



2021 CHAPTER 2

PART 1

Domestic abuse: offence and aggravation

CHAPTER 3

Miscellaneous provision

Civil legal aid for victims of abuse

Eligibility of victims for civil legal aid

28.—(1) In the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015, in regulation 10 (waiver of eligibility limits in proceedings relating to domestic violence or forced marriage)—

(a) after paragraph (1) insert—

“(1A) This regulation applies to an application by a client for the funding of representation in proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995 if—

(a) the client is the respondent in the proceedings, and

(b) the Director is satisfied that—

(i) the client is or appears to be the victim of abusive behaviour perpetrated or apparently perpetrated by the applicant seeking the order, and

(ii) the applicant seeking the order is someone to whom the client is personally connected.”,

(b) after paragraph (4) insert—

“(5) The following apply for the purposes of paragraph (1A) as they apply for the purposes of Chapter 1 of Part 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (to give meanings to certain expressions)—

(a) section 2 (as read with section 3(2)) of that Act,

(b) sections 4 and 5 of that Act.”.

(2) Guidance under section 3 of the Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014 must describe the basis, particularly as regards applicable information about the commission or alleged commission of an offence involving domestic abuse, on which the Director may be satisfied as mentioned in regulation 10(1A) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.

(3) An offence involving domestic abuse is—

(a) an offence under section 1, or

(b) an offence of any kind that is aggravated as provided for in section 15.

(4) The Director is as defined in the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.

(5) This section is without prejudice to—

(a) any power to make regulations under the Access to Justice (Northern Ireland) Order 2003,

(b) the power to give guidance under section 3 of the Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014.

Proposals as to availability of civil legal aid

29.—(1) The Department of Justice must lay before the Assembly a report setting out the Department’s proposals for—

(a) making regulations under the Access to Justice (Northern Ireland) Order 2003 for the prescribed purpose, or

(b) taking some different course of action for the prescribed purpose.

(2) A report under this section must be laid before the Assembly before the end of the period of 2 years beginning with the day on which this Act receives Royal Assent.

(3) The prescribed purpose is that of—

(a) reducing (including to nil), in specific circumstances, financial costs to be incurred by a relevant client with respect to receiving funded services in or in relation to qualifying proceedings to which an abusive person as well as the relevant client are parties, or

- (b) preventing, so far as reasonably possible—
 - (i) qualifying proceedings from being initiated unduly against a relevant client by an abusive person by virtue of having access to funded services, or
 - (ii) qualifying proceedings to which both a relevant client and an abusive person are parties from being prolonged unduly by the abusive person by virtue of having access to funded services.
- (4) Qualifying proceedings are—
 - (a) proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995, or
 - (b) proceedings on appeal arising from proceedings for an order that is an Article 8 Order within the meaning of the Children (Northern Ireland) Order 1995.
- (5) A relevant client is a client who is or appears to be the victim of abusive behaviour.
- (6) An abusive person is someone—
 - (a) who is the perpetrator or apparent perpetrator of abusive behaviour of which the relevant client is or appears to be the victim, and
 - (b) to whom the relevant client is personally connected.
- (7) A conclusion by the Director, when acting by virtue of regulations made under the Access to Justice (Northern Ireland) Order 2003 for the prescribed purpose—
 - (a) as to whether—
 - (i) a person is or appears to be the victim of abusive behaviour, or
 - (ii) someone is the perpetrator or apparent perpetrator of abusive behaviour, or
 - (b) as to whether two people are personally connected to each other, may be reached, particularly on the basis of applicable information about the commission or alleged commission of an offence involving domestic abuse, having regard to appropriate guidance given under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014.
- (8) What amounts to abusive behaviour is to be construed, or whether two people are personally connected to each other is to be determined, in the same way as is provided for in Chapter 1.
- (9) An offence involving domestic abuse is—
 - (a) an offence under section 1, or
 - (b) an offence of any kind that is aggravated as provided for in section 15.

(10) A reference in this section to a client or funded services, or to the Director, is to be construed in accordance with the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.