
STATUTORY INSTRUMENTS

2001 No. 1144

The Criminal Defence Service (General) Regulations 2001

PART II

APPLICATIONS FOR REPRESENTATION ORDERS

Representation order

4.—(1) Any application for the grant of a representation order shall be made on form A in the Schedule to these Regulations.

(2) Any application for the grant of a representation order in respect of the proceedings mentioned in section 12(2)(a) to (f) of the Act shall be made in accordance with regulations 6, 7 and 8.

(3) Any application for the grant of a representation order in respect of the proceedings mentioned in regulation 3(2) (criminal proceedings for the purposes of section 12(2)(g) of the Act):

(a) shall be made to the Commission; and

(b) may be granted only by the Commission or a person acting on behalf of the Commission where such function has been delegated in accordance with section 3(4) of the Act.

(4) Where an application under paragraph (3) is refused, the Commission shall provide to the applicant:

(a) written reasons for the refusal; and

(b) details of the appeal process.

(5) The appropriate officer of each court shall keep a record of every application to that court for a representation order, and of its outcome.

(6) The appropriate officer shall send to the Lord Chancellor such information from the record mentioned in paragraph (5) as the Lord Chancellor may request.

General power to grant representation

5. The court, a judge of the court, or the registrar of criminal appeals may grant a representation order at any stage of the proceedings in the circumstances set out in these Regulations whether or not an application has been made for such an order.

Proceedings in a magistrates' court

6.—(1) Other than where regulation 4(3) applies, an application for a representation order in respect of proceedings in a magistrates' court may be made:

(a) orally or in writing to the court; or

(b) in writing to the appropriate officer.

(2) Where an application is made to the court, it may refer it to the appropriate officer for determination.

(3) Where an application is refused, the appropriate officer shall provide to the applicant:

- (a) written reasons for the refusal; and
- (b) details of the appeal process.

Proceedings in the Crown Court

7.—(1) Other than where regulation 4(3) applies, an application for a representation order in respect of proceedings in the Crown Court may be made:

- (a) orally or in writing to the Crown Court;
- (b) in writing to the appropriate officer of that court;
- (c) orally or in writing to a magistrates' court at the conclusion of any proceedings in that magistrates' court;
- (d) orally or in writing to a magistrates' court inquiring into the offence as examining justices or sending for trial under section 51 of the Crime and Disorder Act 1998⁽¹⁾;
- (e) where a magistrates' court has been given a notice of transfer under section 4 of the Criminal Justice Act 1987⁽²⁾ (serious fraud cases), in writing to the appropriate officer of that magistrates' court;
- (f) in the case of an appeal to the Crown Court from a magistrates' court, in writing to the appropriate officer of that magistrates' court;
- (g) where the applicant was granted a representation order for proceedings in a magistrates' court and was committed for trial in the Crown Court under section 6(2) of the Magistrates' Courts Act 1980⁽³⁾, in writing to the appropriate officer of the magistrates' court ordering the committal; and
- (h) in the case of a retrial ordered under section 7 of the Criminal Appeal Act 1968⁽⁴⁾, orally or in writing to the court ordering the retrial.

(2) An application for a representation order in respect of representations to the High Court against a voluntary bill of indictment may be made:

- (a) in writing to the appropriate officer of the Crown Court; or
- (b) orally to the judge considering the voluntary bill

and where any such order is granted it shall also apply to any proceedings to which the applicant is indicted.

(3) Where an application is made to the court, it may refer it to the appropriate officer for determination.

(4) Where an application is refused, the appropriate officer shall provide to the applicant:

- (a) written reasons for the refusal; and
- (b) details of the appeal process.

Proceedings in the Court of Appeal (Criminal Division) and the House of Lords

8.—(1) An application for a representation order in respect of proceedings in the Court of Appeal or the House of Lords may be made:

- (a) orally to the Court of Appeal, or a judge of the court; or

(1) 1998 c. 37.

(2) 1987 c. 38, as amended by the Criminal Justice Act 1988 (c. 33), the Legal Aid Act 1988 (c. 34) and the Crime and Disorder Act 1998 (c. 37).

(3) 1980 c. 43.

(4) 1968 c. 19.

- (b) in writing to the Court of Appeal, a judge of the court, or the registrar of criminal appeals (“the registrar”).
- (2) Where an application is made to the court, it may refer it to a judge for determination.
- (3) Where an application is made to a judge, he may refer it to the registrar for determination.
- (4) The registrar may:
 - (a) grant the application; or
 - (b) refer it to the court or a judge of the court.
- (5) A representation order shall not be granted until notice of leave to appeal has been given in respect of the proceedings which are the subject of the application.
- (6) Where a representation order is granted in respect of proceedings in the Court of Appeal, a judge or the registrar may specify the stage of the proceedings at which the representation order shall take effect.
- (7) The House of Lords may not grant a representation order in respect of any proceedings.