
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Community Legal Service (Asylum and Immigration Appeals) Regulations 2005 (“the Principal Regulations”).

Section 8 of the Immigration, Asylum and Nationality Act 2006 (c.13) makes amendments to section 103D of the Nationality, Immigration and Asylum Act 2002 (c.41), under which the Principal Regulations were made. Those amendments extend the power of the Asylum and Immigration Tribunal to make an order under section 103D(3) for the payment of an appellant’s costs out of the Community Legal Service Fund. Section 103D(3) no longer limits that power to cases where the Tribunal has completed the reconsideration of an appeal.

Regulation 2 removes provisions of the Principal Regulations which are no longer required as a result of the amendments to section 103D. Regulation 3 amends the Principal Regulations to specify the circumstances in which the Tribunal may make an order under section 103D(3) without having completed the reconsideration of an appeal. Regulation 4 clarifies the scope of the review procedure under the Principal Regulations in light of the amended powers of the Tribunal. Regulation 5 makes provision for the situation where a section 103D order is made and the appellant has changed representative during immigration review proceedings, and requires the tribunal to give reasons where it makes an order excluding either counsel’s or solicitor’s fees.

These Regulations have effect only in relation to appeals decided in England and Wales.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.