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".

(**2**) S.I. 2006/2493; there are no amending instruments.