

*These notes refer to the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c.11) which received Royal Assent on 17 November 2014*

# Legal Aid and Coroners' Courts Act (Northern Ireland) 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 4: Delegation of functions of Director*

This section makes provision about the delegation of the Director's functions.

Subsection (1) allows the Director to delegate the Director's functions. This enables the Director to delegate, for example, decision-making in relation to the merits of a legal aid application, the application of any relevant means test for a particular area of work in relation to a legal aid application and the on-going monitoring of decisions.

Subsection (2) provides that under section 3 the Department may give directions to the Director about the delegation of the Director's functions. The Department will be able to require the Director to delegate, or not to delegate, particular functions and to give directions about the persons to whom the Director may or may not delegate those functions.

Subsection (3) ensures that a function of the Director may be delegated entirely or subject to limitations or conditions. For example, decision-making in relation to the merits and financial eligibility might be delegated to providers (whether solicitors in private practice or the voluntary/Not-for-Profit sector) in relation to particular matters, or subject to particular financial limits as to the amount of work that can be carried out before the case must be referred to the Director for a decision on further legal aid funding.

Subsections (4) to (8) make provision about the effect of the delegation of functions under subsections (1) to (3).

Subsection (4) gives the Director the power to limit the duration of a delegation as well as to vary or revoke the delegation at any time. It also reserves the right of the Director (or another person) to continue to exercise a function that has been delegated.

Subsection (5) provides that any act or omission by a person ("authorised person") in exercising a function of the Director delegated to them under

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section 4(1) to (3) is to be treated as being done or omitted to be done by the Director.

However, the liability of the Director for acts or omissions of an authorised person is not absolute. Subsection (6) provides that subsection (5) does not affect the rights and liabilities of the Department and the authorised person between themselves (for example, contractual disputes), does not prevent civil proceedings from being brought against the authorised person and does not apply to criminal offences alleged to have been committed by the authorised person.