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STATUTORY INSTRUMENTS

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**2000 No. 824**

**The Community Legal Service  
(Cost Protection) Regulations 2000**

**Costs order against Commission**

5.—(1) The following paragraphs of this regulation apply where:

- (a) funded services are provided to a client in relation to proceedings;
- (b) those proceedings are finally decided in favour of a non-funded party; and
- (c) cost protection applies.

(2) The court may, subject to the following paragraphs of this regulation, make an order for the payment by the Commission to the non-funded party of the whole or any part of the costs incurred by him in the proceedings (other than any costs that the client is required to pay under a section 11(1) costs order).

(3) An order under paragraph (2) may only be made if all the conditions set out in sub-paragraphs (a), (b), (c) and (d) are satisfied:

- (a) a section 11(1) costs order is made against the client in the proceedings, and the amount (if any) which the client is required to pay under that costs order is less than the amount of the full costs;
- (b) the non-funded party makes a request under regulation 10(2) of the Community Legal Service (Costs) Regulations 2000(1) within three months of the making of the section 11(1) costs order;
- (c) as regards costs incurred in a court of first instance, the proceedings were instituted by the client and the court is satisfied that the non-funded party will suffer severe financial hardship unless the order is made; and
- (d) in any case, the court is satisfied that it is just and equitable in the circumstances that provision for the costs should be made out of public funds.

(4) Where the client receives funded services in connection with part only of the proceedings, the reference in paragraph (2) to the costs incurred by the non-funded party in the relevant proceedings shall be construed as a reference to so much of those costs as is attributable to the part of the proceedings which are funded proceedings.

(5) Where a court decides any proceedings in favour of the non-funded party and an appeal lies (with or without permission) against that decision, any order made under this regulation shall not take effect:

- (a) where permission to appeal is required, unless the time limit for applications for permission to appeal expires without permission being granted;
- (b) where permission to appeal is granted or is not required, unless the time limit for appeal expires without an appeal being brought.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(6) Subject to paragraph (7), in determining whether the conditions in paragraph (3)(c) and (d) are satisfied, the court shall have regard to the resources of the non-funded party and of his partner.

(7) The court shall not have regard to the resources of the partner of the non-funded party if the partner has a contrary interest in the funded proceedings.

(8) Where the non-funded party is acting in a representative, fiduciary or official capacity and is entitled to be indemnified in respect of his costs from any property, estate or fund, the court shall, for the purposes of paragraph (3), have regard to the value of the property, estate or fund and the resources of the persons, if any, including that party where appropriate, who are beneficially interested in that property, estate or fund.