



# Criminal Defence Service Act 2006

## 2006 CHAPTER 9

### 2 Rights to representation: financial eligibility

- (1) Schedule 3 to the Access to Justice Act 1999 (c. 22) is amended as mentioned in subsections (2) to (4).
- (2) After paragraph 3A there is inserted—

#### 3B “Financial eligibility

- (1) Power under this Schedule to grant a right to representation may only be exercised in relation to an individual whose financial resources appear to the relevant authority to be such that, under regulations, he is eligible to be granted such a right.
- (2) Power under this Schedule to withdraw a right to representation shall be exercised in relation to an individual if it appears to the relevant authority—
  - (a) that his financial resources are not such that, under regulations, he is eligible to be granted such a right, or
  - (b) that he has failed, in relation to the right, to comply with regulations under this paragraph about the furnishing of information.
- (3) Regulations may make provision for exceptions from sub-paragraph (1) or (2).
- (4) Regulations under this paragraph may include—
  - (a) provision requiring the furnishing of information;
  - (b) provision for the notification of decisions about the application of—
    - (i) sub-paragraph (1) or (2), or
    - (ii) regulations under sub-paragraph (3);
  - (c) provision for the review of such decisions;
  - (d) such transitional provision as the Lord Chancellor may consider appropriate.

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*Status: Point in time view as at 02/10/2006. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Defence Service Act 2006, Section 2. (See end of Document for details)*

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- (5) The provision which may be made under sub-paragraph (4)(c) includes provision prescribing circumstances in which the person or body reviewing a decision may refer a question to the High Court for its decision.
- (6) Section 16 of the Supreme Court Act 1981 (appeals from the High Court) shall not apply to decisions of the High Court on a reference under regulations under this paragraph.”
- (3) In paragraph 5 (criteria for grant of right), in sub-paragraph (1) (question whether right should be granted to be determined according to interests of justice), for “a right to representation should be granted” there is substituted “ power to grant a right to representation should be exercised ”.
- (4) In that paragraph, for sub-paragraph (4) there is substituted—
- “(4) Regulations may prescribe circumstances in which the grant of a right to representation shall be taken to be in the interests of justice.”
- (5) In section 25 of that Act (orders, regulations and directions), after subsection (9) there is inserted—
- “(9A) The first regulations under paragraph 3B of Schedule 3 shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.”
- (6) In section 26 of that Act (interpretation), before the word “and” at the end of the definition of “regulations” there is inserted—
- ““relevant authority” means such person or body as may be prescribed,”.

**Status:**

Point in time view as at 02/10/2006. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Defence Service Act 2006, Section 2.