

EXPLANATORY MEMORANDUM TO
THE COMMUNITY LEGAL SERVICE (COSTS) (AMENDMENT)
REGULATIONS 2007

2007 No. 2444

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations make terminological changes to the Community Legal Service (Costs) Regulations 2000 in relation to those within the Legal Services Commission who are responsible for considering certain claims, applications and appeals, following amendments made in 2006 to the Legal Services Commission (LSC) Funding Code.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1. The Lord Chancellor makes these regulations in exercise of the power conferred by section 10(6) of the Access to Justice Act 1999.

5. Extent

5.1. The Regulations apply 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. In October 2006, following public consultation, the LSC revised its appeals processes to improve efficiency and consistency of decision-making. The Funding Code was amended to reflect the new arrangements. The Funding Code is prepared under section 8 of the Access to Justice Act 1999 and provides a set list of criteria and procedures by which the Legal Services Commission operates the provision of civil legal aid. However, some references to the old arrangements survive in regulations, and these amendment regulations replace those references with the correct terms.

- 7.2. The changes include replacing references to ‘Regional Director’ to ‘Director’ to reflect the LSC’s current organisational arrangements, and the fact that most ‘operational’ issues (including decisions on whether or not to grant, refuse or terminate funding) are now taken by staff ultimately reporting to the LSC’s Director of Business Delivery, rather than to Regional Directors.
- 7.3. In addition, the appeals reforms also included replacing ‘cost committees’, which solicitors can appeal to if they disagree with the LSC assessment of their legal aid bill, with ‘Independent Costs Assessors’, and ‘Funding Review Committees’ (which re-consider applications for legal aid which are refused on their merits) with ‘Independent Funding Adjudicators’. The Community Legal Service (Costs) Regulations 2000 do not contain references to these latter terms, so there are no amendments of this type in these amendment regulations.
- 7.4. A separate Order has also been made in respect of replacing references to ‘Regional Directors’ and ‘costs committees’ in the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001.

8. Impact

- 8.1. This instrument is not accompanied by a regulatory impact assessment, as it has no significant impact on the costs of businesses, charities or voluntary bodies.

9. Contact

- 9.1. Any enquiries about the contents of this memorandum should be addressed to:
Stephen Jones, Legal Aid Strategy Directorate, Ministry of Justice
Email: Stephen.Jones@justice.gsi.gov.uk
Tel. 0207 210 2626