

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

2009 No.xxxx

**LEGAL SERVICES COMMISSION,
ENGLAND AND WALES**

**The Criminal Defence Service (Representation
Orders) (Amendment) Regulations 2009**

Made - - - - *****

Coming into force in accordance with regulation 1

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 25(8) and 26 of and paragraph 2A of Schedule 3 to the Access to Justice Act 1999(1).

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, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Criminal Defence Service (Representation Orders) (Amendment) Regulations 2009 and come into force—

- (a) in relation to any magistrates' court in any of the local justice areas listed in the first part of the table in the Schedule to these Regulations, on 11th January 2010; and
- (b) in relation to any other magistrates' court, in any of the courts board areas listed—
 - (i) in the second part of that table, on 12th April 2010;
 - (ii) in the third part of that table, on 26th April 2010;
 - (iii) in the fourth part of that table, on 10th May 2010;
 - (iv) in the fifth part of that table, on 17th May 2010;
 - (v) in the sixth part of that table, on 24th May 2010;
 - (vi) in the seventh part of that table, on 14th June 2010;
 - (vii) in the eighth part of that table, on 28th June 2010.

(1) 1999 c. 22. Paragraph 2A of Schedule 3 was inserted by section 1(6) of the Criminal Defence Service Act 2006 (c. 9). Section 26 of the 1999 Act includes definitions of “regulations” and “prescribed”. The reference to the Lord Chancellor in that section was changed to the Secretary of State by S.I. 2003/1887 and changed back to the Lord Chancellor by S.I. 2005/3429.

(2) These Regulations apply only to an application for a representation order in criminal proceedings which is received in a magistrates' court on or after the date on which these Regulations come into force in respect of that court.

(3) In this regulation "representation order" means a document granting a right to representation under section 14 of the Access to Justice Act 1999.

Amendments to the Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006

2. The Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006(2) are amended as follows.

3. In regulation 2, for the definition of "relevant proceedings" substitute—

““relevant proceedings” means criminal proceedings which are mentioned in section 12(2)

(a) to (f) of the Act and are in—

(a) a magistrates' court; or

(b) the Crown Court;”.

4. For regulation 4 substitute—

“Extent of representation order

4.—(1) A representation order which is granted to an individual while the proceedings are in a magistrates' court includes representation in the Crown Court, if the proceedings continue there, except where they do so by way of appeal.

(2) A representation order which is granted to an individual includes representation in any proceedings incidental to the proceedings.

(3) Proceedings for dealing with an individual alleged to have failed to comply with an order of a magistrates' court or the Crown Court are not to be regarded as incidental to the proceedings in which the order was made.”.

5. After regulation 4 insert—

“Representation order for proceedings in the Crown Court alone

4A. Where—

(a) an individual applies for a representation order for proceedings in a magistrates' court and, should they continue there, in the Crown Court;

(b) either the individual is not financially eligible for such an order for the proceedings in the magistrates' court or the representation authority considers that the interests of justice do not require the individual to be represented in such proceedings; and

(c) the proceedings continue to the Crown Court,

the representation authority shall grant a representation order to that individual for the proceedings in the Crown Court.”.

6. In regulation 5(1) after “any charge or proceedings” insert “in a magistrates' court”.

Signed by authority of the Lord Chancellor

Date

Name
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE

Regulation 1

Commencement of Regulations

Part 1 – Commencement on 11th January 2010

Local Justice Areas

Camden and Islington; Bradford; Calderdale; Huddersfield; Keighley; Skipton; Blackburn, Darwen and Ribble Valley; Furness and District; Fylde Coast; Lancaster; Preston; Great Yarmouth; Norwich; West Norfolk; Ceredigion; Llanelli; Neath Port Talbot; Pembrokeshire; Swansea County

Part 2 – Commencement on 12th April 2010

Courts Board Areas

Avon and Somerset; Devon and Cornwall; Dorset, Gloucestershire and Wiltshire; Hampshire and Isle of Wight

Part 3 – Commencement on 26th April 2010

Courts Board Areas

Birmingham, Coventry, Solihull and Warwickshire; Black Country, Staffordshire and West Mercia; Derbyshire and Nottingham; Lincolnshire, Leicestershire, and Rutland and Northamptonshire

Part 4 – Commencement on 10th May 2010

Courts Board Areas

Cheshire and Merseyside, Cumbria and Lancashire; Greater Manchester

Part 5 – Commencement on 17th May 2010

Courts Board Areas

Cleveland, Durham and Northumbria; Humber and South Yorkshire; North and West Yorkshire

Part 6 – Commencement on 24th May 2010

Courts Board Areas

Mid and West Wales; North Wales; South East Wales

Part 7 – Commencement on 14th June 2010

Courts Board Areas

Bedfordshire, Essex and Hertfordshire; Cambridgeshire, Norfolk and Suffolk; Kent; Surrey and Sussex; Thames Valley

Part 8 – Commencement on 28th June 2010

Courts Board Area

London

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006 to provide that the Legal Services Commission may grant the right to publicly funded representation in criminal proceedings in the Crown Court.

An impact assessment relating to the introduction of means testing in the Crown Court is available from Criminal Legal Aid Strategy Division, Ministry of Justice, 102 Petty France, London SW1H 9AG or at www.justice.gov.uk.