

Restriction on ordering taxation of legal aid costs[jj652]

1.—(1) In the Judicature (Northern Ireland) Act 1978, after section 59 insert—

“Restriction on ordering taxation of costs in legal aid cases

5 **59A.**—(1) Neither the High Court, nor the Court of Appeal, may make an order for taxation of a person’s costs of any proceedings so far as those costs—

(a) are in respect of civil legal services, or criminal defence services, funded for the person by the Department, and

10 (b) have not been ordered to be paid otherwise than by the Department.

(2) Where—

(a) a court orders that part of the costs of civil legal services, or of criminal defence services, funded for a person by the Department is to be paid otherwise than by the Department or the person, and

15 (b) a court makes an order for taxation of that part of those costs, any amount payable by the Department in respect of any other part of those costs may be determined before or after that taxation is concluded and independently of it.

20 (3) Where a court orders that some or all of the costs of criminal defence services funded for a person by the Department are to be paid by the person, any amount payable by the Department in respect of any of those costs (including an amount that is to be reimbursed under the order) may be determined before or after, and independently of, the determination of the sum payable under the order by the person.

25 (4) For the purposes of this section, an order is not to be regarded as providing for costs to be paid by the Department just because amounts in respect of the ordered costs may or will be payable by the Department in the event (but only in the event) of those costs not being paid as ordered.

30 (5) It is not to be inferred that an order whose making is prevented by subsection (1) could have been made but for subsection (1).

(6) For the purposes of this section—

(a) services are “civil legal services” if, under or by virtue of Article 10(1) and (2) of the 2003 Order, they are civil legal services for the purposes of that Order;

35 (b) service are “criminal defence services” if, under or by virtue of the 2003 Order, they are criminal defence services for the purposes of that Order.

(7) In this section—

40 “the 2003 Order” means the Access to Justice (Northern Ireland) Order 2003 as for the time being amended or extended by or under any statutory provision;

“the Department” means the Department of Justice in its capacity as funder, under or by virtue of the 2003 Order, of civil legal services or criminal defence services;

“proceedings” means any proceedings, or part of proceedings, in or before—

- (a) the High Court or the Court of Appeal,
- (b) any other court, or
- (c) any tribunal or any judge or other member, or officer, of a tribunal;

and a reference to a court includes any division or office, and any judge or officer, of that court.”.

(2) In section 32 of that Act—

- (a) in subsection (2) (expenses of representative assigned to respondent to application for vexatious-litigant order) omit “and the expenses of any such solicitor or counsel shall be taxed and paid out of the legal aid fund”;
- (b) after subsection (2) insert—

“(2A) The services of a solicitor or counsel assigned to a person under subsection (2) are to be treated as if they are civil legal services for the purposes of the Access to Justice (Northern Ireland) Order 2003 that the Department of Justice is required to fund under that Order with no payment required from the person in respect of the services.”.

[to be commenced by order at different times for different purposes]