1993 No. 42

FAMILY LAW

CHILD SUPPORT

The Child Support Commissioners (Procedure) Regulations (Northern Ireland) 1993

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Coming into operation . . 5th April 1993

To be laid before Parliament

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

PART I

INTRODUCTION

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support Commissioners (Procedure) Regulations (Northern Ireland) 1993 and shall come into operation on 5th April 1993.

(**a**) S.I. 1991/2628 (N.I. 23)

(2) In these Regulations unless the context otherwise requires:—

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

"appeal tribunal" means a child support appeal tribunal;

"the chairman", for the purposes of Regulations 2 and 3, means—

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

(ii) where the application for leave to appeal to a Commissioner was dealt with under Regulation 2(2), the chairman who dealt with the application;

"Chief Commissioner" means the Chief Child Support Commissioner appointed under section 23(1) of the Child Support Act 1991(**a**);

"Commissioner" means the Chief or any other Child Support Commissioner appointed under section 23(1) of the Child Support Act 1991 and includes a tribunal of Commissioners constituted under paragraph 2 of Schedule 4 to the Order;

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

"respondent" means any person, other than the applicant or appellant, who participated as a party to the proceedings before the appeal tribunal, and any other person who, pursuant to a direction given under Regulation 7(1)(*a*), is served with notice of the appeal.

PART II

APPLICATIONS FOR LEAVE TO APPEAL AND APPEALS TO A COMMISSIONER

Application to the chairman of an appeal tribunal or to a Commissioner for leave to appeal to a Commissioner

2.—(1) An application for leave to appeal to a Commissioner from the decision of an appeal tribunal shall be made—

(*a*) in the case of an application to the chairman of an appeal tribunal, within the period of 3 months beginning with the date on which notice of the decision of the tribunal was given or sent to the applicant; or

(*b*) in the case of an application to a Commissioner, within the period of 42 days beginning with the date on which notice of the refusal of leave to appeal by the chairman of the appeal tribunal was given or sent to the applicant.

(2) Where in any case it is impracticable, or it 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 person qualified under paragraph 3 of Schedule 3 to the Order to act as a chairman of appeal tribunals.

(a) 1991 c. 48

(3) Subject to paragraph (4), an application may be made to a Commissioner for leave to appeal against a decision of an appeal tribunal only where the applicant has been refused leave to appeal by the chairman of the appeal tribunal.

(4) Where there has been a failure to apply to the chairman of the tribunal, either within the time specified in paragraph (1)(*a*) or at all, an application for leave to appeal may be made to a Commissioner who may, if for special reasons he thinks fit, accept and proceed to consider and determine the application.

(5) A Commissioner may accept and proceed to consider and determine an application for leave to appeal under paragraph (3) notwithstanding that the period specified for making the application has expired if for special reasons he thinks fit.

Notice of application for leave to appeal to a Commissioner

3.—(1) An application for leave to appeal shall be brought by a notice in writing to the clerk to the appeal tribunal or, as the case may be, to a Commissioner, and shall contain—

(*a*) the name and address of the applicant;

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

(*c*) an address for service of notices and other documents on the applicant; and

(*d*) where the applicant is to be represented by a person who is not a barrister or solicitor, the written authority of the applicant for that person to represent him;

and the notice shall have annexed to it a copy of the decision against which leave to appeal is being sought.

(2) In the case of an application for leave to appeal to a Commissioner made to a Commissioner where the applicant has been refused leave to appeal by the chairman of an appeal tribunal the notice shall also have annexed to it a copy of the decision refusing leave to appeal, and shall state the date on which the applicant was given notice of the refusal of leave.

(3) Where the applicant has failed to apply within the time specified in Regulation 2(1)(*a*) or, as the case may be, Regulation 2(1)(*b*) for leave to appeal, the notice of application for leave to appeal shall, in addition to complying with paragraph (1), state the grounds relied upon for seeking acceptance of the application notwithstanding that the relevant period has expired.

(4) In a case where the application for leave to appeal is made by a child support officer he shall send a copy of the application to each person who was a party to the proceedings before the appeal tribunal, and in any other case the clerk to the appeal tribunal or, as the case may be, the office of the Child Support Commissioners shall send a copy of the application to each person, other than the applicant, who was such a party.

Determination of applications for leave to appeal

4.—(1) The determination of an application for leave to appeal to a Commissioner made to the chairman of an appeal tribunal shall be recorded in writing by the chairman and a copy of the determination shall be sent by the clerk to the appeal tribunal to the applicant and every other person to whom notice of the application was given under Regulation 3(4).

(2) Unless a Commissioner directs to the contrary, where a Commissioner grants leave to appeal on an application made in accordance with Regulation 3, notice of appeal shall be deemed to have been duly given on the date when notice of the determination is given to the applicant and the notice of application shall be deemed to be a notice of appeal duly served under Regulation 5.

(3) If on consideration of an application for leave to appeal to him from the decision of an appeal tribunal the Commissioner grants leave he may, with the consent of the applicant and each respondent, treat the application as an appeal and determine any question arising on the application as though it were a question arising on an appeal.

Notice of appeal

5. Subject to Regulation 4(2), an appeal shall be brought by a notice to a Commissioner containing—

(*a*) the name and address of the appellant;

(*b*) the date on which leave to appeal was granted;

(*c*) the grounds on which the appellant intends to rely;

(*d*) an address for service of notices and other documents to the appellant;

and the notice shall have annexed to it a copy of the determination granting leave to appeal and a copy of the decision against which leave to appeal has been granted.

Time limit for appealing

6.—(1) Subject to paragraph (2), a notice of appeal shall not be valid unless it is served on a Commissioner within 42 days of the date on which the applicant was given notice in writing that leave to appeal had been granted.

(2) A Commissioner may accept a notice of appeal served after the expiry of the period prescribed by paragraph (1) if for special reasons he thinks fit.

Directions on notice of appeal

7.—(1) As soon as practicable after the receipt of a notice of appeal a Commissioner shall give such directions as appear to him to be necessary, specifying—

(*a*) the parties who are to be respondents to the appeal; and

(*b*) the order in which and the time within which any party is to be allowed to make written observations on the appeal or on the observations made by any other party.

(2) If in any case two or more persons who were parties to the proceedings before the appeal tribunal, give notice of appeal to a Commissioner, a