

2007 No. 2442

**LEGAL SERVICES COMMISSION,
ENGLAND AND WALES**

**The Community Legal Service (Financial)
(Amendment No. 2) Regulations 2007**

<i>Made</i>	- - - -	<i>9th August 2007</i>
<i>Laid before Parliament</i>		<i>17th August 2007</i>
<i>Coming into force</i>	- -	<i>1st October 2007</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 7 and 10 of the Access to Justice Act 1999(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Legal Service (Financial) (Amendment No. 2) Regulations 2007 and come into force on 1st October 2007, save that regulation 5(b) of these Regulations comes into force on 1st January 2008.

2. In these Regulations—

- (a) a reference to a regulation by number alone is a reference to the regulation so numbered in the Community Legal Service (Financial) Regulations 2000(b); and
- (b) words and expressions used in these Regulations have the same meaning as in those Regulations.

Transitional Provisions

3.—(1) Subject to paragraph (2), these Regulations apply to applications for funded services made on or after 1st October 2007 and applications made before that date will be treated as if these Regulations had not been made.

(2) These Regulations do not apply to applications for funded services where—

- (a) a client is in receipt of General Family Help on or after 1st October 2007; and
- (b) the funded services are extended to include Legal Representation on or after 1st October 2007.

(a) 1999 c.22. Section 26 defines “regulations” as regulations made by the Lord Chancellor. The powers were transferred to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003, S.I. 2003/1887, and were transferred back to the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005, S.I. 2005/3429.
(b) S.I. 2000/516; as amended by S.I. 2001/2997, 2001/3663, 2001/3929, 2002/709, 2003/650, 2005/589, 2005/1097, 2005/1793, 2006/2363 and 2007/906.

Amendments to the Community Legal Service (Financial) Regulations 2000

4. In regulation 2—

(a) in paragraph (1)—

(i) in the definition of “family proceedings”, for “Parts I, II and IV of the Children Act 1989” substitute “Parts I to V of the Children Act 1989^(a)”;

(ii) after the definition of “immigration matter” insert—

““the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part”;

(iii) delete the definitions of “the Independent Living Funds”, “the Independent Living Fund”, “the Independent Living (Extension) Fund” and “the Independent Living (1993) Fund”;

(b) in paragraph (3)(e), for “Help with Mediation” substitute “Family Help (Lower)”;

(c) in paragraph (3)(f), for “General Family Help” substitute “Family Help (Higher)”.

5. In regulation 3—

(a) in paragraph (1)(ca), for “General Family Help” substitute “Family Help (Lower)”;

(b) for paragraph (1)(e) substitute—

“(e) Legal Help in potential proceedings or Legal Representation in proceedings or potential proceedings before a Mental Health Review Tribunal under the Mental Health Act 1983^(b), where the client’s case or application to the Tribunal is, or is to be, the subject of the proceedings;”.

6. In regulation 19(h), for “Independent Living Funds” substitute “Independent Living Fund (2006)”.

7. In regulation 31(1)(b), for “General Family Help” substitute “Family Help (Higher)”.

8. In regulations 32A, 36, 37 and 38, in all places where it appears, for “General Family Help” substitute “Family Help (Higher)”.

9. In regulation 42—

(a) after the definition of “recovered” insert—

““settlement fee” means the separate fee payable in addition to the standard fee which a supplier may claim in accordance with the unified contract where a case settles under Family Help (Lower);

“standard fee” means the basic fee payable for the relevant category of law in accordance with the unified contract;”

(b) after the definition of “success fee” insert—

““supplier” means a party to the unified contract other than the Commission;

“unified contract” means the contract between the Commission and a supplier for the provision of funded services which consists of the contract document, the schedule, the contract standard terms and the specification.”^(c).

10. In regulation 43—

(a) in paragraph (1), after “(4)” insert “, (4A)”;

(a) 1989 c.41.

(b) 1983 c.20.

(c) Published by the Commission in 2007 and available on its website at www.legalservices.gov.uk/civil/unified_contract.asp.

(b) for paragraphs (3) and (4) substitute—

“(3) Subject to paragraphs (4) or (4A), the amount of the statutory charge must not include sums expended by the Commission in funding any of the following services—

- (a) Legal Help;
- (b) Help at Court;
- (c) Family Mediation; or
- (d) Family Help (Lower).

(4) Where the client receives Family Help (Higher) or Legal Representation in connection with a dispute or proceedings for which Legal Help, Help at Court or Family Help (Lower) was also granted, the amount of the statutory charge—

- (a) will include the sums expended by the Commission under paragraph (3)(a), (b) or (d);
- (b) will not include any settlement fee paid in relation to family proceedings.

(4A) Where the cost of the funded services provided for a client under Family Help (Lower) exceeds the level which would otherwise have qualified for a standard fee, the amount of the statutory charge—

- (a) will include the sums expended by the Commission under paragraph (3)(a) and (d) which exceed the level which would otherwise have qualified for a standard fee;
- (b) will not include any settlement fee paid in relation to family proceedings.”.

11. In regulation 45, in both places where it appears, for “ or Help at Court” insert “, Help at Court or Family Help (Lower)”.

Signed by authority of the Lord Chancellor

9th August 2007

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Community Legal Service (Financial) Regulations 2000 (“the 2000 Regulations”) which govern the financial aspects of the provision of services funded by the Legal Services Commission in civil and family matters.

These Regulations make changes to facilitate the introduction of new civil fee schemes. In particular, the changes to the 2000 Regulations reflect the new levels of service for family work, make Legal Help means free for advice on Mental Health Review Tribunal matters and change the levels of help which are exempt from the statutory charge.

Impact assessments have been prepared and were included in the full Impact Assessment which accompanied the documents ‘Legal Aid Reform: Family and Family Mediation Fee Schemes for October 2007’ and ‘Legal Aid Reform: Mental Health Fixed Fees’. Copies are available from Civil Legal Aid Strategy Division, Ministry of Justice, 54 Victoria Street, London, SW1E 6QW.

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