**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.

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(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.

*Rights and duties of solicitors*

**5.**—(1) A solicitor shall be entitled for reasonable cause either to refuse to accept an application for legal advice or (having accepted an application) to decline to give legal advice, and may, if he thinks fit, refuse to disclose his reason to the applicant or person seeking legal advice on his behalf, but shall give the committee such information as the committee may from time to time require for the purpose of performing their functions under the Act.

(2) A solicitor who has given legal advice shall complete such form as the Society may approve and shall send it to the committee and shall give them such additional information as they may from time to time require for the purpose of performing their functions under the Act and shall not be precluded, by reason of any privilege arising out of the relationship between solicitor and client, from disclosing such information to them.

(3) Nothing in these regulations shall prevent a solicitor from entrusting any function under these regulations to a partner of his or to a competent and responsible representative of his employed in his office.

*Payment of solicitors*

**6.**—(1) A solicitor shall be responsible for receiving any fee payable by an applicant under the provisions of regulation 2(5) and shall notify the Society of every fee which has become so payable.

(2) A solicitor shall be entitled to receive from the fund the sum of £2 for every half-hour spent on giving legal advice to an applicant (whether at one or more interviews) or, where the total time spent on interviews is less than half an hour, to £2 for the time spent thereon, and to such further fee as the committee may authorise in any case, to which regulation 2(6) applies, any fee payable to the solicitor under regulation 2(5) being treated as a payment on account:

Provided that if the time so spent on interviews does not exceed 40 minutes the solicitor shall not be entitled to receive more than £2 in respect of those interviews.

(3) The Society shall pay to the solicitor the sum to which he is entitled under the last foregoing paragraph after deducting therefrom the amount of any fee due to the fund under regulation 2(5) and shall credit the fund with that amount.

*Repeated application for legal advice*

**7.**—(1) Where a person has applied to the committee under regulation 4(2) on more than four occasions relating to the same legal question or matter and has on each occasion been refused authority to obtain further legal advice and it appears to the committee that his conduct amounts to an abuse of the facilities provided by the Act the committee may, if they think fit, direct that no consideration shall be given to any future application for legal advice by that person on that legal question or matter and shall report thereon to the Society with such recommendations as seem to them to be just, and while the direction is in force the committee need not consider an application to which the direction applies.

(2) Where a person has sought legal advice on different legal questions, whether or not from the same solicitor and whether or not on the same matter, on more than six occasions and it appears to the committee that his conduct amounts to an abuse of the facilities provided by the Act, the committee may, if they think fit, direct that no consideration shall be given by any solicitor to any future application for legal advice by that person—

(*a*) with regard to any particular matter, or

(*b*) in exceptional circumstances, on any matter whatsoever,

and shall report thereon to the Society with such recommendations as seem to them to be just and while the direction is in force no solicitor shall give legal advice to the person to whom the direction refers.

(3) On receipt of any report from the committee as provided by this regulation, the Society shall give the person referred to therein an opportunity of making representations in writing on the recommendations (either directly or through some person acting on his behalf) and shall make such other enquiries as seem to them to be necessary and may—

(*a*) revoke or, if they are satisfied that such person's conduct has amounted to an abuse of the facilities provided by the Act, confirm or vary any direction made by the committee, or

(*b*) if no direction has been given, give any direction which could have been given by the committee under the provisions of this regulation.

(4) No direction (whether given by the committee or by the Society) under this regulation or regulation 8 shall—

(*a*) apply to any committee, receiver, next friend or guardian ad litem applying for legal advice on behalf of the person in respect of whom the direction was given;

(*b*) remain in force for more than five years.

(5) Where under this regulation or regulation 8 the Society give any direction or confirm or vary a direction given by the committee they shall notify the Minister of Home Affairs thereof and shall, if so requested, furnish him with their reasons for the direction.

*False statement, etc.*

**8.**—(1) Where the committee are satisfied that an applicant has wilfully failed to comply with the provisions of these regulations as to the information to be furnished by him, or in furnishing such information has knowingly made a false statement or false representation, or has wilfully failed to comply with the provisions of regulation 4(2) the committee may, if they think fit, report thereon to the Society, with such recommendations as seem to them to be just and where they are satisfied that an applicant has wilfully failed to comply with the provisions of regulation 4(2) the committee may, in addition, give a direction (which shall have immediate effect) that no consideration shall be given by any solicitor to any future application for legal advice by that applicant on the legal question or matter in respect of which the failure arose.

(2) On receipt of any such report from the committee, the Society may, after giving the applicant referred to in the report an opportunity of making representations in writing (either himself or by some other person acting on his behalf), either—

(*a*) direct that no consideration shall be given by the committee or solicitor—

(i) to any future application for legal advice by the said applicant on the legal question or matter in respect of which the failure arose or the false statement or false representation was made, or

(ii) to any future application whatsoever for legal advice by the said applicant, or

(*b*) in the case of a wilful failure to comply with the provisions of regulation 4(2) confirm, vary or revoke any direction given by the committee.

(3) Where an applicant has wilfully failed to comply with the provisions of these regulations as to the information to be furnished by him, or, in furnishing such information, has knowingly made a false statement or false representation and the failure arose or the false statement or false representation was made prior to the receipt by the applicant of legal advice, the Society may declare that the legal advice so given was not given under the Act and these regulations and shall so inform the applicant and the solicitor; and thereafter—

(*a*) the Society shall be entitled to recover from the applicant any sums paid out of the fund to the solicitor in respect of the legal advice so given, and

(*b*) the solicitor shall be entitled to recover from the applicant the full amount of his costs payable in accordance with the normal rules applicable as between solicitor and own client.

*Duties of Legal Aid Committee*

**9.** Where under the provisions of regulations 2, 3, 4 and 5 the committee is required to perform any function, that function may, if the committee so resolve, be performed on its behalf by its Chairman, Vice-Chairman or Secretary.

Sealed with the Official Seal of the Ministry of Home Affairs for Northern Ireland this 23rd day of June 1970.

(L.S.) *J. G. Hill,*
Assistant Secretary.

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## EXPLANATORY NOTE

*(This Note is not part of the Regulations, but is intended to indicate their general purport.)*

These regulations make provision for the giving of legal advice by solicitors in ordinary practice to persons with capital of not more than £125 and with income of not more than £9 10s. 0d. in the week preceding the application for legal advice. In computing capital, the value of the applicant's dwelling-house, furniture and certain other articles is to be left out of account, and deductions are to be made in computing income in respect of dependants, income tax, national insurance and other contributions. Unless the applicant or his spouse is in receipt of benefit, he will be required to pay 2s. 6d. for the legal advice he gets and the solicitor giving it will normally be entitled to £2 for every half-hour spent giving it up to a maximum of £6. Special arrangements are made for the case in which legal advice is required for longer than one hour and a half. Provision is made for dealing with vexatious applicants and those making false statements.

**1970. No. 185** [C]

# LEGAL AID

## Extension of Proceedings

REGULATIONS*, DATED 12TH JUNE 1970, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER SECTIONS 1 AND 14 OF THE LEGAL AID AND ADVICE ACT (NORTHERN IRELAND) 1965.

The Ministry of Home Affairs in exercise of the powers conferred by Sections 1 and 14 of the Legal Aid and Advice Act (Northern Ireland) 1965(a) (hereinafter referred to as "the Act") and all other powers thereunto enabling hereby makes the following Regulations:—

*Citation and commencement*

**1.** These Regulations may be cited as the Legal Aid (Extension of Proceedings) Regulations (Northern Ireland) 1970 and shall come into operation on 1st August 1970.

*Legal Aid for proceedings in the Lands Tribunal*

**2.** The proceedings for which legal aid may be given shall, in addition to those referred to in Part I of Schedule 1 to the Act, include proceedings in the Lands Tribunal for Northern Ireland.

Sealed with the Official Seal of the Ministry of Home Affairs for Northern Ireland this 12th day of June 1970.

(L.S.). *J. G. Hill,*
Assistant Secretary.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations but is intended to indicate their general purport.)*

These Regulations make legal aid under the Legal Aid and Advice Act (Northern Ireland) 1965 available for proceedings in the Lands Tribunal for Northern Ireland.

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

*These regulations were affirmed by a resolution of the Senate on the 23rd June 1970 and by a resolution of the House of Commons on the 24th June 1970.