

SCHEDULES

SCHEDULE 2

Article 12(5)

CIVIL LEGAL SERVICES: EXCLUDED SERVICES

1. The Commission may not fund services consisting of the provision of advice (beyond the provision of general information about the law and the legal system and the availability of legal services) or assistance in relation to—

- (a) conveyancing,
- (b) boundary disputes,
- (c) the making of wills,
- (d) matters of trust law,
- (e) defamation or malicious falsehood,
- (f) matters of company or partnership law, or
- (g) other matters arising out of the carrying on of a business.

2. The Commission may not fund services consisting of representation in any proceedings, except, subject to paragraph 4, such proceedings as are specified in sub-paragraphs (a) to (j)—

- (a) proceedings in—
 - (i) the House of Lords in the exercise of its jurisdiction in relation to any appeal from Northern Ireland,
 - (ii) the Judicial Committee of the Privy Council in the exercise of its jurisdiction under the Northern Ireland Act 1998⁽¹⁾ or in relation to any appeal or reference from Northern Ireland,
 - (iii) the Court of Appeal,
 - (iv) the High Court, or
 - (v) any county court,
- (b) proceedings before any person to whom a case is referred (in whole or in part) in any proceedings within sub-paragraph (a),
- (c) proceedings in the Crown Court under the Proceeds of Crime Act 2002⁽²⁾ to the extent specified in paragraph 3,
- (d) proceedings in a court of summary jurisdiction—
 - (i) for or relating to an order under the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945⁽³⁾ or the Domestic Proceedings (Northern Ireland) Order 1980⁽⁴⁾ or the Family Homes and Domestic Violence (Northern Ireland) Order 1998⁽⁵⁾,

(1) 1998 c. 47.
(2) 2002 c. 29.
(3) 1945 c. 14 (N.I.).
(4) 1980 N.I. 5.
(5) 1998 N.I. 6.

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- (ii) under section 22 of the Maintenance Orders Act 1950⁽⁶⁾ or section 13 of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966⁽⁷⁾,
- (iii) under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972⁽⁸⁾ relating to a maintenance order made by a court of a country outside the United Kingdom,
- (iv) such as are referred to in paragraph (i) and are brought by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972,
- (v) which are debt or ejection proceedings within the meaning of Part VI of the Magistrates' Courts (Northern Ireland) Order 1981⁽⁹⁾, other than proceedings under Article 62(2) of that Order,
- (vi) under section 97, 143 or 144(1) of the Children and Young Persons Act (Northern Ireland) 1968⁽¹⁰⁾ or the Children (Northern Ireland) Order 1995⁽¹¹⁾,
- (vii) under Article 101 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹²⁾ or section 101 of the Social Security Administration (Northern Ireland) Act 1992⁽¹³⁾,
- (viii) which are appeals under Article 22 of the Child Support (Northern Ireland) Order 1991⁽¹⁴⁾, so far as such appeals are to be made to a court of summary jurisdiction by virtue of Article 2 of the Child Support Appeals (Jurisdiction of Courts) Order (Northern Ireland) 1993⁽¹⁵⁾,
- (ix) under Article 28 of the Child Support (Northern Ireland) Order 1991,
- (x) for a sex offender order under Article 6 of the Criminal Justice (Northern Ireland) Order 1998⁽¹⁶⁾,
- (xi) for an order or direction under paragraph 3, 5, 6, 9 or 10 of Schedule 1 to the Anti-Terrorism, Crime and Security Act 2001⁽¹⁷⁾, or
- (xii) for an order or direction under section 295, 297, 298, 301 or 302 of the Proceeds of Crime Act 2002,
- (e) proceedings in any devolution issue (within the meaning of Schedule 10 to the Northern Ireland Act 1998, Schedule 8 to the Government of Wales Act 1998⁽¹⁸⁾ or Schedule 6 to the Scotland Act 1998⁽¹⁹⁾) before any court in Northern Ireland,
- (f) proceedings brought by an individual before the Proscribed Organisations Appeal Commission,
- (g) proceedings before the Mental Health Review Tribunal,
- (h) proceedings in the Lands Tribunal for Northern Ireland,

(6) 1950 c. 37.
(7) 1966 c. 35 (N.I.).
(8) 1972 c. 18.
(9) 1981 N.I. 26.
(10) 1968 c. 34 (N.I.).
(11) 1995 N.I. 2.
(12) 1972 N.I. 14.
(13) 1992 c. 8.
(14) 1991 N.I. 23.
(15) S.R. 1993 No.104.
(16) 1998 N.I. 20.
(17) 2001 c. 24.
(18) 1998 c. 38.
(19) 1998 c. 46.

- (i) proceedings before an adjudicator appointed for the purposes of Part 5 of the Nationality, Immigration and Asylum Act 2002⁽²⁰⁾, the Immigration Appeal Tribunal or the Special Immigration Appeals Commission, and
 - (j) proceedings in the Enforcement of Judgments Office in connection with any proceedings mentioned in sub-paragraphs (a) to (i).
- 3.—**(1) These are the proceedings under the Proceeds of Crime Act 2002 referred to in paragraph 2(c)—
- (a) proceedings which relate to a direction under section 202(3) or 204(3) as to the distribution of funds in the hands of a receiver;
 - (b) applications under section 210 relating to action taken or proposed to be taken by a receiver;
 - (c) applications under section 211 to vary or discharge an order under any of sections 196 to 201 for the appointment of or conferring powers on a receiver;
 - (d) applications under section 220 or 221 for the payment of compensation;
 - (e) applications under sections 351(3), 362(3), 369(3) or 375(2) to vary or discharge certain orders made under Part 8.
- (2) But sub-paragraph (1) does not authorise the funding of the provision of services to a defendant (within the meaning of Part 4 of the Proceeds of Crime Act 2002) in relation to—
- (a) proceedings mentioned in sub-paragraph 1(b) of that sub-paragraph, or
 - (b) an application under section 221 of that Act for the payment of compensation if the confiscation order was varied under section 179.
- 4.** Subject to paragraph 5, the following services may not be funded by the Commission as civil legal services, even where they fall within the descriptions specified in paragraphs 2(a) to (j)—
- (a) representation in proceedings in respect of which representation may be granted as a criminal defence service;
 - (b) representation wholly or partly in respect of defamation;
 - (c) representation in relator actions;
 - (d) representation in relation to election petitions under the Representation of the People Act 1983⁽²¹⁾ or the Electoral Law Act (Northern Ireland) 1962⁽²²⁾;
 - (e) representation in proceedings (other than proceedings referred to in paragraph 2(j)) for the recovery of a debt (including liquidated damages) which is admitted where the only question to be brought before the court is as to the time and mode of payment of that debt;
 - (f) representation in proceedings incidental to any proceedings mentioned in sub-paragraphs (a) to (e).
- 5.** Notwithstanding paragraph 4, the making of a counterclaim for defamation in proceedings for which representation may be granted shall not of itself affect any right of a defendant to the counterclaim to representation in the proceedings and representation may be granted to enable him to defend such counterclaim.

⁽²⁰⁾ 2002 c. 41.

⁽²¹⁾ 1983 c. 29.

⁽²²⁾ 1962 c. 14. (N.I.).