1970. No. 184 **[C]**

LEGAL AID AND ADVICE

Legal Advice

REGULATIONS*, DATED 23RD JUNE 1970, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER PART I OF THE LEGAL AID AND ADVICE ACT (NORTHERN IRELAND) 1965.

The Ministry of Home Affairs in exercise of the powers conferred by Part I of the Legal Aid and Advice Act (Northern Ireland) 1965(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Legal Advice Regulations (Northern Ireland) 1970 and shall come into operation on 1st August 1970.

(2) In these regulations:—

"the Act" means the Legal Aid and Advice Act (Northern Ireland) 1965;

"applicant" means an applicant for legal advice acting either in person or through another person authorised by him to receive advice on his behalf;

"the committee" means the Legal Aid Committee set up by a scheme made under section 10 of the Act;

"capital" means the amount or value of every resource of a capital nature;

"child" means a person under the age of sixteen;

"the fund" means the legal aid fund;

"income" means the total income from all sources;

"legal advice" means oral advice on legal questions within the meaning of section 7(4) of the Act with, where appropriate under section 7(5), a written note of the advice or any part of it and includes help in preparing an application to the committee under the provisions of regulation 4 but does not include advice on any matters on which the applicant is receiving legal aid under the provisions of Part I or Part II of the Act;

"legal question" means a question as to the application of the law in Northern Ireland to given facts;

"matter" means the subject in respect of which legal questions arise;

"scheme" means a scheme made under section 10 of the Act.

Nature and general conditions of legal advice

2.—(1) Legal advice under the Act and these regulations shall be given by solicitors in ordinary practice and the Incorporated Law Society of Northern Ireland (hereinafter referred to as "the Society") shall make arrangements for the preparation and maintenance of panels of solicitors willing to be employed in giving such advice.

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

*These regulations were affirmed by a Resolution of the House of Commons on 30th June 1970 and by a Resolution of the Senate on 2nd July 1970.

(2) Any solicitor who undertakes with the Society to give legal advice shall be entitled to have his name placed on the panels, or any of them, unless there is good reason for excluding him arising out of his conduct on receiving an application to give, or when giving, legal advice, or his professional conduct generally, or, in the case of a member of a firm of solicitors, out of that of any person who is for the time being a member of the firm.

(3) In the succeeding provisions of these regulations the expression "solicitor" means a solicitor whose name appears on a legal advice panel.

(4) Subject to the provisions of these regulations legal advice shall be given by a solicitor to any person (not being a child) who—

(*a*) is entitled under regulation 3 to legal advice and has an interest in the legal question on which legal advice is sought, whether directly, indirectly or in a representative, fiduciary or official capacity and notwithstanding that the interest arises jointly with or is the same as that of other persons, or

(*b*) is authorised to receive legal advice on his behalf by any other person so entitled and interested who cannot for good reason attend personally upon a solicitor,

notwithstanding that there are available to the applicant other rights or facilities for legal advice or that he has a reasonable expectation of receiving financial or other help from a body of which he is a member.

(5) A person seeking legal advice shall be liable to pay to the solicitor on behalf of the fund a fee of 2s. 6d. in respect of the interview (or, if he has more than one interview, in respect of the first of such interviews) at which he seeks legal advice on a particular legal question unless he or, as the case may be, the person on whose behalf he is seeking legal advice, or (in either case) the spouse of such person living with him, is in receipt of benefit under the Supplementary Benefits &c. Act (Northern Ireland) 1966(**b**) at the date of the application.

(6) A person shall not be given legal advice:—

(*a*) on any one legal question (whether at one or more interviews) for longer than one hour and thirty minutes, or,

(*b*) on the same matter from more than one solicitor,

without the prior authority of the committee and such authority shall be given only on such terms and conditions, whether as to payment of a further fee or otherwise, as the committee may in their discretion think fit to impose.

Financial conditions of legal advice

3.—(1) Subject to the provisions of these regulations, an applicant shall be entitled to legal advice if he satisfies a solicitor that he cannot afford to obtain it in the ordinary way, but in no case shall any person be entitled to legal advice if he has capital of more than £125 or (save where he is in receipt of benefit under the Supplementary Benefits &c. Act (Northern Ireland) 1966) if, after allowing for any deduction made under paragraph (4), he received or became entitled to more than £9 10s. 0d. by way of income during or in respect of the seven days up to and including the date of his application.

(2) In computing the capital and income of an applicant, the resources of any spouse of his shall be treated as the applicant's resources unless:—

(*a*) the spouse has a contrary interest in the matter on which the applicant is seeking legal advice, or

(**b**) 1966. c. 28 (N.I.).

(*b*) the applicant and his spouse are living separate and apart, or

(*c*) in all the circumstances of the case it would be either inequitable or impracticable to do so.

(3) In computing the capital of an applicant the value of his dwelling-house, household furniture and effects, articles of personal clothing and the tools and implements of his trade shall be left out of account.

(4) The deductions to be made from the income of an applicant shall be—

(*a*) £3 1s. 0d. in respect of any spouse of his if wholly or substantially maintained by him, or where the capital and income of the spouse are treated as his resources;

(*b*) in respect of any child wholly or substantially maintained by him, or by any spouse of his where the capital and income of the spouse are treated as his resources—

where the child is under five years of age	£1	8s.	0d.
where the child is five or more years of age but under eleven years of age	£1	13s.	0d.
where the child is eleven or more years of age but under thirteen years of age	£2	1s.	0d.
where the child is thirteen or more years of age but under sixteen years of age	£2	4s.	0d.

(*c*) £3 1s. 0d. in respect of any other person wholly or substantially maintained by him, or by any spouse of his where the capital and income of the spouse are treated as his resources;

(*d*) any income tax paid or payable by him or his spouse on income to be taken into account for the purpose of this regulation; and

(*e*) any contribution paid or payable by him, or where the capital and income of any spouse of his are treated as his resources, by the spouse, under the provisions of the National Insurance Acts (Northern Ireland) 1966 to 1969, the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1969 and the Health Service Contributions Act (Northern Ireland) 1966, in the contribution week ended during the seven days up to and including the date of his application.

(5) Any question arising under this regulation shall be decided by the solicitor to whom the application is made who, in deciding any such question, shall have regard to any guidance which may from time to time be given by the Society as to the application of this regulation.

Application for legal advice

4.—(1) Every person applying for legal advice shall furnish the solicitor, on such form as the Society may approve, with such information as will enable the solicitor to determine whether the applicant is entitled to legal advice.

(2) An applicant seeking legal advice—

(*a*) on any one legal question for longer than one hour and thirty minutes, or

(*b*) on a matter on which he has already received legal advice from another solicitor,

shall apply for the authority of the committee in writing on such form as the Society may approve.