

**2005 No. 571**

**LEGAL SERVICES COMMISSION, ENGLAND AND WALES**

**The Community Legal Service (Funding) (Amendment) Order 2005**

<i>Made</i> - - - -	<i>7th March 2005</i>
<i>Laid before Parliament</i>	<i>10th March 2005</i>
<i>Coming into force</i> - -	<i>4th April 2005</i>

The Secretary of State, in exercise of the powers conferred by section 6(4) of the Access to Justice Act 1999(a) and now vested in him(b), having had regard to the matters specified in section 25(3) and having consulted the General Council of the Bar and the Law Society, makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Community Legal Service (Funding) (Amendment) Order 2005 and shall come into force on 4<sup>th</sup> April 2005.

(2) In this Order a reference to an article by number alone is a reference to the article so numbered in the Community Legal Service (Funding) Order 2000(c).

2. In article 2(1), in the definition of “immigration proceedings”, for sub-paragraph (d) substitute—

“(d) the Asylum and Immigration Tribunal;”.

3. In article 5—

(a) in paragraph (4A)(a), for the words from “Immigration Appeal Tribunal” to “2002”, substitute “Asylum and Immigration Tribunal”.

(b) for paragraph (4B) substitute—

“(4B) Paragraph (4A) shall not apply in relation to Legal Representation before the Asylum and Immigration Tribunal—

(a) where the assessing authority considers that a case either—

(i) raises an exceptionally novel or complex point of law; or

(ii) has significant potential to produce real benefits for individuals other than the client (other than benefits to the public at large which normally flow from proceedings of the type in question);

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(a) 1999 c.22.

(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. 2000/627. There are relevant amendments in S.I. 2001/831 and S.I. 2004/2900.

- (b) on an application under section 103A of the Nationality, Immigration and Asylum Act 2002<sup>(a)</sup> which is considered by a member of the Tribunal pursuant to paragraph 30 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004<sup>(b)</sup>; or
- (c) in proceedings for the reconsideration of an appeal pursuant to an order under section 103A.”;
- (c) in paragraph (7)–
  - (i) at the end of sub-paragraph (b), omit “or”; and
  - (ii) after sub-paragraph (c) insert–
    - “; or
  - (d) the High Court on an application under section 103A of the Nationality, Immigration and Asylum Act 2002”.

7th March 2005

*Falconer of Thoroton, C.*

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<sup>(a)</sup> 2002 c.41. Section 103A is inserted by section 26 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.  
<sup>(b)</sup> 2004 c.19.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Community Legal Service (Funding) Order 2000. Amendments are made to articles 2 and 5 of that Order in consequence of the establishment under section 26 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 of the Asylum and Immigration Tribunal, which replaces immigration adjudicators and the Immigration Appeal Tribunal. Article 5 is also amended so that the maximum rates of remuneration under contracts specified in that article do not apply in relation to Legal Representation before the Asylum and Immigration Tribunal or the High Court in applications under section 103A of the Nationality, Immigration and Asylum Act 2002, or before the Asylum and Immigration Tribunal in proceedings for the reconsideration of an appeal pursuant to an order under section 103A.

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