

2006 No. 2363

**LEGAL SERVICES COMMISSION,
ENGLAND AND WALES**

**The Community Legal Service (Financial) (Amendment No.2)
Regulations 2006**

<i>Made</i> - - - -	<i>28th August 2006</i>
<i>Laid before Parliament</i>	<i>1st September 2006</i>
<i>Coming into force</i> - -	<i>2nd October 2006</i>

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Legal Service (Financial) (Amendment No.2) Regulations 2006 and come into force on 2nd October 2006.

(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 used in these Regulations have the same meaning as in the Community Legal Service (Financial) Regulations 2000.

Transitional Provisions

2. These Regulations apply to applications for funded services, and further assessments under regulation 15, made on or after 2nd October 2006, 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

3. In regulation 2—

- (a) In the definition of “family proceedings”—
 - (i) after “Children Act 2002” delete “and”;
 - (ii) after “Children Act 2002” insert —

(a) 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 the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 S.I.2005/3429.

(b) 1999 c.22. Section 26 defines “regulations” as regulations made by the Lord Chancellor.

(c) S.I.2000/516; amended by S.I.2001/2997, S.I.2001/3663, S.I.2001/3929, S.I.2002/709, S.I.2003/650, S.I.2003/2838, S.I.2005/589, S.I.2005/1097, S.I.2005/1793, S.I.2006/713.

- “(gb) the Civil Partnership Act 2004; and”;
- (b) after the definition of “funded services” insert—
 - ““immigration matter” means any relevant matter as defined in section 82 of the Immigration and Asylum Act 1999;”.
- (c) after the definition of “the Independent Living (1993) Fund” insert—
 - ““the Lord Chancellor’s Authorisation” means the Lord Chancellor’s Authorisation on funding for representation at inquests issued in November 2001 under section 6(8)(b) of the Act, as amended from time to time;”.(a)

4. In regulation 4(3)—

- (a) after “provided under section” insert—
 - “4 or”;
- (b) for the words after “eligible for” substitute —
 - “(a) Legal Help in relation to an asylum claim or immigration matter;
 - (b) Help at Court and Legal Representation 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.”.

5. In regulation 5C—

- (a) for paragraph (2) substitute—
 - “(2) Where this regulation applies—
 - (a) the Commission may, if it considers it equitable to do so, request the Lord Chancellor to disapply the eligibility limits in regulations 5(3), 5(6) and 5A in respect of an application for funding which falls outside the scope of the Lord Chancellor’s Authorisation;
 - (b) the Commission may, if it considers it equitable to do so, disapply the eligibility limits in regulations 5(3), 5(6) and 5A in respect of an application for funding which falls within the scope of the Lord Chancellor’s Authorisation”;
- (b) in paragraph (3), after “request” insert “or waiver”;
- (c) in paragraph (4)—
 - (i) for “paragraph (2) the Secretary of State” substitute “paragraph (2)(a) the Lord Chancellor”;
 - (ii) for “fit” substitute “it equitable”.

6. In regulation 38—

- (a) in paragraph (9), after “regulation” insert “, except where paragraph (10) applies.”;
- (b) after paragraph (9), add—
 - “(10) Where under section 6(8)(b) of the Act the Lord Chancellor authorises the Commission to fund services in relation to an inquest into the death of a member of the immediate family of the client, the Lord Chancellor may, if he considers it equitable to do so, waive part or all of the contributions payable under this regulation.”.

(a) Published as part of the Legal Services Commission Manual ‘The Funding Code – Volume 3’, ISBN 011782879 3.

Signed by authority of the Lord Chancellor

28th August 2006

Cathy Ashton
Parliamentary Under Secretary of State
Department for Constitutional Affairs

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 matters.

These Regulations amend the definition of ‘family proceedings’ to include proceedings under the Civil Partnership Act 2004.

These Regulations increase the range of Legal Help available to those in receipt of certain benefits provided under the Immigration and Asylum Act 1999.

They also transfer the power to disapply certain eligibility limits in relation to applications for funding of services at inquests to the Legal Services Commission in limited circumstances. Also, the power to waive part or all of contributions that may be payable is transferred to the Lord Chancellor in limited circumstances.

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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