

EXPLANATORY MEMORANDUM TO

The Civil Legal Services (Financial) Regulations (Northern Ireland) 2015

SR 2015 No. 196

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 13 and 17(1), (2)(b), (3), (5) and (6) of the Access to Justice (Northern Ireland) Order 2003 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations provide the procedures for solicitors and the Legal Aid Assessment Office to conduct financial eligibility assessments when individuals make an application for civil legal services. They set out how a determination in respect of an individual's financial eligibility is made, the treatment of income and capital for the purposes of the financial eligibility calculation, and how any contribution a client may be liable for is determined and collected.
- 2.2. The Regulations are largely a replication of the current statutory provisions which underpin financial eligibility for advice and assistance and civil legal aid under Part 2 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 ("the 1981 Order").
- 2.3. Part 2 of the Regulations deals with determinations in respect of an individual's financial resources.
- 2.4. Chapter 1 sets out the provisions on financial eligibility limits, together with express provisions giving the Director of Legal Aid Casework a discretionary power to waive the eligibility limits in four prescribed categories of cases (multi-party actions of significant wider public interest, certain inquests, cross-border disputes and proceedings relating to domestic violence or forced marriage). The Director is also given power to waive any assessed contributions in the multi-party actions, certain inquests and cross-border disputes.
- 2.5. Chapter 2 sets out a number of general provisions on making a determination in respect of an individual's financial resources.
- 2.6. Chapter 3 deals with the calculation of income and capital, covering both advice and assistance and representation (lower courts) .
- 2.7. Chapter 4 deals with the calculation of income for representation (higher courts).
- 2.8. Chapter 5 deals with the calculation of capital for representation (higher courts).

- 2.9. Chapter 6 deals with contributions, including the arrangements for the collection of contributions, across all levels of service.

3. Background

- 3.1. With effect from 1 April 2015, civil legal services will be commenced under the Access to Justice (Northern Ireland) Order 2003. A suite of subordinate legislation is required implement civil legal services, including this set of Regulations.

4. Consultation

- 4.1. The Department launched a four week targeted consultation with key stakeholders on these Regulations which closed on 5 January 2015. Responses were received from the Lord Chief Justice, the Attorney General, the Law Society, the Northern Ireland Legal Services Commission and the Legal Aid Assessment Office, which forms part of the Social Security Agency within the Department of Social Development.

5. Equality Impact

- 5.1. The Regulations have been screened for their equality impact and none was found.

6. Regulatory Impact

- 6.1. The Regulations largely replicate the current provision made under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, and they will not impose any restriction on business. Consequently, an Impact Assessment is not required.

7. Financial Implications

- 7.1. There are no financial implications.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. These Regulations are compliant with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Similar provisions apply in Scotland, England and Wales.

11. Additional Information

- 11.1. Not applicable.