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STATUTORY INSTRUMENTS

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**2003 No. 435**

**Access to Justice (Northern Ireland) Order 2003**

[<sup>F1</sup>PART 2

CIVIL LEGAL SERVICES AND CRIMINAL DEFENCE SERVICES]

*Civil legal services*

[<sup>F1</sup>Exceptional funding

**12A.**—(1) The Department is to fund the provision of any of the services specified in Schedule 2 to an individual if paragraph (2) or (4) is satisfied.

(2) This paragraph is satisfied if the Director—

- (a) has determined that the individual satisfies the requirements of regulations under Article 13 in relation to the services, and
- (b) has made an exceptional case determination in relation to the individual and the services,

(and has not withdrawn either determination).

(3) An exceptional case determination is a determination—

- (a) that it is necessary to make the services available to the individual under this Order because failure to do so would be a breach of—
  - (i) the individual's Convention rights (within the meaning of the Human Rights Act 1998), or
  - (ii) any rights of the individual to the provision of legal services that are [<sup>F2</sup>rights (as modified from time to time) which form part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018], or
- (b) that it is appropriate to do so, in the particular circumstances of the case, having regard to any risk that failure to do so would be such a breach.

(4) This paragraph is satisfied if—

- (a) the services consist of representation in proceedings at an inquest under the Coroners Act (Northern Ireland) 1959 into the death of a member of the individual's family,
- (b) the Director has made a wider public interest determination in relation to the individual and the inquest, and
- (c) the Director has determined that the individual satisfies the requirements of regulations under Article 13 in relation to the services,

(and neither determination has been withdrawn).

(5) A wider public interest determination is a determination that, in the particular circumstances of the case, the provision of representation for the individual for the purposes of the inquest is likely to produce significant benefits for a class of person, other than the individual and the members of the individual's family.

**Changes to legislation:** *Access to Justice (Northern Ireland) Order 2003, Section 12A is up to date with all changes known to be in force on or before 22 April 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*

- (6) For the purposes of this Article an individual is a member of another individual's family if—
- (a) they are relatives (whether of the full blood or half blood or by marriage or civil partnership),
  - (b) they are cohabittees (as defined in Article 3(1) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998), or
  - (c) one has parental responsibility for the other.

(7) Articles 14 to 20 do not apply to civil legal services funded under this Article unless they are applied (with or without modification) by an exceptional case determination or a wider public interest determination.]

- F1** Art. 12A substituted (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), s. 12(2)(d)(ii), **Sch. 2 para. 6(13)** (with ss. 2(3), 9, Sch. 1 para. 3(3)) (but this amendment cannot take effect until the commencement of S.I. 2003/435, **art. 12A**)
- F2** Words in art. 12A(3)(a)(ii) substituted (31.12.2020) by The Civil Legal Aid (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/505), regs. 1(1), **2(2)** (with regs. 8, 9) (as amended by S.I. 2020/1493, regs. 1(1), 7(2)-(4)): 2020 c. 1, Sch. 5 para. 1(1)

**Commencement Information**

- I1** Art. 12A in operation at 1.4.2015 by S.R. 2015/194, **art. 2, Sch.** (with art. 3)

**Changes to legislation:**

Access to Justice (Northern Ireland) Order 2003, Section 12A is up to date with all changes known to be in force on or before 22 April 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.

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

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

- Sch. 2 para. 2(ic)(id) inserted by [2023 c. 37 s. 56\(8\)](#)
- Sch. 4 para. 10(b)(c) coming into force by [S.R. 2015/194 art. 2Sch.](#) (This amendment is not be applied - relevant text is not available on [legislation.gov.uk](#))
- art. 14(2AA) inserted by [2023 c. 37 s. 56\(7\)](#)
- art. 27A inserted by [2011 c. 24 \(N.I.\) s. 84\(2\)](#)
- art. 27A(1)(2) word substituted by [2014 c. 11 \(N.I.\) Sch. 2 para. 6\(28\)](#)
- art. 46(5A) inserted by [2011 c. 24 \(N.I.\) s. 84\(4\)](#)