

2011 No. 396

LEGAL AID AND ADVICE

**The Legal Aid in Criminal Proceedings (Costs) (Amendment)
Rules (Northern Ireland) 2011**

Made - - - - - *7th November 2011*

Coming into operation - *5th December 2011*

The Department of Justice makes the following Rules in exercise of the powers conferred by Article 36(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a) and now vested in it(b).

In accordance with Article 36(3) of that Order, the Department has consulted with the Lord Chief Justice and the Attorney General and it has obtained the approval of the Department of Finance and Personnel.

In accordance with Article 37 of that Order, the Department has had regard to the matters specified in that Article.

Citation and commencement

1. These Rules may be cited as the Legal Aid in Criminal Proceedings (Costs) (Amendment) Rules (Northern Ireland) 2011 and shall come into operation on 5th December 2011.

Amendments to the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992

2. The Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992(c) are amended as follows.

3. In rule 2—

- (a) omit the definition of “appropriate authority”;
- (b) before the definition of “costs”, insert—

““Commission” means the Northern Ireland Legal Services Commission established under Article 3 of the Access to Justice (Northern Ireland) Order 2003(d);”.

4. Omit rule 3.

(a) S.I. 1981/228 (N.I. 8)
(b) S.I. 1982/159 and S.I. 2010/976
(c) S.R. 1992 No. 314, to which the most recent amendment was made by S.R. 2010 No. 146
(d) S.I. 2003/435 (N.I. 10)

5.—(1) Subject to paragraph (2), in each place where it appears, for “appropriate authority” substitute “Commission”.

(2) In rule 16(3), for “an appropriate authority” substitute “the Commission”.

Sealed with the Official Seal of the Department of Justice on 7th November 2011

(L.S.)

David Ford
Minister of Justice

The Department of Finance and Personnel hereby approves the foregoing Rules

Sealed with the Official Seal of the Department of Finance and Personnel on 9th November 2011

(L.S.)

William Pauley
A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992 by substituting the Northern Ireland Legal Services Commission for the appropriate authority. The effect of the amendment is to transfer responsibility for the determination of the costs payable under the 1992 Rules from the appropriate authority to the Commission. Furthermore, with this transfer of function, the appropriate authority has ceased to exist.

The 1992 Rules also provide a system of redeterminations and appeals enabling solicitors and counsel to challenge the costs determined in a particular case.

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