduction and Custody Act 1985 (cost of applications)—

(a) after paragraph (a) insert—

“(aa) the provision of civil legal services by the Northern Ireland Legal Services Commission, or”; and

(b) after “the Legal Aid (Scotland) Act 1967” insert “or”.

Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (N.I. 16)

9.—(1) The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 shall be amended as follows.

(2) In Article 3(1) (notice of transfer of serious fraud cases), for the words “Article 29(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981” substitute “any regulations under Article 26(3) of the Access to Justice (Northern Ireland) Order”.

(3) In Article 10(12) (restrictions on reporting), for sub-paragraph (h) substitute—

“(h) whether a right to representation funded by the Northern Ireland Legal Services Commission was granted to the accused or any of the accused under the Access to Justice (Northern Ireland) Order 2002.”

Social Security Administration (Northern Ireland) Act 1992 (c. 8)

10. In section 103(7) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (enforcement of maintenance orders)—

(a) for “Incorporated Law Society of Northern Ireland” substitute “Northern Ireland Legal Services Commission”,

(b) for “legal aid under Part II of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981” substitute “civil legal services funded by the Commission”, and

(c) for “under Article 12 of that Order” “by virtue of Article 17 of the Access to Justice (Northern Ireland) Order 2002”.

Race Relations (Northern Ireland) Order 1997 (N.I. 6)

11. In Article 64(6) of the Race Relations (Northern Ireland) Order 1997 (charges to recover costs of assistance in legal proceedings subject to legal aid charges)—

(a) for “under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981” substitute “imposed by Article 17 of the Access to Justice (Northern Ireland) Order 2002”,

(b) after “any provision in” insert “, or made under”, and

(c) for “into the legal aid fund” substitute “to the Northern Ireland Legal Services Commission”.

Northern Ireland Act 1998 (c. 47)

12. In Schedule 10 to the Northern Ireland Act 1998 (devolution issues), in paragraph 39(2) for “Sub-paragraphs (3) and (4) apply” substitute “Sub-paragraph (3) applies”.

Freedom of Information Act 2000 (c. 36)

13. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (public authorities) insert (at the appropriate place in alphabetical order)—

“The Northern Ireland Legal Services Commission.”

Equality (Disability, etc.) (Northern Ireland) Order 2000 (N.I. 2)

14. In Article 10 of the Equality (Disability, etc.) (Northern Ireland) Order 2000 in paragraph (4) (charge created by Article 10 is subject to charge under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981)—

- (a) for “under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981” substitute “imposed by Article 17(7) of the Access to Justice (Northern Ireland) Order 2002”, and
- (b) for “in that Order for payment of any sum into the legal aid fund” substitute “in, or made under, Part II of that Order for the payment of any sum to the Northern Ireland Legal Services Commission.”

European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119)

15. In Part 1 of Schedule 3 to the European Communities (Lawyer’s Practice) Regulations 2000 (enactments relating to the provision of legal advice and assistance and legal aid) for “Legal Aid, Advice and Assistance (Northern Ireland) Order 1981” substitute—

“Access to Justice (Northern Ireland) Order 2002”.

Anti-Terrorism, Crime and Security Act 2001 (c. 24)

16. In Part 2 of Schedule 4 to the Anti-Terrorism, Crime and Security Act 2001 (Northern Ireland legislation to which section 17 applies), for paragraph 57 substitute—

“Access to Justice (Northern Ireland) Order 2002

57. Article 33 of the Access to Justice (Northern Ireland) Order 2002.”