

**EXPLANATORY MEMORANDUM TO
THE COMMUNITY LEGAL SERVICE (FINANCIAL) (AMENDMENT NO.3)
REGULATIONS 2009**

2009 No. 3312

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument amends the Community Legal Service (Financial) Regulations 2000 which relate to financial eligibility for, and contributions towards, civil legal aid. It takes account of the introduction of the Crown Court Means Testing scheme so that criminal legal aid contributions paid by clients towards the cost of their representation in the Crown Court can be disregarded when their financial eligibility for civil legal aid funding is being assessed.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 These Regulations are made by the Parliamentary Under Secretary of State, by authority of the Lord Chancellor, in exercise of powers conferred upon him by sections 7, 10 and 26 of the Access to Justice Act 1999. They are subject to the negative resolution procedure, by virtue of section 25(10) of that Act.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England and Wales.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - 7.1 Under the new Criminal Defence Service Crown Court means testing scheme, applicants may be liable to pay a contribution towards their defence costs, subject to an assessment of their income. This will be introduced at five 'early adopter' courts in January 2010. This provision makes it possible, in assessing their disposable income for eligibility for legal aid in the civil case, to take account of any Criminal Defence Service legal aid contributions that the person is making. The Criminal Defence Service Crown Courts means testing scheme will be piloted from 11 January 2010. (National rollout is between April and June 2010).

7.2 The amendment in this instrument was not subject to consultation as it is consequential on other policies on which there have already been consultations, and it is a minor, technical change. The consultation document on the related policies and the Government's response can be found at <http://www.justice.gov.uk/>

8. Consultation outcome

8.1 No consultation took place as this is a small, technical and consequential change to the Community Legal Service scheme. Stakeholders have been consulted on the Crown Court Means Testing scheme itself.

9. Guidance

9.1 The Legal Services Commission will be issuing guidance to solicitors and Not-for-Profit advisors about the civil and criminal legal aid changes in due course.

10. Impact

10.1 A full regulatory impact assessment has not been made for this instrument, as the instrument itself has no significant impact on the cost of businesses, charities or voluntary bodies. However an impact assessment was prepared to accompany the policy consultation on the Crown Court Means testing scheme and can be found at: <http://www.justice.gov.uk/>

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Legal Services Commission keeps under review the eligibility schemes for both civil and criminal legal aid.

13. Contact

Shirley Benson at the Ministry of Justice, Tel: 020 3334 4207 or email: Shirley.Benson@justice.gsi.gov.uk can answer any queries regarding the instrument.