

**2005 No. 1793**

**LEGAL SERVICES COMMISSION, ENGLAND AND WALES**

**The Community Legal Service (Financial) (Amendment No.3) Regulations 2005**

<i>Made</i> - - - -	<i>4th July 2005</i>
<i>Laid before Parliament</i>	<i>4th July 2005</i>
<i>Coming into force</i> - -	<i>25th July 2005</i>

The Secretary of State, in exercise of the powers conferred by sections 7, 10 and 26 of the Access to Justice Act 1999(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 Community Legal Service (Financial) (Amendment No.3) Regulations 2005 and shall come into force on 25th July 2005.

(2) In these Regulations—

- (a) a reference to a regulation by number alone is a reference to the regulation so numbered in the Community Legal Service (Financial) Regulations 2000(c); and
- (b) words and expressions have the same meaning as in those Regulations.

**Amendments to the Community Legal Service (Financial) Regulations 2000**

2. Omit regulation 2(3)(g) and (h) (Interpretation).

3. For regulation 3(1)(d) (Financial eligibility) after “Representation” insert “, applied for by or on behalf of any of the parties referred to in subparagraph (c),”.

4. For regulation 3(1)(g)(iv) substitute—

“(iv) applies for either the registration of or the registration and enforcement of a judgment under Council Regulation (EC) No 2201/2003 of 27 November 2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility”.

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(a) 1999 c.22. Section 26 was amended by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), article 9, Schedule 2, paragraph 11(1)(a); see the definitions of “prescribed” and “regulations” in that section.

(b) By virtue of the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), articles 4(1) and 9, Schedule 1 and Schedule 2 paragraph 11(1)(a).

(c) S.I. 2000/516. There are relevant amendments in S.I. 2001/3663, S.I. 2002/709, S.I. 2003/650 and S.I. 2005/589.

5. In regulation 5(6) omit “and Support Funding”.
6. In regulation 5B(2)(a) omit “or Support Funding”.
- 7.—(1) In regulation 5C(1), for “legal representation to provide advocacy at an inquest” substitute “services in relation to an inquest”.
- (2) In regulation 5C(2), after “regulations” insert “5(3),”.
- 8.—(1) In regulation 38(8) (Contributions) omit “or Support Funding”.
- (2) For regulation 38(8A) substitute—
- “(8A) Paragraph (9) also applies where the Commission funds services in relation to an inquest into the death of a member of the immediate family of the client.”.
9. In regulation 43(2)(b)(ii) omit “, including that proportion of any success fee payable by a client in receipt of Litigation Support which he has agreed should be payable to the Commission under the terms of a conditional fee agreement”.
10. In regulation 47(2)(a) (Waiver of charge in case of wider public interest) omit “or Support Funding”.
11. In regulation 52(1) for “The Commission” substitute “Where the condition in regulation 52A is satisfied the Commission” and omit “(but only where)”.
12. After regulation 52 insert—
- “**52A.** The Commission may only postpone enforcement of the statutory charge if it appears to the Commission that it would be unreasonable for the client to repay the amount of the charge.
- 52B.**—(1) The Commission may review any decision to postpone enforcement of the charge at any time and, unless it appears to the Commission that it would be unreasonable for the client to repay the amount of the charge which has been postponed, it shall either—
- (i) proceed to enforce the charge; or
- (ii) where the conditions in regulation 52(1) (a) to (c) are satisfied continue to postpone enforcement of the charge, in which case the provisions of regulation 52(3) shall also continue to apply.
- (2) If the Commission continues to postpone enforcement under paragraph (1) (ii) it may do so on such terms or conditions as to repayment of the amount of the charge by way of interim payments of either capital or interest or both, or otherwise, as appear to the Commission to be appropriate.”.

### **Transitional provisions**

13.—(1) Regulations 2, 5, 6 and 8(1) of these Regulations shall not apply to certificates for Support Funding granted before 25th July 2005; and in relation to those certificates the Community Legal Service (Financial) Regulations 2000 shall continue to have effect as if regulations 2, 5, 6 and 8(1) of these Regulations had not been made.

(2) Regulation 4 of these Regulations shall only apply to applications for the registration of or for the registration and enforcement of judgments under Council Regulation (EC) No 2201/2003 of 27 November 2003 received on or after 25th July 2005; and in relation to any applications for registration of a judgment under Council Regulation (EC) No1347/2000 of 29 May 2000 the Community Legal Service (Financial) Regulations 2000 shall continue to have effect as if that Regulation had not been made.

(3) Regulations 9 and 10 of these Regulations shall apply to statutory charges created on or after 25th July 2005; and in relation to charges created before that date the Community Legal Service (Financial) Regulations 2000 shall continue to have effect as if regulations 9 and 10 of these Regulations had not been made.

4th July 2005

*Bridget Prentice*  
Parliamentary Under Secretary of State  
Department for Constitutional Affairs

### **EXPLANATORY NOTE**

*(This note is not part of these Regulations)*

These Regulations amend the Community Legal Service (Financial) Regulations 2000 (“the principal Regulations”), which govern financial aspects of the provisions of services funded by the Legal Services Commission in civil matters as part of the Community Legal Service.

Regulations 2, 5, 6 and 8(1), 9 and 10 make minor amendments to the principal Regulations and are consequential on amendments to the Funding Code which abolish Support Funding.

Regulations 3 and 4 provide for amendments to regulation 3 of the principal Regulations, which sets out the areas in which funded services are available irrespective of the financial resources of the client. Regulation 3 makes a minor amendment to regulation 3(1)(d) to make it clear, in relation to proceedings under the Children Act 1989, which parties are entitled to non-means tested services where there are linked proceedings. Regulation 4 provides for an amendment to regulation 3(1)(g)(iv) substituting reference to Council Regulation (EC) No. 2201/2003 of 27 November 2003, which now governs the jurisdiction and recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility. This Council Regulation repeals and replaces Council Regulation (EC) No. 1347/2000 of 29 May 2000.

Regulations 7 and 8(2) amend the principal Regulations in relation to the funding of legal services at certain inquests. They permit waiver of the eligibility limit where any legal services, and not only advocacy, are provided and permit waiver of contributions where the client is ineligible financially for legal aid as well as where he is eligible.

Regulations 11 and 12 amend the provisions of the principal Regulations about postponement of enforcement of the charge created by section 10(7) of the Access to Justice Act 1999. In particular, it provides for the circumstances in which—

- enforcement of the charge will not be postponed
- decisions to postpone enforcement of the charge will be reviewed.

These regulations also contain transitional provisions.

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**£3.00**

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's  
Stationery Office and Queen's Printer of Acts of Parliament.

E1032 7/2005 151032T 19585

ISBN 0-11-073051-8



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