

*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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**2004 No.**

**LEGAL SERVICES COMMISSION,  
ENGLAND AND WALES**

**The Criminal Defence Service (Choice in Very  
High Cost Cases)(Amendment) Regulations 2004**

*Made* - - - - 2004  
*Coming into force* - - 2004

The Secretary of State, in exercise of the powers conferred by section 15(5) and (6) of the Access to Justice Act 1999<sup>(1)</sup> and now vested in him<sup>(2)</sup>, makes the following Regulations, a draft of which has been laid before and approved by resolution of each House of Parliament:

**1.**—(1) These Regulations may be cited as the Criminal Defence Service (Choice in Very High Cost Cases)(Amendment) Regulations 2004 and shall come into force on the day after the day on which they are made.

(2) In these Regulations, a regulation referred to by number alone means the regulation so numbered in the Criminal Defence Service (Choice in Very High Cost Cases) Regulations 2001<sup>(3)</sup>.

**2.** In regulation 2—

(a) after the definition of “representation order” insert—

““the Specialist Fraud Panel” means the panel of solicitors determined by the Commission as those suitable to deal with very high cost fraud cases;”;

(b) in the definition of “Very High Cost Case”, after sub-paragraph (b) insert—

“and any question as to whether the case fulfils either of the criteria in sub-paragraphs (a) and (b) above shall be determined by the Commission; and”;

(c) after the definition of “Very High Cost Case” insert—

““very high cost fraud case” means a Very High Cost Case with regard to which the offence with which the defendant is charged is primarily or substantially founded

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(1) 1999 c. 22. “Prescribed” and “regulations” are defined in section 26 of the Access to Justice Act 1999.

(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. 2001/1169.

on allegations of fraud or other serious financial impropriety, or involves complex financial transactions.”.

- 3.—(1) In regulation 3(1)(c), after “current representatives;” delete “or”.
- (2) In regulation 3(1)(d), for “such a contract.” substitute “such a contract; or”
- (3) After regulation 3(1)(d) insert—
  - “(e) the current solicitor representatives are not members of the Specialist Fraud Panel and the case is a very high cost fraud case.”.
- (4) In regulation 3(2)(a), for “paragraph (1)(c) or (d)” substitute “paragraph (1)(c), (d) or (e)”.
- (5) In regulation 3(2)(b), for “The Criminal Defence Service (General) Regulations” substitute “the Criminal Defence Service (General)(No.2) Regulations 2001(4)”.
- (6) In regulation 3(2)(c), before “Commission” insert “court or the”.

Signed

Date

Parliamentary Under Secretary of State,  
Department for Constitutional Affairs

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Criminal Defence Service (Choice in Very High Cost Cases) Regulations 2001 (S.I.2001/1169). These Regulations relate to Very High Cost Cases, ie cases whose trial is expected to last 25 days or more, or where defence costs for any defendant or group of defendants is expected to be £150,000 or more.

These Regulations add, to the list of circumstances in which the Legal Services Commission is no longer required to fund representation by the client's current representative, that where the current solicitor representatives are not members of the Specialist Fraud Panel and the case is a very high cost fraud case.

They also provide that any question as to whether the case fulfils the criteria of a very high cost case is to be referred to and decided by the Legal Services Commission.