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*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Cross Heading: Bail and legal aid in criminal proceedings. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 10

#### DEVOLUTION ISSUES

##### PART V

##### GENERAL

##### *Bail and legal aid in criminal proceedings*

- 39 (1) Sub-paragraph (3) applies where a devolution issue arises in proceedings against a person (“the defendant”) for an offence and the issue is referred to the Court of Appeal in Northern Ireland under paragraph 7.
- (2) Sub-paragraphs (3) and (4) apply where such an issue arises in such proceedings and—
- (a) the issue is referred by the Court to the Judicial Committee under paragraph 9 or 33; or
  - (b) the issue is determined by the Court under paragraph 7 and—
    - (i) an appeal to the Committee against the determination is brought under paragraph 10; or
    - (ii) an application for leave to bring such an appeal is made to the Court under that paragraph.
- (3) The Court may, if it thinks fit, on the application of the defendant, admit him to bail pending the determination of the reference, appeal or application.
- (4) The Court may at any time when it appears to the Court—
- (a) that it is desirable in the interests of justice that the defendant should have legal aid; and
  - (b) that he has not sufficient means to obtain that aid,
- assign to him a solicitor and counsel, or counsel only, in the reference, appeal or application.
- (5) If, on a question of granting a person free legal aid under sub-paragraph (4), there is a doubt—
- (a) whether it is desirable in the interests of justice that he should have legal aid; or
  - (b) whether he has sufficient means to obtain that aid,
- the doubt shall be resolved in favour of granting him free legal aid.
- (6) The fees of any counsel, and the expenses and fees of any solicitor, assigned to a person under sub-paragraph (4) shall be defrayed, up to an amount allowed by

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the Master (Taxing Office), by the Lord Chancellor out of money provided by Parliament.

- 40      Where a devolution issue arises as mentioned in sub-paragraph (1) of paragraph 39 and—
- (a) the issue is referred to the Judicial Committee under paragraph 9 or 33; or
  - (b) the issue is determined by the Court of Appeal in Northern Ireland under paragraph 7 and—
    - (i) an appeal to the Committee against the determination is brought under paragraph 10; or
    - (ii) an application for special leave to bring such an appeal is made to the Committee under that paragraph,
- sub-paragraphs (3) to (6) of paragraph 39 shall apply as if the references to the Court were references to the Committee.

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