

1989 No. 469

LEGAL AID AND ADVICE

**Legal Advice and Assistance (Amendment No. 2)
Regulations (Northern Ireland) 1989***Made 6th December 1989**Coming into operation 1st January 1990**To be laid before Parliament*

The Lord Chancellor, in exercise of the powers conferred by Article 22 and 27 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a) and now vested in him(b), hereby makes the following Regulations—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Legal Advice and Assistance (Amendment No. 2) Regulations (Northern Ireland) 1989 and shall come into operation on 1st January 1990.

(2) In these Regulations a regulation referred to by number means the regulation so numbered in the Legal Advice and Assistance Regulations (Northern Ireland) 1981(c).

Amendment of principal Regulations

2. In regulation 3—

(a) after the definition of “secretary” there shall be inserted the following definition—

“ “serious service offence” means any offence under the Army Act 1955, the Air Force Act 1955, or the Naval Discipline Act 1957 which cannot be dealt with summarily or which appears to an interviewing service policeman to be serious;”

(b) after the definition of “visiting committee” there shall be inserted the following definition—

“ “volunteer” means a person who, for the purpose of assisting with an investigation, attends voluntarily at a police station or at any other place where a constable is present or accompanies a constable to a police station or any such other place without having been arrested.”

(a) S.I. 1981/228 (N.I. 8); Article 27 is an interpretation provision and is recited because of the meaning assigned to “regulations”

(b) S.I. 1982/159

(c) S.R. 1981 No. 366; as amended by S.R. 1984 No. 82. There are other amendments not relevant to these Regulations

3. In regulation 5—

- (a) in paragraph (1), after “(Northern Ireland)” there shall be inserted “or regulation 7A (provision of advice and assistance at police stations)”;
- (b) in paragraph (2), after “the client shall” there shall be inserted “, except where regulation 7A or regulation 19A applies,”.

4. In regulation 7—

- (a) in paragraph (1), after “is made shall” there shall be inserted “, except where regulation 7A or regulation 19A applies”;
- (b) in paragraph (3), after “shall also” there shall be inserted “, except where regulation 7A or regulation 19A applies”;
- (c) in paragraph (4), after “shall not” there shall be inserted “, except where regulation 7A applies.”.

5. After regulation 7 there shall be inserted the following new regulation—

“Provision of advice and assistance at police stations

7A.—(1) A person who—

- (a) is arrested and held in custody at a police station or other premises;
- (b) is being interviewed in connection with a serious service offence;
- or
- (c) is a volunteer,

and seeks advice and assistance from a solicitor shall not be required to pay a contribution under Article 7(2) of the Order towards any charges or fees incurred in respect of the advice and assistance.

(2) An application for advice and assistance in the circumstances specified in paragraph (1) may be made by telephone to the solicitor from whom the advice and assistance is sought.”.

6. In regulation 8—

- (a) in paragraph (1), after “a solicitor shall not” there shall be inserted “, except where paragraph (1A) applies,”;
- (b) after paragraph (1) there shall be inserted the following new paragraph—
 - “(1A) A solicitor may accept an application for advice and assistance from a child who—
 - (a) is arrested and held at a police station or other premises; or
 - (b) is being interviewed in connection with a serious service offence;
 - or
 - (c) is a volunteer,

where the solicitor is satisfied that the application cannot reasonably be made by any of the persons specified in paragraph (2)(a), (c) or (d).”.

7. For regulation 10 there shall be substituted—

“**10.**—(1) A person shall not, except where regulation 7A applies, be given advice and assistance for the same matter by more than one solicitor without the prior authority of the appropriate committee, and such authority may be given on such terms and conditions as the committee may in its discretion see fit to impose.

(2) Where regulation 7A applies, a person may be given advice and assistance for the same matter by more than one solicitor without the prior authority of the appropriate committee provided that the cost of that advice and assistance shall not exceed the cost that would have been incurred had it been given by one solicitor.”

8. After regulation 19 there shall be inserted the following new regulation—

“Representation by a solicitor in respect of applications for warrants of further detention and extensions of such warrants

19A.—(1) The approval of an appropriate authority shall not be required for assistance by way of representation given by a solicitor to a person in respect of whom a complaint has been made under Article 44 (warrants of further detention) or Article 45 (extension of warrants of further detention) of the Police and Criminal Evidence (Northern Ireland) Order 1989(a).

(2) A person given assistance by way of representation in the circumstances specified in paragraph (1) shall not be required to pay a contribution under Article 7(2) of the Order towards any charges or fees incurred in respect of the assistance by way of representation.”

9. In regulation 23, in paragraph (3), in paragraph (4) where it first appears and in paragraph (5), the word “approved” shall be deleted.

Dated 6th December 1989

Mackay of Clashfern, C.

(This note is not part of the Regulations.)

These Regulations amend the Legal Advice and Assistance Regulations (Northern Ireland) 1981 to provide that—

- (a) assistance by way of representation under Article 5 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 is extended to persons in respect of whom an application for a warrant of further detention or for an extension of such a warrant is made under Article 44 or 45 of the Police and Criminal Evidence (Northern Ireland) Order 1981;
- (b) the means test and contributions conditions which would otherwise apply under the 1981 Order are abolished in respect of applications for advice and assistance by persons being questioned at police stations and applications for assistance by way of representation in relation to proceedings under Article 44 and 45 of the Police and Criminal Evidence (Northern Ireland) Order 1989; and
- (c) applications for advice and assistance by persons being questioned at police stations may be made by telephone.