

*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.*

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DRAFT STATUTORY INSTRUMENTS

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**2009 No. 0000**

**LEGAL SERVICES COMMISSION,  
ENGLAND AND WALES**

**The Criminal Defence Service (Representation  
Orders: Appeals etc.) (Amendment) Regulations 2009**

*Made - - - - 2009*

*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 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, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Criminal Defence Service (Representation Orders: Appeals etc.) (Amendment) Regulations 2009.

(2) These Regulations 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;

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(1) 1999 c. 22. Section 26 of the Act defines “prescribed” as prescribed by regulations and “regulations” as regulations made by the Lord Chancellor. The reference to the Lord Chancellor was changed to the Secretary of State for Constitutional Affairs by S.I. 2003/1887 and changed back to the Lord Chancellor by S.I. 2005/3429.

(vii) in the eighth part of that table, on 28th June 2010.

(3) These Regulations apply only to an application for a representation order which is received in a magistrates' court on or after the date on which these Regulations come into force in relation to that court.

(4) 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: Appeals etc.) Regulations 2006**

2. The Criminal Defence Service (Representation Orders: Appeals etc.) Regulations 2006(2) are amended as follows.

3.—(1) Omit regulation 3(1).

(2) In regulation 3(2)—

(a) omit "further";

(b) for "the appeal" substitute "an appeal".

(3) In regulation 3(4) omit "6(2)(b),".

4. For regulation 6 substitute—

#### **"Appeals where representation order refused: Crown Court**

6.—(1) An individual whose application for the grant of a representation order in respect of an appeal to the Crown Court has been refused on the grounds that the interests of justice do not require such an order to be granted may appeal to the appropriate officer of the Crown Court against the refusal.

(2) The appropriate officer may refer the appeal to a judge of the Crown Court.

(3) The appropriate officer or the judge may—

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

(b) dismiss the appeal.

(4) Where the appropriate officer or judge makes a decision under paragraph (3)(a), the individual may apply to the representation authority for a representation order."

5. Omit regulation 8.

Signed by authority of the Lord Chancellor

Date

*Name*  
Parliamentary Under Secretary of State  
Ministry of Justice

## SCHEDULE 1

Regulation 1

### Commencement of Regulations

#### **Part 1 – Commencement on 11th January 2010**

##### **Local Justice Areas**

Camden and Islington; Bradford; Calderdale; Huddersfield; Keighley; Skipton; Blackburn, Darwen and Ribble Valley; Furness and District; Fylde Coast; Lancaster; Preston; Great Yarmouth; Norwich; West Norfolk; Ceredigion; Llanelli; Neath Port Talbot; Pembrokeshire; Swansea County

#### **Part 2 – Commencement on 12th April 2010**

##### **Courts Board Areas**

Avon and Somerset; Devon and Cornwall; Dorset, Gloucestershire and Wiltshire; Hampshire and Isle of Wight

#### **Part 3 – Commencement on 26th April 2010**

##### **Courts Board Areas**

Birmingham, Coventry, Solihull and Warwickshire; Black Country, Staffordshire and West Mercia; Derbyshire and Nottingham; Lincolnshire, Leicestershire, and Rutland and Northamptonshire

#### **Part 4 – Commencement on 10th May 2010**

##### **Courts Board Areas**

Cheshire and Merseyside, Cumbria and Lancashire; Greater Manchester

#### **Part 5 – Commencement on 17th May 2010**

##### **Courts Board Areas**

Cleveland, Durham and Northumbria; Humber and South Yorkshire; North and West Yorkshire

#### **Part 6 – Commencement on 24th May 2010**

##### **Courts Board Areas**

Mid and West Wales; North Wales; South East Wales

#### **Part 7 – Commencement on 14th June 2010**

##### **Courts Board Areas**

Bedfordshire, Essex and Hertfordshire; Cambridgeshire, Norfolk and Suffolk; Kent; Surrey and Sussex; Thames Valley

#### **Part 8 – Commencement on 28th June 2010**

##### **Courts Board Area**

London

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Criminal Defence Service (Representation Orders: Appeals etc.) Regulations 2006 (the “2006 Regulations”). The 2006 Regulations provide for appeals or renewed applications where an individual who is the subject of criminal proceedings has been refused publicly funded representation on the grounds that the interests of justice do not require him or her to be granted an order giving a right to such representation. The Criminal Defence Service (Interests of Justice) Regulations 2009 (S.I. 2009/xxx) provide that the interests of justice are deemed to require that an individual before the Crown Court (except on an appeal to the Crown Court) is granted an order giving him or her a right to publicly funded representation. These Regulations amend the 2006 Regulations to limit appeals against a refusal to grant a representation order to appeals to the Crown Court.

An impact assessment relating to the introduction of means testing in the Crown Court is available from Criminal Legal Aid Strategy Division, Ministry of Justice, 102 Petty France, London SW1H 9AG or at [www.justice.gov.uk](http://www.justice.gov.uk).