

*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.*

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## DRAFT STATUTORY INSTRUMENTS

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**2006 No. xxxx**

# LEGAL SERVICES COMMISSION, ENGLAND AND WALES

## The Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006

*Made* - - - - 2006  
*Coming into force* - - 2nd October 2006

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by section 26 of, and paragraphs 2A and 3A(2) of Schedule 3 to, the Access to Justice Act 1999<sup>(1)</sup>.

A draft of this instrument has been laid before and approved by a resolution of each House of Parliament in accordance with section 25(9) of that Act.

### Citation and commencement

1. These Regulations may be cited as the Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006 and come into force on 2nd October 2006.

### Interpretation

2. In these Regulations—

“the Act” means the Access to Justice Act 1999;

“the Commission” means the Legal Services Commission established under section 1 of the Act;

“relevant proceedings” means criminal proceedings which—

- (a) are mentioned in section 12(2)(a) to (f) of the Act; and
- (b) are in a magistrates’ court;

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(1) 1999 c.22. Section 26 includes definitions of ‘regulations’ and ‘prescribed’. The reference to the Lord Chancellor in section 26 was changed to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887) and was changed back to the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429). Paragraphs 2A and 3A were inserted by section 1(6) and (7) of the Criminal Defence Service Act 2006 (c.9).

“representation authority” means the Commission or a court officer or other person to whom the Commission, in accordance with section 3(4) of the Act, has delegated its functions under paragraph 2A of Schedule 3 to the Act;

“representation order” means a document granting a right to representation under section 14 of the Act.

### **Proceedings in which representation order may be granted**

3. The Commission may, at any stage of the proceedings, grant to an individual a representation order in respect of relevant proceedings.

### **Extension of representation order**

4. A representation order granted to an individual extends to—

- (a) the Crown Court, if the proceedings continue there; and
- (b) any proceedings incidental to the proceedings,

but does not extend to an appeal.

### **Withdrawal of representation order**

5.—(1) Where any charge or proceedings against the individual are varied, the representation authority must—

- (a) consider whether the interests of justice require that he be represented in respect of the varied charge or proceedings; and
- (b) withdraw the representation order if the interests of justice do not so require.

(2) The representation authority must consider whether to withdraw the representation order in any of the following circumstances—

- (a) where the individual declines to accept the order in the terms on which it is granted;
- (b) otherwise at the request of the individual; or
- (c) where the representative named in the representation order declines to continue to represent the individual.

### **Transitional provisions**

6. An application for a representation order which is received before 2nd October 2006 is to be dealt with as if these Regulations had not been made.

### **Consequential amendments**

7. In section 8A(5) of the Magistrates’ Courts Act 1980(2) (power to make rulings at pre-trial hearing)—

- (a) in the opening words, omit “, the court must”;
- (b) in paragraph (a), at the beginning insert “the court must”; and
- (c) in paragraph (b), after “does,” insert “the Legal Services Commission must”.

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(2) 1980 c.43. Section 8A was inserted by Schedule 3 to the Courts Act 2003 (c.39).