1974. No. 126

LEGAL AID

Legal Aid (General) (Amendment) Regulations (Northern Ireland) 1974

Made	*17th June* 1974
Coming into operation . . .	*1st August* 1974
To be laid before Parliament	

REGULATIONS, DATED 17TH DAY OF JUNE 1974, MADE BY THE SECRETARY OF STATE UNDER SECTION 14 OF THE LEGAL AID AND ADVICE ACT (NORTHERN IRELAND) 1965.

In pursuance of section 14 of the Legal Aid and Advice Act (Northern Ireland) 1965(a) and in exercise of every other power enabling me in that behalf having obtained the consent of the Supreme Court Rules Committee to so much of the following regulations as applies to the procedure of the Supreme Court and after consultation with the County Court Rules Committee and the Magistrates' Courts Rules Committee as to so much of the said regulations as applies to the procedure of the County Courts or, as the case may be, the Magistrates' Courts, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Legal Aid (General) (Amendment) Regulations (Northern Ireland) 1974 and shall come into operation on 1st August 1974.

Amendment to 1965 General Regulations

2. The provisions of the Legal Aid (General) Regulations (Northern Ireland) 1965(b) specified in the first column of the Schedule are amended to the extent specified in the second column thereof.

Merlyn Rees,
One of Her Majesty's Principal Secretaries of State.

Northern Ireland Office.
17th June 1974.

The Supreme Court Rules Committee has consented to the making of these Regulations in so far as they relate to the procedure of the Supreme Court as required by section 14(5) of the Legal Aid and Advice Act (Northern Ireland) 1965.

J. A. L. McLean,
Secretary,
Supreme Court Rules Committee.

17th June 1974

(a) 1965. c. 8 (N.I.).

(b) S.R. & O. (N.I.) 1965, No. 217.

SCHEDULE

Amendments to the Principal Regulations

Provision amended	*Amendment*
General and Regulation 1(2)	In Regulation 1(2) the definition of "the Board" shall be omitted and in the appropriate place according to alphabetical order there shall be added the following words:— "'the Commission" means the Supplementary Benefits Commission for Northern Ireland;" and throughout the Regulations for any reference to the Board there shall be substituted a reference to the Commission.
Regulation 1(4)	For Regulation 1(4) there shall be substituted the following paragraph:— "(4) Where the Legal Aid Committee or a certifying committee is required or entitled to perform any function under these Regulations, that function may, subject to the directions of the committee, be performed on behalf of the committee by the secretary; but he may not— (i) approve or refuse an application for a certificate except under Regulation 5(1), 5(3) or 5(5)(*a*) or Regulation 11(1); (ii) determine an appeal under Regulation 10; or (iii) discharge a certificate under Regulation 12(2)(*d*), 12(3)(*a*)(ii), 12(3)(*b*), or revoke it under Regulation 12(5) and 12(6).".
Regulation 3	After Regulation 3(4) there shall be inserted the following paragraph:— "(4A) Where application for a certificate is made to the appropriate committee the secretary may notify the solicitor acting for the applicant or the applicant, as the case may be, that unless any information and any documents required by the committee are supplied within the period stated in the notice, the application will be treated as withdrawn and upon failure to comply with the notice the committee may disregard the application.".
Regulation 3(5)	In Regulation 3(5) for the words "Northern Ireland" there shall be substituted the words "United Kingdom".
Regulation 6(4)	In the proviso to Regulation 6(4) for the words from "or decrease" to the end there shall be substituted the words "greater than £52 or any decrease greater than £26 in the amount of his disposable income and any increase greater than £75 in the amount of his disposable capital".

Provision amended	*Amendment*
Regulation 6(5)	In sub-paragraph (*b*) of Regulation 6(5) for the words "twenty-six pounds" there shall be substituted the words "fifty-two pounds".
Regulation 8(1)	In Regulation 8(1) for the word "four" there shall be substituted the word "three".
Regulation 9(1)	In Regulation 9(1) in sub-paragraph (*d*) after the word "increased" there shall be inserted the words "by an amount greater than £52". In Regulation 9(1) in sub-paragraph (*h*) for the words from "direct" to the end there shall be substituted the words "consent to the taking of proceedings by the assisted person to enforce or give effect to an order or agreement such as is specified in those provisions".
Regulation 10(3)	In Regulation 10(3) for the word "four" there shall be substituted the word "ten".
Regulation 10(6)	In Regulation 10(6) the words "to the certifying committee" shall be omitted.
Regulation 11(8) and (9)	For Regulation 11(8) and (9) there shall be substituted the following paragraphs:— "(8) Subject to paragraph (9) and Regulation 12, an emergency certificate, including an emergency certificate which has been extended under paragraph (9), shall remain in force for such period as the appropriate committee may allow and on the expiration of such period shall be discharged or revoked. Provided that where a certificate has been issued under paragraph (11) the emergency certificate may not be discharged or revoked. (9) The secretary, whose decision shall be final, may extend the period referred to in paragraph (8), where— (*a*) the applicant is offered a certificate in respect of the proceedings to which the emergency certificate relates and either fails to signify his acceptance or appeals against the terms of such offer; or

Provision amended	*Amendment*
	(*b*) a certifying committee refuses an application for a certificate in respect of proceedings to which an emergency certificate relates and either notice of appeal has been given to the Legal Aid Committee within the time limits laid down by Regulation 10(3) or the time limit for doing so has expired; or (*c*) there are exceptional circumstances; and thereafter, unless the certificate is further extended, it shall be discharged or revoked. Provided that where the period is extended under sub-paragraph (*a*) or (*b*) no further work may be done or steps taken under the certificate.".
Regulation 11(10)	In Regulation 11(10) after the word "extended" there shall be inserted the words "amended, discharged or" and after the words "has been" there shall be inserted the words "extended, amended, discharged or".
Regulation 11(11)	In Regulation 11(11) the words "within the period referred to in paragraphs (8) and (9)" shall be omitted.
Regulation 12(1)	In Regulation 12(1) for the word "either" there shall be substituted the word "suspended". After Regulation 12(1) there shall be inserted the following paragraphs:— "(1A) Where— (*a*) the assisted person fails to pay any instalment of his contribution on the date on which it is due; or (*b*) representations are made by any person as to a change in the circumstances of the assisted person; the committee may, after giving the assisted person an opportunity of submitting representations, suspend the certificate and shall so notify the assisted person and his solicitor. (1B) Where a certificate is suspended— (*a*) without the authority of the Legal Aid Committee the fund shall not, after receipt by the solicitor of the notice of suspension, be liable during the period of suspension for any costs incurred in any proceedings to which the certificate relates or otherwise by the solicitor or counsel, if any, acting on behalf of the holder of the certificate, and (*b*) the holder of the certificate shall remain liable to pay the contribution hitherto determined as payable by him or as may be redetermined to the extent that it is required to defray the costs payable out of that fund under Regulation 13(3).".

Provision amended	*Amendment*
Regulation 12(2)	In sub-paragraph (*b*) of Regulation 12(2) before the words "where an assisted person" there shall be inserted the words "subject to paragraph (1A)". After Regulation 12(2)(*f*) there shall be inserted the following sub-paragraph and proviso:— "(*g*) if they are satisfied that the solicitor has been unable to obtain further instructions or that he can make no further progress. Provided that a certificate shall not be discharged under sub-paragraph (*g*) until notice has been served on the assisted person that the Legal Aid Committee may do so and that he may show cause why the certificate should not be discharged.".
Regulation 12(3)	In Regulation 12(3)(*a*) after the word "determination" there shall be inserted the words "or redetermination".
Regulation 12(9)	In Regulation 12(9) after the words "the Legal Aid Committee" there shall be inserted the word "suspend"; after the word "discharge" where it firstly occurs there shall be inserted the words "(other than under paragraph (2)(*c*))"; and after the words "notice of" there shall be inserted the word "suspension".
Regulation 13(2)	In Regulation 13(2) in the proviso after the expression "Regulation 11(8)" there shall be inserted "or (9)".
Regulation 13	After Regulation 13(6) there shall be added the following paragraphs:— "(7) Where the circumstances of an assisted person have altered so that the Supplementary Benefits Commission are required (whether before or after the discharge of the certificate) to redetermine under Regulation 8 of the Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1965 that person's maximum contribution according to his disposable income or disposable capital before such discharge, the reference in paragraph (6) to his maximum contribution as determined by the appropriate committee or by the Supplementary Benefits Commission shall be construed as a reference to such contribution as so redetermined. (8) Nothing in paragraph (7) shall derogate from the provisions of Regulation 12(3)(*a*) and, where those provisions apply, the reference to the maximum contribution in paragraph (6) shall be construed as the net liability of the fund incurred on behalf of the assisted person.".
Regulation 14(3)	In Regulation 14(3) after the word "costs", where it secondly appears, there shall be inserted the words "up to the date of issue of a certificate".