

**2003 No. 649**

**LEGAL SERVICES COMMISSION, ENGLAND AND WALES**

**The Community Legal Service (Costs) (Amendment) Regulations 2003**

*Made* - - - - - *5th March 2003*

*Laid before Parliament* *11th March 2003*

*Coming into force* - - *7th April 2003*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 10(6), 11(3) and 11(4)(a) of the Access to Justice Act 1999(a) makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Community Legal Service (Costs) (Amendment) Regulations 2003 and shall come into force on 7th April 2003.

**Interpretation**

2. In these Regulations, a regulation referred to by number alone means the regulation so numbered in the Community Legal Service (Costs) Regulations 2000(b).

**Amendments to the Community Legal Service (Costs) Regulations 2000**

3. In regulation 2,
- (a) after the definition of “certificate”, insert—  
““child” means a person under 18;”;
  - (b) after the definition of “funded services”, insert—  
““litigation friend” has the meaning given by CPR Part 21;”;
  - (c) after the definition of “partner”, insert—  
““patient” means a person who by reason of mental disorder within the meaning of the Mental Health Act 1983(c) is incapable of managing and administering his own affairs;”;
  - (d) for paragraph (a)(iii) of the definition of “statement of resources”, substitute—  
“(iii) a declaration stating whether he, and if applicable his partner, has deliberately foregone or deprived himself of any resources or expectations, together (if applicable and as far as is practical) with details of those resources or expectations and the manner in which they have been foregone or deprived;
  - (iv) particulars of any application for funding made by him in connection with the proceedings; and

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(a) 1999 c. 22.  
(b) S.I. 2000/441.  
(c) 1983 c. 20.

(v) any other facts relevant to the determination of his resources; or”.

4. After regulation 7(5), insert—

“(6) For the purposes of section 11(1) of the Act, where a party is acting as a litigation friend to a client who is a child or a patient, the court shall not take the personal resources of the litigation friend into account in assessing the resources of the client.”.

5.—(1) For regulation 10(3)(b), substitute—

“(b) unless the conditions set out in paragraph (3A) are satisfied, a statement of resources; and”.

(2) After regulation 10(3), insert—

“(3A) The conditions referred to in paragraph (3)(b) above are that—

(a) the court is determining an application for a costs order against the Commission;

(b) the costs were not incurred in a court of first instance.”.

Signed by authority of the Lord Chancellor

5th March 2003

*Scotland of Asthal*, QC  
Parliamentary Secretary  
Lord Chancellor’s Department

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for amendments to be made to the Community Legal Service (Costs) Regulations 2000 (S.I. 2000/441).

Regulation 3 changes the definition of a statement of resources to allow a declaration to be made as to whether or not a party has deliberately foregone or deprived himself of resources or expectations.

Regulation 4 provides for protection of a litigation friend of an individual who receives funded services and who is either a child or a patient.

Regulation 5 provides that when making a request for a hearing to determine the costs payable to him under a costs order, the receiving party only has to make a statement of resources when he has to show financial hardship for the purposes of regulation 5(3)(c) of the Community Legal Service (Costs Protection) Regulations 2000 (S.I. 2000/824) (order for costs against the Legal Services Commission in a court of first instance).

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