

2001 No. 1169

LEGAL SERVICES COMMISSION, ENGLAND AND WALES

**The Criminal Defence Service
(Choice in Very High Cost Cases) Regulations 2001**

Made - - - - - *25th March 2001*

Coming into force - - *2nd April 2001*

The Lord Chancellor, in exercise of the powers conferred on him by section 15(5) of the Access to Justice Act 1999(a), makes the following Regulations, a draft of which has been laid before and approved by resolution of each House of Parliament:

Citation and commencement

1. These Regulations may be cited as the Criminal Defence Service (Choice in Very High Cost Cases) Regulations 2001 and shall come into force on 2nd April 2001.

Interpretation

2. In these Regulations:

“the Commission” means the Legal Services Commission established under section 1 of the Access to Justice Act 1999;

“current representatives” means the representatives named on the representation order and any advocate currently instructed in the case;

“funded services” means services which are provided directly for a client and funded for that client as part of the Criminal Defence Service under sections 12 to 18 of the Access to Justice Act 1999;

“representation order” means a document granting a right to representation; and

“a Very High Cost Case” is a case with regard to which:

- (a) if the case proceeds to trial, that trial would be likely to last for 25 days or longer; or
- (b) the defence costs with regard to any one defendant (or group of defendants represented by the same firm of solicitors) are likely to amount to £150,000 or greater (such sum to include the solicitor’s fees and disbursements, counsel’s fees, and VAT).

Choice of representative in Very High Cost Cases

3.—(1) Paragraph (2) applies where:

- (a) a representation order has been granted in relation to a Very High Cost Case; and
- (b) the Commission proposes to enter into an individual contract for the provision of funded services in relation to that case; and either
- (c) the Commission serves notice that it does not propose to enter into such a contract with any, or all, of the current representatives; or

(a) 1999 c. 22.

- (d) any or all of the current representatives serves notice that they do not propose to enter into such a contract.
- (2) Where this paragraph applies:
 - (a) the Commission is no longer required to fund representation by the relevant current representative referred to in paragraph (1)(c) or (d);
 - (b) the person in whose favour the representation order was granted may select a different representative chosen in accordance with The Criminal Defence Service (General) Regulations(a); and
 - (c) the Commission may amend the representation order accordingly.

Signed by the authority of the Lord Chancellor

Willy Bach
Parliamentary Secretary,
Lord Chancellor's Department

Dated 25th March 2001

(a) S.I. 2001/1144.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the selection of new representatives where a right to representation has been granted in a Very High Cost Case and the Commission or the current representatives do not propose to contract with one another. A Very High Cost Case is a case where the trial is likely to last for 25 days or more, or specified costs are likely to amount to £150,000 or more.

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