STATUTORY INSTRUMENTS

2008 No.2940

CHILDREN AND YOUNG PERSONS, ENGLAND

The Children Act 1989 (Contact Activity Directions and Conditions: Financial Assistance) (England) Regulations 2008

Made - - - -	*13th November 2008*
Laid before Parliament	*17th November 2008*
Coming into force - -	*8th December 2008*

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 11F(1), (6) and (7) and 104(4) of the Children Act 1989(**a**):

Citation and commencement

1. These Regulations may be cited as the Children Act 1989 (Contact Activity Directions and Conditions: Financial Assistance) (England) Regulations 2008 and come into force on 8th December 2008.

Interpretation

2. In these Regulations—

"the Act" means the Children Act 1989;

"approved provider" means a person who is for the time being approved—

(a) where the contact activity is provided in England, by the Secretary of State, or

(b) where the contact activity is provided in Wales, by the Welsh Ministers,(**b**)

as a provider of contact activities*;*

"certificate" has the same meaning as in the Financial Regulations;

"contact activity" means an activity that promotes contact with a child which is required by a contact activity direction or contact activity condition;

"contact activity condition" has the same meaning as in section 11C(2) of the Act;

"contact activity direction" has the same meaning as in section 11A(3) of the Act;

"family proceedings" has the same meaning as in the Financial Regulations;

"Financial Regulations" means the Community Legal Service (Financial) Regulations 2000(**c**);

(**a**) 1989 c.41. Section 11F was inserted by section 1 of the Children and Adoption Act 2006 (c. 20).

(**b**) The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**c**) 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, 2007/906, 2007/2442, 2008/658 and 2008/1879.

"funded services" has the same meaning as in the Financial Regulations;

"qualifying individual" means an individual who falls within section 11F(2) of the Act.

Financial Assistance

3.—(1) Subject to paragraphs (2) and (3), the Secretary of State may make payments to assist a qualifying individual in paying a charge or fee in respect of a contact activity.

(2) Payments may not be made under paragraph (1) unless–

(a) the qualifying individual's financial resources are such that–

(i) following a determination in accordance with the Financial Regulations that the individual is financially eligible for funded services in relation to family proceedings, the individual has been issued with a certificate in relation to the family proceedings in which the contact activity direction or condition, which required the individual to take part in the contact activity, was made or imposed; or

(ii) where the individual does not satisfy the condition in sub-paragraph (a)(i), the Secretary of State is satisfied that the individual, if required to pay the charge or fee, is likely to suffer financial hardship; and

(b) the contact activity is provided by an approved provider.

(3) The maximum amount of assistance that may be paid in respect of a qualifying individual as regards a contact activity is–

(a) £3500 if the contact activity is of the type described in section 11A(5)(a)(ii) of the Act, or

(b) in the case of any other contact activity, £450.

4. Payments under regulation 3 may be made directly to approved providers.

Delyth Morgan
Parliamentary Under Secretary of State
Department for Children, Schools and Families

13th November 2008

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision enabling financial assistance to be paid in respect of an individual ordered or directed to undertake an activity that promotes contact with a child ("qualifying individual") (regulation 3(1)).

To be eligible for such assistance it must have been determined that the individual is financially eligible for funded services in relation to family proceedings and the individual must have a certificate issued under the Funding Code approved under section 9 of the Access to Justice Act 1999(**a**) in relation to the family proceedings in which the court made the contact activity direction or imposed the contact activity condition. Where that is not the case an individual will need to establish he is likely to suffer financial hardship if he has to pay the charge or fee for the contact activity (regulation 3(2)).

Regulation 3(2) further provides that assistance may only be given if the contact activity is provided by an approved provider. An approved provider is approved by the Secretary of State or Welsh Ministers. Regulation 3(3) places a maximum limit on the amount of assistance that can be given per activity ordered or directed by the court. If the activity is a programme, class, counselling or guidance session of a kind that may address a person's violent behaviour, the maximum amount of assistance that may be given is £3,500. In respect of any other contact activity the maximum amount of assistance that may be given is £450.

Regulation 4 allows the payments of financial assistance to be made directly to the approved provider.

(**a**) 1999 c.22.

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£4.00

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