STATUTORY RULES OF NORTHERN IRELAND

1999 No. 226

FAMILY LAW
CHILD SUPPORT

The Child Support Commissioners (Procedure) Regulations (Northern Ireland) 1999

Made - - - -	*12th May 1999*
To be laid before Parliament	
Coming into operation	*7th June 1999*

The Lord Chancellor, in exercise of the powers conferred by Articles 25(6) and (7) and 26(2), (3) and (5) of, and paragraphs 1 and 1A of Schedule 4 to, the Child Support (Northern Ireland) Order 1991(**1**) and of all other powers enabling him in that behalf, hereby makes the following Regulations—

PART I
GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Child Support Commissioners (Procedure) Regulations (Northern Ireland) 1999 and shall come into operation on 7th June 1999.

Revocation

2. The following Regulations are revoked—

(a) the Child Support Commissioners (Procedure) Regulations (Northern Ireland) 1993(**2**);

(b) the Child Support Commissioners (Procedure) (Amendment) Regulations (Northern Ireland) 1996(**3**);

(**1**) S.I.1991/2628 (N.I. 23); Paragraph 1A was inserted by Article 11 of the Child Support (Northern Ireland) Order 1995 [S.I. 1995/2702 (N.I. 13)]

(**2**) S.R. 1993 No. 42

(**3**) S.R. 1996 No. 99

(c) the Child Support Commissioners (Procedure) (Amendment) Regulations (Northern Ireland) 1997(**4**); and

(d) the Child Support Commissioners (Procedure) (Amendment No. 2) Regulations (Northern Ireland) 1997(**5**).

Transitional provisions

3.—(1) Subject to paragraphs (2) and (3), these Regulations shall apply to—

(a) all proceedings before the Commissioners;

(b) applications to a chairman for leave to appeal on or after 7th June 1999.

(2) In relation to any appeal or application for leave to appeal from any child support appeal tribunal constituted under the Order, these Regulations shall have effect with the modifications that —

(a) "appeal tribunal" includes a reference to any such tribunal;

(b) "Department" includes a reference to a child support officer;

(c) "three months" shall be substituted for "one month" in regulation 10(1) and "42 days" shall be substituted for "one month" in regulations 11(2) and 15(1); and

(d) under regulation 11 a Commissioner may for special reasons accept an application for leave to appeal even though the applicant has not sought to obtain leave to appeal from the Chairman.

(3) Any transitional question arising under any application or appeal in consequence of the coming into operation of these Regulations shall be determined by a Commissioner who may for this purpose give such directions as he may think just, including modifying the normal requirements of these Regulations in relation to the application or appeal.

Interpretation

4. In these Regulations, unless the context otherwise requires—

"the Order" means the Child Support (Northern Ireland) Order 1991(**6**);

"appeal tribunal" means an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998(**7**);

"authorised officer" means an officer authorised by the Lord Chancellor in accordance with paragraph 1A of Schedule 4 to the Order(**8**);

"the chairman" for the purposes of regulations 10, 11 and 12 means—

(i) the person who was the chairman or sole member of the appeal tribunal which gave the decision against which leave to appeal is being sought; or

(ii) any other person authorised to deal with applications for leave to appeal to a Commissioner against that decision under the Order;

"Commissioner" means a Child Support Commissioner;

"legally qualified" means being a solicitor or barrister;

"month" means a calendar month;

"office" means the office of the Child Support Commissioners;

(**4**) S.R. 1997 No. 258
(**5**) S.R. 1997 No. 426
(**6**) S.I. 1991/2628 (N.I. 23)
(**7**) S.I. 1998/1506 (N.I. 10)
(**8**) Paragraph 1A was inserted by Article 11 of the Child Support (Northern Ireland) Order 1995 [S.I. 1995/2702 (N.I. 13)]

"party" means a party to the proceedings;

"proceedings" means any proceedings before a Commissioner, whether by way of an application for leave to appeal to, or from, a Commissioner, by way of an appeal or otherwise; and

"respondent" means any person, other than the applicant or appellant, who was a party to the proceedings before the appeal tribunal and any other person who, pursuant to a direction given under regulation 18 is served with notice of the appeal.

General powers of a Commissioner

5.—(1) Subject to the provisions of these Regulations, a Commissioner may adopt any procedure in relation to proceedings before him.

(2) A Commissioner may—

(a) extend or abridge any time limit under these Regulations (including, subject to regulations 11(3) and 15(2), granting an extension where the time limit has expired);

(b) expedite, postpone or adjourn any proceedings.

(3) Subject to paragraph (4), a Commissioner may, on or without the application of a party, strike out any proceedings for want of prosecution or abuse of process.

(4) Before making an order under paragraph (3), the Commissioner shall send notice to the party against whom it is proposed that it should be made giving him an opportunity to make representations why it should not be made.

(5) A Commissioner may, on application by the party concerned, give leave to reinstate any proceedings which have been struck out in accordance with paragraph (3) and, on giving leave, he may give directions as to the conduct of the proceedings.

(6) Nothing in these Regulations shall affect any power which is exercisable apart from these Regulations.

Transfer of proceedings between Commissioners

6. If it becomes impractical or inexpedient for a Commissioner to continue to deal with proceedings which are or have been before him, any other Commissioner may rehear or deal with those proceedings and any related matters.

Delegation of functions to authorised officers

7.—(1) The following functions of Commissioners may be exercised by legally qualified authorised officers, to be known as legal officers to the Commissioners—

(a) giving directions under regulations 8, 18 and 19;

(b) determining requests for or directing hearings under regulation 21;

(c) summoning witnesses, and setting aside summonses made by a legal officer, under regulation 23;

(d) postponing a hearing under regulation 5;

(e) giving leave to withdraw or reinstate applications or appeals under regulation 24;

(f) waiving irregularities under regulation 25 in connection with any matter being dealt with by a legal officer; and

(g) extending or abridging time, directing expedition, giving notices, striking out and reinstating proceedings under regulation 5.

(2) Any party may, within 14 days of being sent notice of the direction or order of a legal officer, make a written request to a Commissioner asking him to reconsider the matter and confirm or replace the direction or order with his own, but, unless ordered by a Commissioner, a request shall not stop proceedings under the direction or order.

Manner of and time for service of notices, etc

8.—(1) A notice to or other document for any party shall be deemed duly served if it is—

(a) delivered to him personally; or

(b) properly addressed and sent to him by pre-paid post at the address last notified by him for this purpose, or to his ordinary address; or

(c) served in any other manner a Commissioner may direct.

(2) A notice to or other document for a Commissioner shall be delivered or sent to the office.

(3) For the purposes of any time limit, a properly addressed notice or other document sent by pre-paid post, fax or e-mail is effective from the date it is sent.

Confidentiality

9.—(1) Subject to paragraphs (3) and (4), the office shall not disclose information such as is mentioned in paragraph (2) except with the written consent of the person to whom the information relates or, in the case of a child, with the written consent of the person with care of him.

(2) The information referred to in paragraph (1) is any information provided under the Order which—

(a) relates to any person whose circumstances are relevant to the proceedings; and

(b) consists of that person's address or other information which could reasonably be expected to lead to him being located.

(3) Where—

(a) the office sends a notice to a person to whom information relates stating that the information may be disclosed in the course of proceedings unless he objects within one month of the date of the notice; and

(b) written notice of that person's objection is not received at the office within one month of the date of the notice,

then the information may be disclosed in the course of the proceedings.

(4) Where the person to whom information relates is a child, the office shall send the notice referred to in paragraph (3)(a) to the person with care of the child and where written notice of that person's objection is not received at the office within one month of the date of the notice, then the information may be disclosed in the course of the proceedings.

(5) This regulation does not apply to proceedings which relate solely to a reduced benefits direction within the meaning of Article 43(11) of the Order(**9**).

(**9**) Article 43(11) is amended by Article 78(1) of, and paragraph 28(5) of Schedule 6 to, the Social Security (Northern Ireland) Order 1998 S.I. 1998/1506 (N.I. 10)

PART II

APPLICATIONS FOR LEAVE TO APPEAL AND APEALS

Applications to a Chairman for leave to appeal

10.—(1) An application to a Chairman for leave to appeal to a Commissioner from a decision of an appeal tribunal shall be made within one month of the date the written statement of the reasons for the decision was sent to the applicant.

(2) Where an application for leave to appeal to a Commissioner is made by the Department, the clerk to an appeal tribunal shall, as soon as may be practicable, send a copy of the application to every other party.

(3) Any party who is sent a copy of an application for leave to appeal in accordance with paragraph (2) may make representations in writing within one month of the date the application is sent.

(4) A person determining an application for leave to appeal to a Commissioner shall take into account any further representations received in accordance with paragraph (3) and shall record his decision in writing and send a copy to each party.

(5) Where an applicant has not applied for leave to appeal within one month in accordance with paragraph (1), but makes an application within one year beginning on the day the one month ends, the chairman may for special reasons accept the late application.

(6) Where in any case it is impracticable, or would be likely to cause undue delay for an application for leave to appeal against a decision of an appeal tribunal to be determined by the person who was the chairman of that tribunal, that application shall be determined by any other chairman.

Application to a Commissioner for leave to appeal

11.—(1) An application to a Commissioner for leave to appeal against the decision of an appeal tribunal may be made only where the applicant has sought to obtain leave from the chairman and leave has been refused or the application has been rejected.

(2) Subject to paragraph (3), an application to a Commissioner shall be made within one month of the date that notice of the refusal or rejection was sent to the applicant by the appeal tribunal.

(3) A Commissioner may for special reasons accept a late application or an application where the applicant failed to seek leave from the chairman within the specified time, but did so on or before the final date.

(4) In paragraph (3) the final date means the end of a period of 13 months from the date on which the decision of the appeal tribunal or, if later, any separate statement of the reasons for it, was sent to the applicant by the appeal tribunal.

Notice of an application for leave to appeal

12.—(1) An application to a chairman or Commissioner for leave to appeal shall be made by notice in writing, and shall contain—

(a) the name and address of the applicant;

(b) the grounds on which the applicant intends to rely;

(c) if the application is made late, the grounds for seeking late acceptance; and

(d) an address for sending notices and other documents to the applicant.

(2) The notice in paragraph (1) shall have with it copies of—

(a) the decision against which leave to appeal is sought;