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STATUTORY INSTRUMENTS

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**2019 No. 505**

**The Civil Legal Aid (Amendment) (EU Exit) Regulations 2019**

**PART 4**

Transitional Provisions

**Transitional provision – Northern Ireland**

9.—(1) The amendments made by regulation 2(3) and 7 do not apply to an application for civil legal services falling within paragraph (2).

(2) An application for civil legal services falls within this paragraph if it is an application—

(a) submitted to the Director in accordance with Article 13(1)(b) of the Cross-Border Legal Aid Directive, reading that Article as if the United Kingdom were a member State, which—

(i) is made using the standard form for legal aid applications established under Article 16 of the Cross-Border Legal Aid Directive, and

(ii) received by the Director before [F1IP completion day],

(b) transmitted to the Director by a transmitting authority and received by the Director before 5.00pm on the fifteenth day after the day on which [F1IP completion day] falls, or

(c) not falling within sub-paragraph (a) or (b), and—

(i) the application is for advice and assistance, and the application is signed and dated on or before the day on which [F1IP completion day] falls,

(ii) the application is for representation (lower courts), and the application is signed and dated on or before the day on which [F1IP completion day] falls and received by the Director before 11pm on the twenty-eighth day following [F1IP completion day], or

(iii) the application is for representation (higher courts), and the application is signed and dated on or before the day on which [F1IP completion day] falls and received by the Director before 11pm on the twenty-eighth day following [F1IP completion day].

(3) After [F1IP completion day], for the purposes of an application falling within paragraph (2)—

(a) the following provisions have effect as if the United Kingdom were a member State—

(i) paragraph 2(d)(xx) of Schedule 2 to the Access to Justice (Northern Ireland) Order 2003, and

(ii) regulation 9 of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015, and

(b) regulation 9(4) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015 is to be read as if for it there were substituted—

“(4) For the purposes of this regulation—

- (a) in order to determine whether an individual is domiciled in the member State whose courts are seised of a matter, the internal law of that member State shall be applied;
- (b) if an individual is not domiciled in the member State whose courts are seised of the matter, then, in order to determine whether the party is domiciled in another member State, the internal law of that member State shall be applied.”

[<sup>F2</sup>(3A) Nothing in these Regulations affects the application of paragraph 1(a) of Article 69 of the withdrawal agreement and legislation amended or revoked by these Regulations continues to have effect for the purposes of that paragraph as if the amendments or revocations had not been made.]

(4) In this regulation—

“advice” and “assistance” have the meanings given in Article 2(2) of the Access to Justice (Northern Ireland) Order 2003;

“civil legal services” has the meaning given in Article 10 of the Access to Justice (Northern Ireland) Order 2003;

“the Cross-Border Legal Aid Directive” means Council Directive [2003/8/EC](#) of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes;

“Director” means the Director of Legal Aid Casework designated by the Department of Justice under section 2 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 <sup>M1</sup> and any person to whom a function of the Director of Legal Aid Casework has been delegated under section 4 of that Act;

“representation (lower courts)” and “representation (higher courts)” have the meanings given in regulation 2 of the Civil Legal Services (General) Regulations (Northern (Ireland) 2015 <sup>M2</sup>; and

“transmitting authority” has the meaning given in Article 14(1) of the Cross-Border Legal Aid Directive.

#### Textual Amendments

**F1** Words in reg. 9(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Civil, Criminal and Family Justice \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1493\)](#), regs. 1(1), **7(2)(b)**

**F2** Reg. 9(3A) inserted (31.12.2020 immediately before IP completion day) by [The Civil, Criminal and Family Justice \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1493\)](#), regs. 1(1), **7(4)**

#### Commencement Information

**I1** Reg. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M1** [2014 c.11 \(N.I.\)](#).

**M2** [S.R. 2015 No. 195 \(N.I.\)](#); to which there are amending instruments not relevant to these Regulations.

**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Legal Aid (Amendment) (EU Exit) Regulations 2019, Section 9.