
STATUTORY INSTRUMENTS

2000 No. 441

The Community Legal Service (Costs) Regulations 2000

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the Community Legal Service (Costs) Regulations 2000 and shall come into force on 1st April 2000.

Interpretation

2. In these Regulations:

“the Act” means the Access to Justice Act 1999;

“certificate” means a certificate issued under the Funding Code certifying a decision to fund services for the client;

“client” means an individual who receives funded services;

“Commission” means the Legal Services Commission established under section 1 of the Act;

“costs judge” has the same meaning as in the CPR;

“costs order” means an order that a party pay all or part of the costs of proceedings;

“costs order against the Commission” means an order, made under regulation 5 of the Community Legal Service (Cost Protection) Regulations 2000⁽¹⁾ (but not one under regulation 6 of those Regulations), that the Commission pay all or part of the costs of a party to proceedings who has not received funded services in relation to those proceedings under a certificate, other than a certificate which has been revoked;

“cost protection” means the limit on costs awarded against a client set out in section 11(1) of the Act;

“court” includes any tribunal having the power to award costs in favour of, or against, a party;

“CPR” means the Civil Procedure Rules 1998⁽²⁾, and a reference to a Part or rule, prefixed by “CPR”, means the Part or rule so numbered in the CPR;

“Financial Regulations” means the Community Legal Service (Financial) Regulations 2000⁽³⁾;

“Funding Code” means the code approved under section 9 of the Act;

“full costs” means, where a section 11(1) costs order is made against a client, the amount of costs which that client would, but for section 11(1) of the Act, have been ordered to pay;

⁽¹⁾ S.I. 2000/824.

⁽²⁾ S.I. 1998/3132; amended by S.I. 1999/1008 and 2000/221.

⁽³⁾ S.I. 2000/516.

“funded services” means services which are provided directly for a client and funded for that client by the Commission as part of the Community Legal Service under sections 4 to 11 of the Act;

“partner”, in relation to a party to proceedings, means a person with whom that party lives as a couple, and includes a person with whom the party is not currently living but from whom he is not living separate and apart;

“proceedings” include proceedings in any tribunal which is a court, as defined, in this paragraph;

“receiving party” means a party in favour of whom a costs order is made;

“Regional Director” means any Regional Director appointed by the Commission in accordance with the Funding Code and any other person authorised to act on his behalf, except a supplier;

“rules of court”, in relation to a tribunal, means rules or regulations made by the authority having power to make rules or regulations regulating the practice and procedure of that tribunal and, in relation to any court, includes practice directions;

“section 11(1) costs order” means a costs order against a client where cost protection applies;

“solicitor” means solicitor or other person who is an authorised litigator within the meaning of section 119(1) of the Courts and Legal Services Act 1990(4);

“statement of resources” means:

- (a) a statement, verified by a statement of truth, made by a party to proceedings setting out:
 - (i) his income and capital and financial commitments during the previous year and, if applicable, those of his partner;
 - (ii) his estimated future financial resources and expectations and, if applicable, those of his partner; and
 - (iii) a declaration that he and, if applicable, his partner, has not deliberately foregone or deprived himself of any resources or expectations, particulars of any application for funding made by him in connection with the proceedings, and any other facts relevant to the determination of his resources; or
- (b) a statement, verified by a statement of truth, made by a client receiving funded services, setting out the information provided by the client under regulation 6 of the Financial Regulations, and stating that there has been no significant change in the client’s financial circumstances since the date on which the information was provided or, as the case may be, details of any such change;

“statement of truth” has the same meaning as in CPR Part 22;

“supplier” means any person or body providing funded services to the client, including any authorised advocate (within the meaning of section 119(1) of the Courts and Legal Services Act 1990) engaged by the client’s solicitor to act in proceedings.

Effect of these Regulations

3. Nothing in these Regulations shall be construed, in relation to proceedings where one or more parties are receiving, or have received, funded services, as:

- (a) requiring a court to make a costs order where it would not otherwise have made a costs order; or
- (b) affecting the court’s power to make a wasted costs order against a legal representative.

(4) 1990 c. 41.

Termination of retainer where funding is withdrawn

4.—(1) The following paragraphs of this regulation apply where funding is withdrawn by revoking or discharging the client's certificate.

(2) Subject to paragraphs (3) and (4), on the revocation or discharge of the client's certificate, the retainer of any supplier acting under that certificate shall terminate immediately.

(3) Termination of retainers under paragraph (2) shall not take effect unless and until any procedures under the Funding Code for review of the decision to withdraw the client's funding are concluded, and confirm the decision to withdraw funding.

(4) The solicitor's retainer shall not terminate until he has complied with any procedures under the Funding Code that require him to send or serve notices.