

1970. No. 201

[C]

LEGAL AID**The Legal Aid (General) (Amendment No. 2) Regulations
(Northern Ireland) 1970**

REGULATIONS, DATED 23RD JULY 1970, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER SECTIONS 1, 2, 3, 4, 5, 6 AND 14 OF, AND SCHEDULE 3 TO, THE LEGAL AID AND ADVICE ACT (NORTHERN IRELAND) 1965.

The Ministry of Home Affairs, in exercise of the powers conferred on it by sections 1, 2, 3, 4, 5, 6 and 14 of, and Schedule 3 to, the Legal Aid and Advice Act (Northern Ireland) 1965(a) and of all other powers thereunto enabling and after consultation with the Ministry of Finance and the President of the Lands Tribunal for Northern Ireland, hereby makes the following Regulations:—

Citation and Commencement

1. These Regulations may be cited as the Legal Aid (General) (Amendment No. 2) Regulations (Northern Ireland) 1970 and shall come into operation on 1st August 1970.

Interpretation

2. In these Regulations a reference to a Regulation by number means the Regulation so numbered in the Legal Aid (General) Regulations (Northern Ireland) 1965(b).

Arrangement of 1965 Regulations

3. In the Arrangement of Regulations at the beginning of the said Regulations of 1965 after "21. Miscellaneous Provisions as to costs in proceedings other than in the County Court or a Court of Summary Jurisdiction" there shall be inserted "21A. The Lands Tribunal".

Amendment of Regulation 5 of 1965 Regulations

4. In Regulation 5(10) (which makes provision for legal aid by persons concerned in proceedings only in a representative, fiduciary or official capacity) after the words "for the purposes of determining" there shall be inserted the words "whether legal aid is available or the amount of".

Application of Regulations of 1965 to proceedings before the Lands Tribunal

5. The following Regulation shall be inserted after Regulation 21:—

"The Lands Tribunal

21A.—(1) In this Regulation "the Tribunal" means the Lands Tribunal for Northern Ireland established under the Lands Tribunal and Compensation Act (Northern Ireland) 1964(c) and "the Registrar" means the Registrar of the Tribunal.

(a) 1965. c. 8 (N.I.).
(c) 1964. c. 29 (N.I.).

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

(2) Subject to this Regulation, these Regulations shall apply to applications for legal aid for proceedings in the Tribunal and to the conduct of all proceedings in it for which a civil aid certificate is granted in like manner as they apply to applications for legal aid for, and the conduct of, proceedings in any court.

(3) Where any power to do any act or exercise any jurisdiction or discretion is conferred by these Regulations on a court it shall be exercised by the Tribunal and may, unless it is exercisable only during the hearing of the proceedings, be exercisable by the President of the Tribunal or, where the President so directs or authorises, by the Registrar.

(4) Without prejudice to paragraph (2), Regulation 21 shall apply to costs in the Tribunal as it applies to costs incurred in any proceedings commenced in the High Court and as if the reference in paragraph (5) of that Regulation to paragraphs (1) to (4) thereof included a reference to paragraph (5) of this Regulation.

(5) The Tribunal shall (in addition to any order it may make as to costs as between the parties to proceedings in the Tribunal) for the purpose of determining the amount to be allowed to solicitors or counsel for an assisted person direct that his costs for the purposes of the Act be determined either—

- (a) by taxation in accordance with Schedule 3 to the Act; or
- (b) by the Legal Aid Committee as being the amount assessed by the Committee which would have been allowed to the solicitor or to counsel had the costs been so taxed after taking into account any actual taxation that may have taken place in the proceedings.

(6) For the purposes of paragraph (5) the Tribunal shall direct that a particular scale of costs shall apply as being appropriate to the proceedings (including a scale applicable to the High Court or to the County Court or as may be prescribed under any statutory provision relating to the remuneration of solicitors or counsel).

(7) The sums allowed to solicitors or counsel acting under a civil aid certificate in connection with proceedings in the Lands Tribunal shall be the full amount allowed on taxation in accordance with Schedule 3 to the Act or where a direction is made by the Tribunal under paragraph (5)(b), as may be assessed in accordance with that paragraph.”

Sealed with the Official Seal of the Ministry of Home Affairs for Northern Ireland this 23rd day of July 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 amend the Legal Aid (General) Regulations so as to provide that the personal resources of an applicant concerned in proceedings only in a representative, fiduciary or official capacity shall not be taken into account in considering eligibility for legal aid, so as to apply the Regulations to legally-aided proceedings in the Lands Tribunal and subject to the Regulations to make provision for the taxation or assessment of costs in those proceedings on the basis specified in Schedule 3 to the Legal Aid and Advice Act (Northern Ireland) 1965.