

STATUTORY INSTRUMENTS

1981 No. 228

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981

[^{F1}PART II

LEGAL ADVICE AND ASSISTANCE, AND LEGAL AID OTHER THAN FREE LEGAL AID AVAILABLE UNDER PART III

[^{F1}Assessment of resources etc.

F1 Pt. 2 (to the extent that it remains in operation) repealed (1.4.2015) by [Access to Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/435\)](#), arts. 1(2), 49(5), [Sch. 5](#) (with transitional provisions and savings in art. 48, Sch. 3); S.R. 2015/194, art. 2, [Sch.](#) (with transitional provisions and savings in art. 3)

Assessment of disposable capital and income and of maximum contribution

14.—(1) References in this Part to a person's disposable income or disposable capital shall be taken as referring to the rate of his income or amount of his capital after making—

- (a) such deductions as may be prescribed in respect of—
 - (i) the maintenance of dependants;
 - (ii) interest on loans;
 - (iii) income tax;
 - (iv) rates;
 - (v) rent; and
 - (vi) other matters for which the person in question must or reasonably may provide; and
- (b) such further allowances as may be prescribed to take account of the nature of his resources.

(2) Regulations may make provision as to the manner in which the rate of a person's income and the amount of his capital are to be computed for the purposes of paragraph (1), and in particular for—

- (a) determining whether any resources are to be treated as income or capital; and
- (b) taking into account fluctuations of income.

(3) The regulations shall include provisions for securing that the resources of a person seeking or receiving legal aid, advice or assistance shall be treated as not including the subject matter of the dispute.

(4) Except in so far as the regulations otherwise provide, any resources of a person's [^{F2} spouse or civil partner] shall be treated for the purposes of this Article as that person's resources, and the regulations may also make provision, in relation to minors and any other special cases, for taking into account the resources of other persons.

Changes to legislation: *Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Assessment of resources etc. is up to date with all changes known to be in force on or before 16 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) The regulations may also include, in relation to advice and assistance, provision as to the cases in which a person is for the purposes of Articles 3 and 7 to be taken to be (directly or indirectly) in receipt of^[F3] income support^[F4], an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995) or an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance)^[F5] or a guarantee credit under the State Pension Credit Act (Northern Ireland) 2002].]

(6) Subject to the provisions of this Article, the disposable income and disposable capital of a person applying for legal aid, and the maximum amount of his contribution to the legal aid fund in respect of any proceedings, shall be determined in accordance with regulations.

(7) Regulations for the purposes of this Article shall be made with the concurrence of the ^[F6]Department of Finance and Personnel].]

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| F2 | 2004 c. 33 |
| F3 | 1986 NI 18 |
| F4 | Words in art. 14(5) substituted (27.10.2008) by Employment and Support Allowance (Consequential Provisions No. 2) Regulations (Northern Ireland) 2008 (S.R. 2008/412) , reg. 2(4) |
| F5 | Words in art. 14(5) added (7.1.2013) by Justice Act (Northern Ireland) 2011 (c. 24) , ss. 82(4) , 111(3); S.R. 2012/449 , art. 2(a) |
| F6 | Words in art. 14(7) substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595) , arts. 1(2), 5 (with arts. 24-28) |

Changes to legislation:

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Assessment of resources etc. is up to date with all changes known to be in force on or before 16 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Order power to amend conferred by [2011 c. 24 \(N.I.\) Sch. 5 para. 5\(a\)](#)
- Act rev.in pt. by [1996 c. 25 s.79Sch.4 paras.19\(2\)36](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 28(7)(c) inserted by [2011 c. 24 \(N.I.\) s. 83\(2\)\(a\)](#)
- art. 29(2A) inserted by [2015 c. 9 \(N.I.\) Sch. 2 para. 3](#)
- art. 29(2A) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\), Sch. 2 para. 3](#) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(c\)](#)