



2014 CHAPTER 11

PART 1

LEGAL AID

Dissolution of Northern Ireland Legal Services Commission

Dissolution of Northern Ireland Legal Services Commission

1.—(1) On the dissolution date, the Commission is dissolved.

(2) The functions exercisable by the Commission immediately before the dissolution date under or for the purposes of—

- (a) Part 3 of the 1981 Order, and
- (b) the 2003 Order,

are transferred to the Department.

(3) Subsection (2) has effect subject to any amendment or repeal of provisions in Part 3 of the 1981 Order or the 2003 Order made by this Act (and in particular subject to any amendment providing for a particular function to be exercised by the Director).

(4) The functions transferred by subsection (2) include functions under provisions not yet in operation at the time mentioned in that subsection.

(5) Schedule 1 makes provision for, and in connection with, the transfer of the assets, liabilities and staff of the Commission to the Department.

(6) In this Act—

“the 1981 Order” means the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981;

“the 2003 Order” means the Access to Justice (Northern Ireland) Order 2003;
“the Commission” means the Northern Ireland Legal Services Commission;
“the Department” means the Department of Justice;
“the Director” means the Director of Legal Aid Casework designated by the Department under section 2;
“the dissolution date” means the day appointed under section 12 for the coming into operation of this section;
“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

The Director of Legal Aid Casework

Designation of Director of Legal Aid Casework

2.—(1) The Department must designate a civil servant in the Department as the Director of Legal Aid Casework (“the Director”).

(2) The selection of the person to be so designated must be on the basis of merit through fair and open public competition.

(3) The Director is to carry out the functions of the office on behalf of the Crown.

(4) Service as the Director is service in the Northern Ireland civil service.

(5) The Department must make arrangements for the provision to the Director by civil servants or other persons (or both) of such assistance as the Department considers appropriate.

Exercise of functions by Director

3.—(1) The Director must—

- (a) comply with directions given by the Department about the carrying out of the Director’s functions, and
- (b) have regard to guidance given by the Department about the carrying out of those functions.

(2) But the Department—

- (a) must not give a direction or guidance about the carrying out of those functions in relation to an individual case, and
- (b) must ensure that the Director acts independently of the Department when applying a direction or guidance under this section in relation to an individual case.

(3) The Department must publish any directions and guidance given under this section.

(4) Directions and guidance under this section may be revised or withdrawn from time to time.

Delegation of functions of Director

4.—(1) The functions conferred on the Director by any statutory provision may be exercised by, or by employees of, a person authorised by the Director for that purpose.

(2) A direction given by the Department under section 3 about the carrying out of the Director's functions may, in particular, require the Director—

- (a) to authorise, or not to authorise, a person to carry out a function specified in the direction, or
- (b) to authorise, or not to authorise, a person specified, or of a description specified, in the direction to carry out such a function.

(3) An authorisation given for the purposes of a function under any statutory provision may provide that the function may be exercised—

- (a) wholly or to a limited extent,
- (b) generally or in particular cases or areas,
- (c) unconditionally or subject to conditions,

but that is subject to any provision made by the statutory provision in question.

(4) An authorisation given for the purposes of this section—

- (a) may specify its duration,
- (b) may specify or describe the authorised person,
- (c) may be varied or revoked at any time by the Director, and
- (d) does not prevent the Director or another person from exercising the function to which the authorisation relates.

(5) Anything done or omitted to be done by or in relation to the authorised person (or an employee of such a person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Director.

(6) Subsection (5)—

- (a) does not affect the rights and liabilities of the authorised person or the Department under any agreement made between them,
- (b) does not prevent any civil proceedings which could otherwise be brought by or against the authorised person (or an employee of that person) from being brought, and
- (c) does not apply for the purposes of criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).

(7) Where—

- (a) an authorisation given for the purposes of this section is revoked, and
- (b) at the time of the revocation so much of any contract made between the authorised person and the Department as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Department (and not as frustrated by reason of the revocation).

(8) In this section “authorised person” means a person authorised for the purposes of this section.

Annual report of Director

5.—(1) As soon as reasonably practicable after the end of each financial year, the Director must prepare an annual report for the financial year.

(2) The annual report must state how the Director has carried out the functions of the office in the financial year.

(3) The Director must send a copy of the report to the Department.

(4) The Department must—

- (a) lay the copy of the report before the Assembly, and
- (b) arrange for it to be published.

(5) In this section “financial year” means—

- (a) the period beginning on the day on which section 2 comes into operation and ending on the following 31 March, and
- (b) each successive period of 12 months.

Amendment of law relating to legal aid, civil legal services and criminal defence services

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6. Schedule 2 contains amendments which—

- (a) amend Part 3 of the 1981 Order in relation to legal aid in criminal proceedings;
- (b) amend the 2003 Order in relation to civil legal services and criminal defence services; or
- (c) are otherwise incidental to, or consequential on, the preceding provisions of this Part.