
STATUTORY INSTRUMENTS

1981 No. 228

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

PART III

FREE LEGAL AID IN CRIMINAL PROCEEDINGS

Assignment of solicitor and counsel

[^{F1}36A.—(1) Rules under Article 36(3)(b) must provide that, subject to paragraphs (2) and (3) and to any provision made by virtue of paragraph (4), a person in respect of whom a criminal aid certificate has been granted may select any solicitor or counsel willing to act for that person to be assigned so to act.

(2) A solicitor shall not be assigned in pursuance of a criminal aid certificate if the solicitor is for the time being prohibited from being so assigned by an order under Article 51B(1) or (3) of the Solicitors (Northern Ireland) Order 1976.

(3) A counsel shall not be assigned in pursuance of a criminal aid certificate if the counsel is for the time being prohibited from being so assigned by a determination of the General Council of the Bar of Northern Ireland, or by any determination of any such committee as may be established by that Council to determine charges preferred against counsel.

(4) Rules under Article 36(3)(b) may—

- (a) provide that in prescribed circumstances the right referred to in paragraph (1)—
 - (i) does not apply in cases of a prescribed description,
 - (ii) is not to include a right to select a solicitor or counsel of a prescribed description,
 - (iii) is to select only a solicitor or counsel registered under Article 36B, or only a solicitor or counsel of a prescribed description,
- (b) restrict the right to select a solicitor or counsel in place of a solicitor or counsel previously selected.

(5) Rules under Article 36(3)(b) may provide that, in prescribed circumstances, Article 36(1) does not require the Department to defray, or to continue to defray, the expenses incurred by a particular solicitor or counsel (but such provision shall not prejudice any right of a person to select another solicitor or counsel).

(6) The circumstances which may be prescribed by rules under paragraph (4) or (5) include that a determination has been made by a prescribed body or person.

(7) A solicitor or counsel who has been selected to act for a person may select another person to act for that person, as the agent of the solicitor or counsel, if that other person is of such a description that nothing in this Article or Article 36B would prohibit the person selecting that solicitor or counsel to act for that person.

(8) In this Article “ prescribed ” means prescribed by rules under Article 36(3)(b).]

Changes to legislation: *Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Section 36A is up to date with all changes known to be in force on or before 31 May 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*

F1 Arts. 36A, 36B substituted (1.4.2015) for art. 36A by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\), s. 12\(1\), Sch. 2 para. 1\(5\)](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)

Changes to legislation:

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[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\(9\)\(c\)](#)