Draft Regulations laid before Parliament under section 25(9) of the Access to Justice Act 1999, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

LEGAL SERVICES COMMISSION, ENGLAND AND WALES

The Community Legal Service (Cost Protection) (Amendment) Regulations 2005

Made - - - -

Coming into force - - 25th July 2005

The Secretary of State, in exercise of the powers conferred upon the Lord Chancellor by sections 11(1), (3), (4)(b) and 26 of the Access to Justice Act 1999(**1**) and now vested in him(**2**), makes the following Regulations a draft of which has been laid before and approved by resolution of each House of Parliament:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Legal Service (Cost Protection) (Amendment) Regulations 2005 and shall come into force on 25th July 2005.

(2) In these Regulations a reference to a regulation by number alone means the regulation so numbered in the Community Legal Service (Cost Protection) Regulations 2000(**3**).

Amendments to the Community Legal Service (Cost Protection) Regulations 2000

2.—(1) In regulation 2(1) (Interpretation), after the definition of "court", insert—

""family proceedings" means—

(a) all proceedings under any one or more of the following—

(i) the Matrimonial Causes Act 1973(**4**);

(**1**) 1999 c. 22. Section 26 was amended by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), article 9, Schedule 2, paragraph 11(1)(a); see the definitions of "prescribed" and "regulations" in that section.
(**2**) By virtue of the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), articles 4(1) and 9, Schedule 1, and Schedule 2, paragraph 11(1)(a).
(**3**) S.I 2000/824, there are relevant amendments in S.I.2001/823.
(**4**) 1973 c. 8.

(ii) the Domestic Proceedings and Magistrates' Courts Act 1978(**5**);

(iii) Part III of the Matrimonial and Family Proceedings Act 1984(**6**);

(iv) the Child Abduction and Custody Act 1985(**7**);

(v) Parts I and II of and Schedule 1 to the Children Act 1989(**8**);

(vi) section 53 of and Schedule 7 to the Family Law Act 1996(**9**); and

(b) proceedings which arise out of family relationships under either or both of the following —

(i) the Inheritance (Provision for Family and Dependants) Act 1975(**10**);

(ii) the Trusts of Land and Appointment of Trustees Act 1996(**11**);

"family relationships" has the same meaning as in the Funding Code which came into force on 1st April 2000 and the Funding Code Guidance published on 1st April 2000 by the Commission for the purpose of making decisions under the Funding Code;".

(2) In regulation 2(3)(d) for "Approved Family Help" substitute "General Family Help and Help with Mediation".

(3) In regulation 2(3) omit sub-paragraphs (e) and (f).

3.—(1) In regulation 3(1) (Cost protection)—

(a) in sub-paragraph (a) omit "or Litigation Support";

(b) omit sub-paragraph (b);

(c) in sub-paragraph (c) for "Help." substitute " Help;";

(d) after sub-paragraph (c) insert—

"(d) General Family Help and Help with Mediation in family proceedings;

(e) Legal Representation in family proceedings.".

(2) In regulation 3(2) for "receives Legal Representation or Approved Family Help in respect of the same dispute" substitute "receives Legal Representation or General Family Help or Help with Mediation in respect of the same dispute, other than Legal Representation in family proceedings or General Family Help or Help with Mediation in family proceedings".

(3) In regulation 3(2)(b) for "or Approved Family Help" substitute ", General Family Help or Help with Mediation".

(4) In regulation 3(5) after "the grant of an emergency certificate" insert ", other than an emergency certificate granted in relation to family proceedings,".

4. In regulation 4 (Enforcement of costs order against client) after "Where," insert " in a case where costs protection applies,".

5. Omit regulation 6 (Orders for costs against Commission- Litigation Support).

(**5**) 1978 c. 22.
(**6**) 1984 c. 42.
(**7**) 1985 c. 60.
(**8**) 1989 c. 41.
(**9**) 1996 c. 27.
(**10**) 1975 c. 63.
(**11**) 1996 c. 47.