

2007 No. 906

**LEGAL SERVICES COMMISSION,
ENGLAND AND WALES**

**The Community Legal Service (Financial)
(Amendment) Regulations 2007**

<i>Made</i>	- - - -	<i>15th March 2007</i>
<i>Laid before Parliament</i>		<i>19th March 2007</i>
<i>Coming into force</i>	- -	<i>9th April 2007</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 7 and 10 of the Access to Justice Act 1999(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Legal Service (Financial) (Amendment) Regulations 2007 and come into force on 9th April 2007.

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(b); and
- (b) words and expressions used in these Regulations have the same meaning as in those Regulations.

Transitional Provisions

3. These Regulations apply to applications for funded services made on or after 9th April 2007, and further assessments under regulation 15 made on or after 9th April, and applications and further assessments made before that date shall be treated as if these Regulations had not been made.

Amendments to the Community Legal Service (Financial) Regulations 2000

4. In regulation 2, for the definition of “assessing authority” substitute—

““assessing authority” means the Commission, except where under contract or under the Funding Code the Commission has delegated this function to the supplier;”.

(a) 1999 c.22. Section 26 defines “regulations” as regulations made by the Lord Chancellor. The powers were transferred to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003, S.I. 2003/1887, and were transferred back to the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005, S.I. 2005/3429

(b) S.I. 2000/516; as amended by S.I. 2001/2997, S.I. 2001/3663, S.I. 2001/3929, S.I. 2002/709, S.I. 2002/1766, S.I. 2003/650, S.I. 2003/2838, S.I. 2004/2899, S.I. 2005/589, S.I. 2005/1097, S.I. 2005/1793, S.I. 2005/3504, S.I. 2006/713 and S.I. 2006/2363.

- 5.** In regulation 3—
- (a) in paragraph (1)(c), after “under the Children Act 1989” insert “, except appeals against final orders,”;
 - (b) after paragraph (1)(c) insert—
 - “(ca) General Family Help applied for by a parent of a child, or a person with parental responsibility for a child within the meaning of the Children Act 1989, in respect of whom a Local Authority has given notice of potential proceedings under section 31 of that Act.”.
- 6.** For regulation 5, substitute—
- “**5.**—(1) This regulation has effect subject to regulations 3, 4 and 5A.
- (2) Except where paragraph (3) applies, where a client’s monthly disposable income does not exceed £672 and his disposable capital does not exceed £8,000, he shall be eligible for funded services.
- (3) Where a client’s monthly disposable income does not exceed £672 and his disposable capital does not exceed £3,000, he shall be eligible for Legal Representation in respect of an immigration claim before —
- (i) the Asylum and Immigration Tribunal; and
 - (ii) the High Court in respect of an application under section 103A of the Nationality, Immigration and Asylum Act 2002.”.

7. In regulation 5A—

 - (a) in paragraph (4), for “£2,350” substitute “£2,435”;
 - (b) in paragraph (5), for “£145” substitute “£205”.

8. In regulation 5B(3), delete “(6)”.

9. In regulation 5C(2), in both places where it appears, for “5(3), 5(6)” substitute “5”.

10. In regulation 5E(2), for “disposable income limit in regulation 5(5) or 5(6)” substitute “eligibility limits in regulations 5 and 5A”.

11. In regulation 7(2)(a), delete “(2), (3), (5) or (6)”.

12. In regulation 11—

 - (a) after paragraph (2) insert—
 - “(2A) Paragraph (3) does not apply where eligibility is being assessed for Legal Representation in proceedings other than Family Proceedings.”;
 - (b) in paragraph (3), delete “Except where eligibility is being assessed under regulation 5(6),”.

13. In regulation 15(1), for “5(6)” substitute “5”.

14. In regulation 16, delete “where the eligibility of the person concerned is being assessed under regulation 5(6),”.

15. For regulation 18(2), substitute—

“(2) In calculating the disposable income of the person concerned, any income tax and national insurance contribution paid, or where eligibility is being assessed for General Family Help or Legal Representation payable, on that income in respect of the period of calculation shall be deducted.”.

16. In regulation 19—

 - (a) for paragraph (b) substitute—

“(b) any direct payments made under the Community Care, Service for Carers and Children’s Services (Direct Payments) (England) Regulations 2003(a) or the Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2004(b);”;

(b) for paragraph (f) substitute—

“(f) any pensions paid under the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006(c);”;

(c) for paragraph (g) substitute—

“(g) to the extent that it exceeds the relevant figure referred to in regulation 20(2)(b), any financial support paid under any agreement for the care of a foster child;”.

17. In regulation 31—

(a) for paragraph (1) substitute—

“(1) Where eligibility is being assessed for —

(a) Legal Representation, except Legal Representation for an immigration claim before

(i) the Asylum and Immigration Tribunal; and

(ii) the High Court in respect of an application under section 103A of the Nationality, Immigration and Asylum Act 2002; and

(b) General Family Help,
paragraphs (2) to (4) apply.”;

(b) in paragraph (5) for “other than under regulation 5(6)” substitute “for other levels of service”.

18. In regulations 32A(2) and (3), for “under regulation 5(5) or 5(6)” substitute “for Legal Representation and General Family Help”.

19. In regulation 35(1)—

(a) delete sub-paragraph (a);

(b) in sub-paragraph (c) and the table following that sub-paragraph, for “279” substitute “289”.

20. In regulation 36, for “under regulation 5(5) or 5(6)” substitute “for Legal Representation and General Family Help”.

21. In regulation 37, for “under regulation 5(5) or 5(6)” substitute “for Legal Representation or General Family Help”.

22. In regulation 38—

(a) for paragraph (2) substitute—

“(2) Subject to regulation 4(2), where—

(a) eligibility is being assessed for—

(i) Legal Representation except Legal Representation before —

(aa) the Asylum and Immigration Tribunal; and

(bb) the High Court in respect of an application under section 103A of the Nationality, Immigration and Asylum Act 2002;

(ii) General Family Help; or

(a) S.I. 2003/762.
(b) S.I. 2004/1748.
(c) S.I. 2006/606.

- (iii) such other services as are required or authorised by the Lord Chancellor to be funded under section 6(8) of the Act; and
 - (b) his monthly disposable income exceeds £289,
- a client shall make the following contributions;
- (i) one quarter of any such income between £285 and £426;
 - (ii) one third of any such income between £427 and £565; and
 - (iii) one half of any remaining disposable income.”;
- (b) after paragraph (2) insert—
- “(2A) Subject to regulation 4(2), where—
- (a) eligibility is being assessed for—
 - (i) Legal Representation other than Legal Representation in respect of an asylum claim before—
 - (aa) the Asylum and Immigration Tribunal; and
 - (bb) the High Court in respect of an application under section 103A of the Nationality, Immigration and Asylum Act 2002;
 - (ii) General Family Help;
 - (iii) such other services as are required or authorised by the Lord Chancellor to be funded under section 6(8) of the Act; and
 - (b) his disposable capital exceeds £3,000,
- a client shall make a contribution of the lesser of the excess and the sum which the assessing authority considers to be the likely maximum cost of the funded services.”;
- (c) in paragraph (3), delete “(a)”;
 - (d) in paragraph (4), for “(2)(b)” substitute “(2A)”;
 - (e) in paragraph (5), for “under regulation 5(5) or 5(6)” substitute “for Legal Representation or General Family Help”.

23. In regulation 43, for paragraph (5) substitute—

“(5) The amount of the charge created by section 10(7) of the Act shall not include reasonable costs incurred by the supplier in accordance with his statutory obligations under the Disability Discrimination Act 1995(a).”.

24. In regulation 44(1)—

- (a) after sub-paragraph (a) insert—
 - “(aa) any sum or sums ordered to be paid under sections 25B(4) or 25C of the Matrimonial Causes Act 1973(b);”;
- (b) delete sub-paragraph (f).

Signed by authority of the Lord Chancellor

15th March 2007

Vera Baird
Parliamentary Under Secretary of State
Department for Constitutional Affairs

(a) 1995 c.50.
(b) 1973 c.18.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Community Legal Service (Financial) Regulations 2000 which govern the financial aspects of the provision of services funded by the Legal Services Commission in civil and family matters.

The Regulations set out revised financial eligibility limits, which include a capital limit of £8,000 for all levels of service, other than for advocacy for certain immigration cases. The Regulations change the provisions regarding the aggregation of parents' resources. Aggregation now applies to all services, including funding for advocacy in family proceedings but not to funding for advocacy for other proceedings.

These Regulations increase the financial eligibility limits for monthly and disposable income.

A full regulatory impact assessment has not been made for this instrument, as it has no significant impact on the costs of businesses, charities or voluntary bodies.

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