
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 483

LEGAL AID AND ADVICE

**Legal Advice and Assistance (Amendment
No. 3) Regulations (Northern Ireland) 1996**

Made - - - - 8th October 1996

To be laid before Parliament

Coming into operation 4th November 1996

The Lord Chancellor, in exercise of the powers conferred by Articles 5(3) and (4A) and 27 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(1) and now vested in him(2) hereby makes the following regulations—

Citation and commencement

1. These regulations may be cited as the Legal Advice and Assistance (Amendment No. 3) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

Amendment to the principal regulations

2. The Legal Advice and Assistance Regulations (Northern Ireland) 1981(3) shall be amended as follows—

(2) After Regulation 8 there shall be inserted the following new regulation—

“Proceedings under the Children (Northern Ireland) Order 1995

8A.—(1) Assistance by way of representation shall not be available—

- (a) to any Health and Social Services Board; or
- (b) to any Health and Social Services Trust; or
- (c) to a guardian ad litem

for the purpose of any proceedings under the Children (Northern Ireland) Order 1995(4).

(1) S.I. 1981/228 (N.I. 8) as amended by Article 172(2) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)); Article 27 is an interpretation provision and is recited because of the meaning assigned to the word “regulations”
(2) S.I. 1982/159
(3) S.R. 1981 to which the only relevant amendments were made by S.R. 1983 No. 29, S.R. 1988 No. 89 and S.R. 1993 No. 136
(4) S.I. 1995/755 (N.I. 2)

(2) Regardless of Articles 3 and 7(2) of the Order and Regulation 17(3) assistance by way of representation must be granted where a child who is brought before a court of summary jurisdiction under Article 44 of the Children (Northern Ireland) Order 1995 (secure accommodation) is not, but wishes to be legally represented before the court.

(3) Subject to paragraph (1) but regardless of Articles 3 and 7(2) of the Order and Regulation 17(3) assistance by way of representation must be granted to the child in respect of whom the application is made, to any parent of such child and to any person with parental responsibility for him within the meaning of the Children (Northern Ireland) Order 1995 to cover proceedings in a court of summary jurisdiction relating to an application for the following orders under that Order—

- (a) an order under Article 50 (care or supervision order);
- (b) an order under Article 62 (child assessment order);
- (c) an order under Article 63 (an emergency protection order);
- (d) an order under Article 64 (extension or discharge of an emergency protection order).

(4) Subject to paragraph (1) and Articles 3 and 7(2) of the Order but regardless of Regulation 17(3) assistance by way of representation must be granted where a person applies to be or has been joined as a party to any of the proceedings in a court of summary jurisdiction mentioned in paragraph (3).

(5) Paragraphs (2), (3) and (4) shall not apply to any person who has been granted legal aid by virtue of Article 10(5B), (5C), or (5E) of the Order for the purpose of the same proceedings.”;

(2) In Regulation 17(3) for the words “An application for approval” there shall be substituted the words “Subject to Regulation 8A(2), (3) and (4) an application for approval”.

(3) In paragraph (2) of Schedule 3 after sub paragraph (h) there shall be added the following sub paragraph—

- “(i) under the Children (Northern Ireland) Order 1995”.

Dated 8th October 1996

Mackay of Clashfern, C.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

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

- (a) extend assistance by way of representation to proceedings in a court of summary jurisdiction under the Children (Northern Ireland) Order 1995;
- (b) provide that in respect of proceedings under the Children (Northern Ireland) Order 1995 assistance by way of representation is not to be available to any Health and Social Services Board, Health and Social Services Trust or guardian ad litem.
- (c) provide that (except where legal aid has already been granted) assistance by way of representation must be granted irrespective of the normal means and merits test where a child is brought before a court of summary jurisdiction under Article 44 of the Children (Northern Ireland) Order 1995 and who is not but wishes to be legally represented.
- (d) provide that (except where legal aid has already been granted) assistance by way of representation must be granted irrespective of the normal means and merits test to a child, his parents and anyone with parental responsibility for him in relation to proceedings in a court of summary jurisdiction under Article 50 (care or supervision order), Article 62 (child assessment order), Article 63 (emergency protection order) or Article 64 (extension or discharge of emergency protection order) of the Children (Northern Ireland) Order 1995; and
- (e) provide that subject to the normal means test but irrespective of the merits test assistance by way of representation must be granted (except where legal aid has already been granted) to persons who apply to be or are joined as parties to the proceedings mentioned in (d) above.