STATUTORY RULES OF NORTHERN IRELAND

2003 No. 438

LEGAL AID AND ADVICE

Legal Aid (General) (Amendment) Regulations (Northern Ireland) 2003

Made - - - -	*6th October 2003*
To be laid before Parliament	
Coming into operation	*1st November 2003*

The Lord Chancellor, in exercise of the powers conferred by Article 22 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**1**), and now vested in him(**2**), hereby makes the following Regulations: –

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Legal Aid (General) (Amendment) Regulations (Northern Ireland) 2003.

(2) These regulations shall come into operation on 1st November 2003.

(3) In these regulations "the principal regulations" means the Legal Aid (General) Regulations (Northern Ireland) 1965(**3**).

Northern Ireland Legal Services Commission

2. In regulation 1(2) of the principal regulations (interpretation) after the definition of "claim" there shall be inserted –

""the Commission" means the Northern Ireland Legal Services Commission;".

Functions of a secretary to a committee

3. The following provisions of the principal regulations (which make provision for the secretary of a committee to exercise functions on behalf of the committee) shall cease to have effect –

(a) regulation 1(4) and (5);

(**1**) 1981 (N.I. 8)
(**2**) S.I.1982/159
(**3**) S.R. 1965 No. 217, which has been modified by paragraph 4(3) of Schedule 3 to the Access to Justice (Northern Ireland) Order 2003 and amended by S.R. 1974 No. 126, S.R. 1979 No. 248, S.R. 1980 No. 391, S.I. 1982/159 and S.R. 1990 No. 255, and to which there have been other amendments not relevant to these regulations

(b) in regulation 5(1) the words "on behalf of the committee";

(c) in regulation 5(5), sub-paragraph (a), and, in sub-paragraph (b) the words "which has been referred to the appropriate committee by the secretary";

(d) in regulation 6(12) the words "or its secretary"; and

(e) in regulation 11(1) –

(i) the words "on behalf of the appropriate committee and", and

(ii) the words "to them or".

Repeated refusal of certificates

4.—(1) Regulation 8 of the principal regulations (repeated refusal of certificates) shall be amended as follows.

(2) In paragraph (2) (power to make a direction that no consideration be given to future applications) for the words from "either" to the end there shall be substituted "to any future application by that person for a certificate with regard to any particular matter".

(3) After paragraph (5) there shall be inserted –

"(6) Where the Commission makes a prohibitory direction in respect of any person, that person may apply for the direction to be varied or revoked.

(7) Any application under paragraph (6) shall be made in writing.

(8) On receipt of an application under paragraph (6), the Commission shall consider whether to vary or revoke the prohibitory direction; and shall give notice of its decision to the applicant."

Reinstatement of certificates

5.—(1) After regulation 13 of the principal regulations there shall be inserted –

"**Reinstatement of certificates**

13A.—(1) Where the Commission issues a notice of discharge or revocation of an assisted person's certificate under regulation 12(9), the Commission may, subject to paragraph (3), upon application by the assisted person within twelve months of the date of issue of the notice, reinstate the certificate, if it is satisfied that the decision to discharge or revoke it was made—

(a) on grounds which no longer exist,

(b) without taking into consideration a relevant matter, or

(c) on the basis of an administrative error.

(2) Where the Commission issues a notice of discharge or revocation of an assisted person's certificate under regulation 12(9), the Commission may, subject to paragraph (3), reinstate the certificate at any time within twelve months of the date of issue of the notice, if it is satisfied that the decision to discharge or revoke the certificate was made on the basis of an administrative error by the Commission.

(3) The Commission may not reinstate a certificate if –

(a) any costs of the claim or proceedings to which the certificate related incurred by or on behalf of the assisted person have been taxed or assessed under regulation 13(3)(a), or

(b) any costs have been recovered under regulation 13(5).

(4) Where the Commission reinstates a certificate it shall forthwith send –