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

2006 No. xxxx

LEGAL SERVICES COMMISSION, ENGLAND AND WALES

The Criminal Defence Service (Representation Orders: Appeals etc.) Regulations 2006

Made - - - -	*2006*
Coming into force - -	*2nd October 2006*

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by section 26 of, and paragraph 4 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 and commencement

1. These Regulations may be cited as the Criminal Defence Service (Representation Orders: Appeals etc.) Regulations 2006 and come into force on 2nd October 2006.

Interpretation

2. In these Regulations—

"the Act" means the Access to Justice Act 1999;

"appropriate officer" means—

in a magistrates' court, the justices' clerk or the designated officer;

in the Crown Court, a court manager or a court officer designated by him to act on his behalf for the purposes of these Regulations;

in the Court of Appeal—

(**1**) 1999 c.22. Section 26 includes definitions of 'regulations' and 'prescribed'. The powers conferred by paragraph 4 of Schedule 3 were transferred to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887) and were transferred back to the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429). Those Orders also changed, and changed back, the reference to the Lord Chancellor in section 26.

the Registrar of Criminal Appeals or the Head of the Civil Appeals Office, as appropriate; or

in either case, a court officer designated by him to act on his behalf for the purposes of these Regulations;

"the Commission" means the Legal Services Commission established under section 1 of the Act;

"representation authority" has the same meaning as in the Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006(**2**);

"representation order" means a document granting a right to representation under section 14 of the Act.

General provisions

3.—(1) An appeal or a renewed application under these Regulations must be made on such form as is from time to time specified—

(a) in the case of appeals, and renewed applications under regulation 8, by the Commission; and

(b) in the case of renewed applications under regulations 6 and 7, by the Lord Chancellor.

(2) The individual must provide such further particulars and documents as the person or body determining the appeal or renewed application may require in relation to his appeal or application.

(3) An appeal or a renewed application will be determined without a hearing unless the person or body determining the appeal or application directs otherwise.

(4) Where an application is referred under regulation 6(2)(b), 7(2)(b) or 9(3)(b), it is to be treated thereafter as if it were an appeal.

(5) Written reasons must be given for any decision on an appeal or a renewed application.

(6) The date of any representation order granted on an appeal or a renewed application under these Regulations—

(a) in proceedings in the Court of Appeal, is the date on which the original application for the order was received, subject to regulation 10(6) of the Criminal Defence Service (General) (No. 2) Regulations 2001(**3**); and

(b) in other proceedings, is the date on which the original application was received.

Appeals: magistrates' courts

4.—(1) In this regulation "court" means the magistrates' court in which the proceedings in respect of which the individual is seeking a representation order are being or are to be heard and includes a single justice.

(2) An individual may appeal to the court against a decision to refuse to grant a representation order made on the grounds that the interests of justice do not require such an order to be granted.

(3) The court must either—

(a) uphold the decision; or

(b) decide that it would be in the interests of justice for a representation order to be granted.

(4) Where the court makes a decision under paragraph (3)(b), the individual may apply to the representation authority for a representation order; and—

(**2**) S.I. 2006/xxxx.
(**3**) S.I. 2001/1437, amended by S.I. 2002/712.