

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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Room 242
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Belfast BT4 3XX

3 March 2026

Dear Kathy,

JUSTICE BILL AMENDMENT – ADDITION OF CLAUSE 27A TAXATION REFORM

This update follows my letter of 9 February 2026, which informed the Committee that the Department had received the first draft of a proposed amendment to the Justice Bill relating to taxation reform, and that it was anticipated that Clause 28 of the Bill would be removed. I am now writing to provide the Committee with the text of the finalised amendment and a short written brief on the purpose of the amendment.

The Minister advised the Committee Chair and Vice Chair in October 2025, and officials briefed the committee on 20 November 2025, that a revised approach was being taken with regards to taxation reform, which seeks to expedite reform by setting legal aid rates and arrangements in secondary legislation (remuneration orders) for all High Court and Court of Appeal proceedings currently subject to taxation, whilst retaining the Taxing Master in an assessment role. To facilitate this approach, the Minister and officials advised that an amendment to the Justice Bill was being developed which would ensure that legal aid rates and arrangements for legal aid expenditure subject to taxation would be applied by the Taxing Master.

Officials have been working with Office of the Legislative Counsel and have now finalised the text of the proposed amendment which I have attached at **Annex A**. The Department



will also be sharing the amendment and engaging with the Lady Chief Justice, Taxing Master, the Law Society and the Bar.

Clause 27A

Clause 27A is a new clause which amends the Access to Justice (Northern Ireland) Order 2003 (“the 2003 Order”) by inserting Articles 12(3A) and 24(3A).

Article 12(3A) supplements Article 12(3). Article 12(3) of the 2003 Order gives the Department the power to make provision about the payment of remuneration to persons who provide civil legal services:

“12(3) The Department may by order make provision about the payment of remuneration by the Department to persons who provide civil legal services”.

The new Article 12(3A) clarifies that any remuneration order made under Article 12(3) may include provision about how any person who is assessing legal aid costs under the remuneration order may, or must, determine the amount. Therefore, when the Taxing Master is determining costs, they will do so in line with the relevant fees, rates and arrangements set out in a remuneration order.

Article 24(3A) supplements Article 24(3)(a) in the same manner. Article 24(3)(a) of the 2003 Order gives the Department the power to make provision about payments to persons who provide representation for criminal defence services, which at present relates to representation in the Criminal Court of Appeal:

“24(3)(a) The Department shall by order make provision about the payments which may be made by the Commission in respect of any representation provided by non-contracted private practitioners”.

The new Article 24(3A) then clarifies that any remuneration order made under Article 24(3)(a) for representation in the Criminal Court of Appeal may include provision about how any person who assesses legal aid costs under the remuneration order may, or must, determine the amount. Therefore, when the Taxing Master is determining costs, they will do so in line with the relevant fees, rates and arrangements set out in a remuneration order.

Commencement

Clause 27A will commence on the day after the day on which the Act receives Royal Assent, so Clause 33 of the Bill is amended to reflect this.

Clause 28

Finally, as previously advised, Clause 28 will be withdrawn. An amendment has been drafted to leave out the clause.

Remuneration Orders

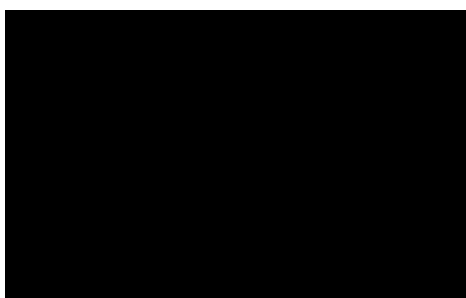
It is our intention to make the necessary remuneration orders by the end of the current mandate. Before making any remuneration order under the 2003 Order, the Department is required to consult with the Lady Chief Justice, the Law Society, the General Council of the Bar of Northern Ireland and, if the order relates to criminal defence services, the Director of Public Prosecutions. In addition, when making any remuneration order the Department shall have regard to:

- the time and skill which the provision of services of the description to which the order relates requires;
- the number and general level of competence of persons providing those services;
- the cost to public funds of any provision made by the regulations; and
- the need to secure value for money.

We will of course update the committee at relevant stages of the development of the legal aid rates and arrangements to be included in any remuneration order.

I trust that the Committee will find this information of assistance.

Yours sincerely



DALO

Enc. Annex A

New Clause

After clause 27 insert—

‘Power to require legal aid remuneration to be determined as set out in regulations

27A.—(1) The Access to Justice (Northern Ireland) Order 2003 is amended as follows.

(2) After Article 12(3) (provision about remuneration for funded services) insert—

“(3A) An order under paragraph (3) may include provision about how any person who, in accordance with the order, is to determine the amount of remuneration may, or must, determine that amount in any case.”.

(3) After Article 24(3) (provision about payments in respect of funded representation) insert—

“(3A) An order under paragraph (3) may include provision about how any person who, in accordance with the order, is to determine the amount of any payment may, or must, determine that amount in any case.”.’

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Clause 33, Page 43, Line 15

After ‘27’ insert ‘, 27A’

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Clause 28

Leave out clause 28

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